

STATE OF ILLINOIS )  
 )  
COUNTY OF DUPAGE )  
 )  
CITY OF NAPERVILLE )

**PETITION TO THE NAPERVILLE CITY COUNCIL  
AND PLANNING AND ZONING COMMISSION  
FOR AN INTERIOR SIDE YARD VARIANCE**

**THE UNDERSIGNED** Petitioner, Pulte Home Company, LLC (hereinafter the “Petitioner”), respectfully submits this petition to the City of Naperville (the “City”) to grant a variance from Section 6-6C-7 of Naperville’s Municipal Code (hereinafter the “Code”) to reduce the interior side yard requirement with respect to five (5) lots located in the Ashwood Crossing Subdivision legally described on **Exhibit A** (the “Property”) and as depicted on the plans submitted herewith as **Exhibit B**.

**BACKGROUND INFORMATION**

1. The owner of the Property is Pulte Home Company, LLC, a Michigan limited liability company having an office at 1900 E. Golf Road, Suite 300, Schaumburg, Illinois 60173.
2. Petitioner previously obtained approval from the City to annex, plat, and develop the property located at the southwest corner of 95<sup>th</sup> Street and 248 Avenue known as the Ashwood Crossing subdivision as eighty two (82) buildable lots.
3. Approved as Ordinance 17-021, the Final Plat of Subdivision for Ashwood Crossing, approved development of sixty one (61) single-family homes, and forty two (42) duplex homes.
4. Petitioner sought and ultimately obtained approval of a variance to reduce the interior side yard setback requirements to allow a minimum five foot (5’) interior side yard setback on Lots 1 through 61 (the “Single Family Lots”). The City approved the variance for the Single Family Lots as Ordinance 17-022.

5. Petitioner did not seek similar relief with respect to Lots 70 through 87 (the “Duplex Lots”) because Petitioner intended to offer only two (2) floor plans for the Duplex Lots (Corsica and Provence).

6. Each of the Duplex Lots floor plans are thirty-four foot (34’) wide product, meaning the combined units would fit on each of the Duplex Lots without requesting additional zoning relief.

7. Since opening for sales on November 18, 2017, Petitioner has sold twenty four (24) duplex units, but only one (1) of those sales was the Corsica floor plan.

8. Petitioner desires to introduce the Abbeyville floor plan which is a forty foot (40’) wide product. While the Abbeyville floor plan will not fit on all of the remaining vacant Duplex Lots, the Abbeyville will fit on Lots 71, 72, 73, 80 and 81 if the interior side yard setback for said lots can be reduced to five feet (5’).

9. More specifically, Petitioner seeks a variance from Section 6-6C-7 of the Code to reduce the required interior side yard requirement from six feet (6’) each with a minimum total of sixteen feet (16’) to (5’) each with a minimum of ten feet (10’) for Lots 71, 72, 73, 80, and 81.

10. Petitioner believes the incorporation of the Abbeyville product will improve sales in the community and provide a broader range of selections for prospective buyers.

11. The variance to reduce the interior side yard setback will be imperceptible to the eye and is consistent with the previously approved variance for the Single Family Lots.

12. The proposed variance meets the standards for a variance as follows:

*a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The interior side yard requirement in the R2 zoning district for subdivisions for which final plats were applied for on January 27, 1989, or thereafter is sixteen (16’) feet total for two (2) side

yards with each side yard a minimum of six (6') feet. The City Code requirement for a side yard setback is intended to ensure that proper separation is provided between houses such that light, air and utilities are accommodated. As mentioned above, Petitioner previously sought and obtained approval of a side yard variance for the Single Family Lots. The City approved said variance finding that the subdivision is subject to unique requirements as an age-restricted community. By way of example, use of private yards is strictly limited due to the common maintenance provided through the association and homeowners are prevented from installing fences, pools, or other landscape improvements. Given this structure, the City found that a reduced side yard setback of five feet (5') was sufficient for the Single Family Lots.

Petitioner now seeks the same variance for five (5) of the Duplex Lots, namely lots 71, 72, 73, 80 and 81. At the time Petitioner requested the variance for the Single Family Lots Petitioner had no reason to request relief for the Duplex Lots because the proposed 34' wide housing product could be accommodated on all of the lots and meet the applicable setback requirements. However, based on sales velocity with respect to the Corsica floor plan, Petitioner now seeks to introduce a new forty foot (40') floor plan which cannot be accommodated without relief to reduce the side yard setback requirement to a total of ten feet (10') with a minimum side yard of five feet (5').

The proposed variance is in harmony with the general purpose of the side yard requirement. The purpose of the side yard requirement is: (i) to provide adequate space for utility placement; and (ii) to provide sufficient separation between units. The approved final plat of subdivision for the Duplex Lots included a ten foot (10') rear yard public utility and drainage easement ("PUDE") and a five foot (5') side yard PUDE. Therefore, the proposed five foot (5') setback is consistent with the utility layout for the Duplex Lots. Moreover, the five foot (5') setback was approved for Single Family Lots thus, approval of the variance for the five (5) duplex will be consistent with

what has already been approved for the Single Family Lots. In addition, the proposed five foot (5') side yard setback satisfies minimum separation standards under the City's adopted Building Code. Examples of similar five foot (5') side yard setbacks can be found throughout the City but have most recently been utilized in the adjacent Carillon Club subdivision. In Carillon Club, segments of the subdivision were permitted: i) a reduced front yard setback of twenty feet (20'), ii) a reduced rear yard setback of twenty feet (20'), and iii) a reduced side yard setback of five feet (5'). Throughout 2016, Carillon Club was regarded as the most visited new construction residential subdivision in Illinois.

Ashwood Crossing is an age-restricted community. Covenants have been established and recorded to restrict homeownership to individuals age fifty-five (55) and over consistent with federal standards. This age restriction is a unique use of the Property that was not even legally permissible when the City established its generally applicable zoning requirements. As an age-restricted subdivision, the property is maintained through an established homeowners association (the "HOA"). The HOA is responsible for, among other things, plowing of all sidewalks and driveways and maintenance of all landscaping located on the privately owned lots. This specifically includes the regular mowing of all turf located in the private yards. To facilitate this common maintenance obligation, the HOA imposes unique restrictions on the use of the property to prevent any fencing, structures or extraordinary landscaping in the commonly maintained yard. Given the unique resident demographics and the common maintenance structure of the subdivision, the purpose of the side yard setback requirement (to provide appropriate separation between structures) is satisfied with the proposed interior side yard requirement of five feet (5').

*b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Petitioner has made substantial efforts to market and sell the duplex units based on the

Corsica and Provence floor plans. While the Provence floor plan has been popular, Petitioner has sold only a single Corsica floor plan over a space of thirteen (13) months. Petitioner believes that providing an alternative floor plan that provides some additional space will spur interest and ultimately lead to additional sales at higher price points. The additional floor plan can be accommodated on a majority of the remaining lots without need for a variance. As a result, strict enforcement of the Code provisions would create practical difficulties in Petitioner's efforts to finish the subdivision since the Corsica model has proven to be unpopular with prospective purchasers.

*c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. As stated above variance to reduce the interior side yard setback for the Single Family Lots was previously approved. Petitioner now seeks to reduce the interior side yard setback for a very small fraction of the duplex lots. The variance will be imperceptible to the eye and will create a level of consistency with the Single Family Lots. Accordingly, it stands to reason that the interior side yard setback proposed by Petitioner will not alter the essential character of the neighborhood nor be a substantial detriment to adjacent property.

**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner requests the City Council and the Plan Commission take the necessary and appropriate action to (i) grant a variance from Section 6-6C-7 of Naperville's Municipal Code (hereinafter the "Code") to reduce the interior side yard requirement; and (ii) grant such other relief from the Naperville Municipal Code as may be deemed necessary and appropriate to develop the Property consistent with the plans submitted herewith.

RESPECTFULLY SUBMITTED this 3 day of January, 2019

PETITIONER:

Pulte Home Company LLC,  
a Michigan limited liability company

A handwritten signature in blue ink, appearing to read "Matt Moran", is written over a horizontal line.

Rosanova & Whitaker, Ltd.  
Attorney for the Petitioner