

# SOUTH BEND BOARD OF ZONING APPEALS

## MINUTES

Monday, May 2, 2022  
4:00 p.m.

4th Floor, Council Chambers  
County-City Building, South Bend, IN  
[www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

### MEMBERS PRESENT:

Mark Burrell  
Kyle Copelin  
Kaine Kanczuzewski  
Kathy Schuth  
Caitlin Stevens

### ALSO PRESENT:

Angela Smith  
Joseph Molnar  
Rachel Boyles  
Tom Panowicz  
Jenna Throw

### PUBLIC HEARINGS:

- 1. The petition of GUADALUPE ALVAREZ seeking the following variance(s): 1) to allow for accessory structures without a primary structure; 2) from the maximum 1 detached accessory structure to 4; 3) from the 720 sq.ft. maximum area of all detached accessory structures to 1025 sq.ft.; 4) from the 5' minimum side and rear setback for a detached accessory structure to 0'; and 5) from the maximum 6' privacy fence to 7', property located at 813 and 817 ARNOLD ST. Zoned U1 Urban Neighborhood 1.**

*(Audio Position: 4:43)*

### STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The property is being used as a private park-like facility for the house across the alley. The proposed number and size of the accessory structures are consistent with the residential area, especially for a lot that size. However, the request for the setback of the detached accessory structures and the height of the fence wouldn't be allowed even if the home was on the same lot. There are no practical difficulties that support those variances.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve variances #1 #2 and #3 as presented. The Staff recommends the Board deny variances #4 and #5 as presented.

### PETITIONER

Brenda Alvarez, 21845 Carriage Dr. South Bend, IN 46614, served as the petitioner.

### INTERESTED PARTIES

There was no one from the public to speak.

### PUBLIC COMMENT

There was no one from the public to speak.

City of South Bend **BOARD OF ZONING APPEALS**

After careful consideration, the following action was taken:

Upon a motion by Kaine Kancuzewski, being seconded by Mark Burrell and unanimously carried, a petition by GUADALUPE ALVAREZ seeking the following variances: 1) to allow for accessory structures without a primary structure; and 2) from the maximum 1 detached accessory structure to 4; 3) from the 720 sq.ft. maximum area of all detached accessory structures to 1025 sq.ft. was approved as presented, and will issue written Findings of Fact.

Upon a motion by Kaine Kancuzewski, being seconded by Mark Burrell and unanimously carried, a petition by GUADALUPE ALVAREZ seeking the following variances: 4) from the 5' minimum side and rear setback for a detached accessory structure to 0'; and 5) from the maximum 6' privacy fence to 7' was denied as presented and should be brought into conformance by July 1, 2023, and will issue written Findings of Fact.

- 2. The petition of JANICE M BROCK seeking the following variance(s): 1) From the required 10' clear sight area to allow a 4' fence; and 2) To allow a detached accessory structure in the established corner yard, property located at 701 MARQUETTE BLVD. Zoned U1 Urban Neighborhood 1. (Audio Position: 23:29)**

STAFF REPORT

The staff report was presented by Angela Smith.  
Analysis: Even though the fence is more than 50% open, the line of sight is impaired. The clear sight triangle is critical to maintain. This is especially true along the alley, with less of a concern at the driveway. With the relatively small size of the yard and the proximity of the neighbor's house and detached garage to the property line, the established corner yard is one of the only areas for the placement of the detached structure (pergola).  
Staff Recommendation: Based on the information available prior to the public hearing, the staff recommends the Board deny variance #1 for the fence and approve variance #2 for the detached accessory structure.

PETITIONER

Janice Brock, 701 Marquette Ave. South Bend, IN 46617, served as the petitioner.

INTERESTED PARTIES

Troy Warner, 623 Marquette Ave, South Bend, IN 46617, spoke in favor of the petition. One letter was received in opposition.

PUBLIC COMMENT

There was no one from the public to speak.

City of South Bend **BOARD OF ZONING APPEALS**

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried, a petition by JANICE M BROCK seeking the following variances: 1) from the required 10' clear sight area to 5' to allow a 4' fence as shown; and 2) To allow a detached accessory structure in the established corner yard was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski -Yes  
Mark Burrell -Yes  
Kathy Schuth - Yes

- 3. The petition of JEREMY A SCOTT seeking the following variance(s): 1) from the minimum 5' side setback to 3', property located at 912 WHITEHALL DR. Zoned S1 Suburban Neighborhood 1. (Audio Position: 44:40)**

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: Provided the owner can retain the water run-off from the roof, building the addition at a similar side setback as the existing garage should not adversely impact the surrounding properties or the general welfare of the community. The surrounding neighborhood developed with a pattern of detached garages being installed at or near the property lines. Approving the variance would be in line with the established neighborhood development.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as presented.

PETITIONER

Jeremy Scott, 912 Whitehall Dr. South Bend, IN 46615, served as the petitioner.

INTERESTED PARTIES

One letter was received in favor of this petition.

PUBLIC COMMENT

There was no one from the public to speak.

After careful consideration, the following action was taken:

Upon a motion by Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by JEREMY A SCOTT seeking the following variances: 1) from the 5' minimum side setback for a detached accessory structure to 3' was approved as presented, and will issue written Findings of Fact.

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Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski -Yes  
Mark Burrell -Yes  
Kathy Schuth - Yes

- 4. An Administrative Appeal to citations issues at 122 S. Niles, more specifically did the Zoning Administrator improperly issue citations to Rive Race where petitioner contends a legal non-conforming parking lot has been in continuous use since before the cited ordinance existed, property located at 122 S. Niles. Zoned DT Downtown District.**

*(Audio Position: 52:56)*

## STAFF REPORT

The staff report was presented by Angela Smith.

## PETITIONER

Shawn Ryan, 200 Colfax Ave Suite 100 South Bend, IN 46601, represented the appellant.

## INTERESTED PARTIES

One letter was received in opposition.

Matt Barrett, 110 S Niles Ave. South Bend, IN 46617, spoke against the appeal.

## PUBLIC COMMENT

Liz Harte, 804 N Hill St. South Bend, IN 46617, spoke against the appeal.

## REBUTTAL

Shawn Ryan, 200 Colfax Ave. Suite 100 South Bend, IN 46601, provided a rebuttal

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, the Board affirmed the decision by Staff to issue citations for zoning violations on the property located at 122 Niles Ave, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski -Yes  
Mark Burrell -Yes  
Kathy Schuth – Yes

City of South Bend **BOARD OF ZONING APPEALS**

- 5. An Administrative Appeal to a determination made by the Zoning Administrator, more specifically did the Zoning Administrator review 701 Nile's application by arbitrarily defining "hotel" without reference to Indiana legal authority, property located at 701 N. Niles. Zoned DT Downtown District.** *(Audio Position: 1:33:05)*

STAFF REPORT

The staff report was presented by Angela Smith.

PETITIONER

Shawn Ryan, 200 Colfax Ave Suite 100 South Bend, IN 46601, represented the appellant.

INTERESTED PARTIES

Richard Nusbaum, 210 S Michigan St. South Bend, IN 46601, representing interested parties who are against the appeal.

Kevin Futa, 545 Crescent Ave. South Bend, IN 46617, spoke against the appeal.

Troy Warner, 227 W Jefferson Blvd. 4th Floor South Bend, IN 46601, representing the 4th Council District, spoke against the appeal.

PUBLIC COMMENT

Amanda Robinson, 702 N Hill St. South Bend, IN 46617, spoke against the appeal.

Bill Stenz, 120 Colfax Ave. South Bend, IN 46601, spoke against the appeal.

REBUTTAL

Shawn Ryan, 200 Colfax Ave. Suite 100 South Bend, IN 46601, provided a rebuttal

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, the Board affirmed the notice by Staff regarding the petition for 701 Niles, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – April 4, 2022

*(Audio Positon: 2:22:12)*

City of South Bend **BOARD OF ZONING APPEALS**

Upon a motion by Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried by vote, the modified findings of fact from the April 4, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes – April 4, 2022


*(Audio Position: 2:22:45)*

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried by vote, the minutes from the April 4, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business

4. Adjournment – 6:24 p.m.


RESPECTFULLY SUBMITTED,



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KATHY SCHUTH,  
Chair

ATTEST:



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ANGELA M. SMITH,  
Secretary of the Board