

PIN: 07-14-418-004

ADDRESS:  
5 SOUTH RIVER ROAD  
NAPERVILLE, IL 60540

PREPARED BY:  
CITY OF NAPERVILLE  
LEGAL DEPARTMENT  
630/420-4170

RETURN TO:  
CITY OF NAPERVILLE  
CITY CLERK'S OFFICE  
400 SOUTH EAGLE STREET  
NAPERVILLE, IL 60540

PZC Case #21-1-123

**ORDINANCE NO. 21 -**

**AN ORDINANCE GRANTING A VARIANCE FROM  
SECTION 6-2-12:1 (FENCES: RESIDENCE DISTRICTS) OF THE NAPERVILLE  
MUNICIPAL CODE TO CONSTRUCT A 6-FOOT TALL FENCE IN THE CORNER SIDE  
YARD SETBACK AT 5 SOUTH RIVER ROAD**

**RECITALS**

1. **WHEREAS**, Man Yee Wong and Man Yat Yau ("**Owners and Petitioners**"), 5 South River Road, Naperville, Illinois 60540, own real property located at 5 South River Road, Naperville, Illinois 60540; and
2. **WHEREAS**, The Owners and Petitioners have petitioned the City of Naperville for approval of a variance to Section 6-2-12:1 (Fences: Residence Districts) of the Naperville Municipal Code in order to construct a 6-foot tall fence in the corner side yard setback on the property located at 5 South River Road, Naperville, Illinois 60540, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and

3. **WHEREAS**, the Subject Property is zoned R1A (Low Density Single-Family Residence District) and is improved with a single-family structure; and
4. **WHEREAS**, Municipal Code Section 6-2-12:1 (Fences: Residence Districts) requires a 6-foot tall fence to be setback 30 feet from east property line; and
5. **WHEREAS**, pursuant to Section 6-3-5:2 (Standards for Variances) of the Naperville Municipal Code, the Owners and Petitioners request approval of a variance from Section 6-2-12:1 (Fences: Residence Districts) of the Naperville Municipal Code to allow a 6-foot tall fence to be set back approximately 12 feet from the east property line, as depicted on **Exhibit B**; and
6. **WHEREAS**, on December 1, 2021, the Planning and Zoning Commission considered the fence variance request and recommended approval of the Owners' and Petitioners' request; and
7. **WHEREAS**, the City Council of the City of Naperville has determined that the Owners' and Petitioners' request meets the variance standards as provided in **Exhibit C** attached hereto and should be granted as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers, as follows:**

**SECTION 1:** The foregoing Recitals are incorporated as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

**SECTION 2:** A variance to Section 6-2-12:1 of the Naperville Municipal Code to permit a 6-foot tall fence that encroaches 18' into the 30' required setback, as depicted on the plat of survey attached to this Ordinance as **Exhibit B**, is hereby approved.

**SECTION 3:** The Site Plan, attached to this Ordinance as **Exhibit B**, is hereby approved as the controlling site plan for the Subject Property.

**SECTION 4:** The variance approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (1) a building permit has been obtained and the construction or alteration of the structure as specified in this Ordinance has been started, or (2) the use specified in this Ordinance has commenced.

**SECTION 5:** This variance shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code, as amended from time to time, and all other applicable laws.

**SECTION 6:** If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

**SECTION 7:** The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

**SECTION 8:** This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_

Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk