

PIN: 07-13-220-005

ADDRESS:
506 SPRING AVENUE
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 #21-1-031

ORDINANCE NO. 21 -

AN ORDINANCE DENYING A REQUEST FOR A HEIGHT VARIANCE TO SECTION 6-2-10:3 AND GRANTING VARIANCES FROM SECTION 6-6C-7:1, SECTION 6-2-10:5 AND SECTION 6-2-10:2 OF THE NAPERVILLE MUNICIPAL CODE TO ALLOW MODIFICATIONS TO A DETACHED GARAGE FOR THE PROPERTY LOCATED AT 506 S. SPRING AVENUE

RECITALS

1. **WHEREAS**, Mark Jahnke ("**Petitioner**"), has petitioned the City of Naperville ("**City**") for approval of variances to Section 6-2-10:2, Section 6-6C-7:1, Section 6-2-10:5, and Section 6-2-10:3 in order to modify an existing detached garage at the real property located at 506 Spring Avenue, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Mark Jahnke and Kimberly Jahnke ("**Owners**") are the owners of the Subject Property and have authorized the Petitioner to submit the variance petition; and

3. **WHEREAS**, the Subject Property is currently zoned R2 (Single Family and Low Density Multiple Family Residence District); and
4. **WHEREAS**, an approximately 700 square foot, 15'-6" tall detached garage currently exists on the Subject Property in the rear of the property; and
5. **WHEREAS**, a detached garage is defined as an accessory structure and is subject to the Accessory Buildings, Structures and Uses of Land regulations located in Section 6-2-10 of the Naperville Municipal Code; and
6. **WHEREAS**, pursuant to Section 6-3-6:2 (Standards for Variances) of the Naperville Municipal Code, the Petitioner requests approval of variances from Section 6-2-10:2, Section 6-6C-7:1, Section 6-2-10:5, and Section 6-2-10:3 of the Naperville Municipal Code to allow for modifications to the existing detached garage to create a detached garage that is 1,253 square feet in size and 25'-10" in height; and
7. **WHEREAS**, the Petitioner requests these modifications in order to construct an additional parking space on the first floor of the garage and to create a second floor of the garage to be used as storage; and
8. **WHEREAS**, the proposed modifications require approval of the following variances:
 1. A variance to Section 6-2-10:2 (Accessory Structures: Yard Requirements) and Section 6-6C-7:1 (R2: Yard Requirements) to permit an addition to an existing detached garage which encroaches 6' into the 15' corner side yard setback at a distance of 9' from the property line; and
 2. A variance to Section 6-2-10:5 (Accessory Structures: Percentage of Required Yard Occupied) to permit a detached garage which exceeds the maximum 480 square feet permitted for detached accessory structures in the required rear yard setback by 31 square feet for a total of 511 square feet in the required rear yard setback; and
 3. A variance to Section 6-2-10:3 (Accessory Structures: Height Limitations) to permit a detached garage which exceeds the maximum permitted height of 18' for detached accessory structures at a height of 25'-10"; and

9. **WHEREAS**, accessory structures are required to comply with the 18' maximum permitted height, the requested height variance exceeds the maximum permitted height by 44% (7'-10"); and
10. **WHEREAS**, per Section 6-1-6 (Zoning Regulations: Definitions), an accessory structure is defined as a subordinate building, the use of which is incidental to that of the principal use of the principal building, structure or use of the land; and
11. **WHEREAS**, staff is not in support of the requested height variance finding a second floor in the garage for storage does not meet the Standards for Variances and the proposed height in combination with the other variance requests will create a structure which is not in harmony with the intention of an accessory structure as defined by the code; and
12. **WHEREAS**, on May 5, 2021, the Planning and Zoning Commission considered the requested variances and recommended approval of the Petitioner's request; and
13. **WHEREAS**, the City Council of the City of Naperville concurs with staff and denies the request to Section 6-2-10:3 (Accessory Structures: Height Limitations); and
14. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's variance request to Section 6-2-10:2 (Accessory Structures: Yard Requirements) and Section 6-6C-7:1 (R2: Yard Requirements) and 6-2-10:5 (Accessory Structures: Percentage of Required Yard Occupied) meets the Standards for Variances 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: The following variances, as depicted on the Plat of Survey attached hereto as **Exhibit B**, are hereby approved:

1. A variance to Section 6-2-10:2 (Accessory Structures: Yard Requirements) and Section 6-6C-7:1 (R2: Yard Requirements) to permit an addition to an existing detached garage which encroaches 6' into the 15' corner side yard setback at a distance of 9' from the property line; and
2. A variance to Section 6-2-10:5 (Accessory Structures: Percentage of Required Yard Occupied) to permit a detached garage which exceeds the maximum 480 square feet permitted for detached accessory structures in the required rear yard setback by 31 square feet for a total of 511 square feet in the required rear yard setback; and

SECTION 3: The Plat of Survey, attached to this Ordinance as **Exhibit B**, is hereby approved as the controlling site plan for the detached garage for the Subject Property.

SECTION 4: The detached garage on the Subject Property shall at all times comply with the maximum permitted height of 18' as required per Section 6-2-10:3 of the Naperville Municipal Code.

SECTION 5: 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 6: 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 7: The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

SECTION 8: 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 9: 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:

Pam Gallahue, Ph. D.
City Clerk