

PIN:
08-19-400-010

ADDRESS:
831 S. JULIAN STREET
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 #20-1-026

ORDINANCE NO. 20 - ____

**AN ORDINANCE GRANTING A VARIANCE FROM SECTION 6-2-26:4 (TEAR
DOWN/INFILL REGULATIONS: HEIGHT LIMITATIONS) OF THE NAPERVILLE
MUNICIPAL CODE FOR THE SUBJECT PROPERTY LOCATED AT
831 S. JULIAN STREET (M. HOUSE CREEK ESTATES)**

RECITALS

1. **WHEREAS**, Mathieson House, LLC d/b/a M. House ("**Petitioner**"), has petitioned the City of Naperville for approval of a height variance for real property located 831 S. Julian Street, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("**Subject Property**"); and
2. **WHEREAS**, Kyle and Joni Javes are the owners ("**Owners**") of the Subject Property; and
3. **WHEREAS**, the Subject Property is proposed to be rezoned to R1A (Low Density Single-Family Residence District) upon annexation and is currently vacant; and

4. **WHEREAS**, the Petitioner proposes to subdivide the Subject Property into two lots in order to construct two single-family residences; and
5. **WHEREAS**, per Municipal Code Section 6-2-26:4 (Tear Down/Infill Regulations: Height Limitations) which establish regulations for infill single family detached dwelling units, the maximum height shall be 2 ½ stories, not to exceed 35', with a maximum peak roof height of 40' as measured from the datum point to the highest point of the roof; and
6. **WHEREAS**, pursuant to Section 6-3-6:2 (Standards for Variances) of the Naperville Municipal Code, the Petitioner requests approval of a variance from Municipal Code Section 6-2-26:4 (Tear Down/Infill Regulations: Height Limitations) to allow construction of a single-family home on the southern lot to be 3 stories, 40' 4 ½" tall as measured from the datum point to the highest point of the roof; and
7. **WHEREAS**, the requested variance meets the Standards for Variances as provided in **Exhibit C** attached hereto; and
8. **WHEREAS**, on May 20, 2020, the Planning and Zoning Commission considered the requested variance and recommended approval of the Petitioner's request; and
9. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's request should be granted as provided herein; and
10. **WHEREAS**, Petitioner has requested that the City approve this ordinance ("**Ordinance**") along with ordinances approving an annexation agreement, approving annexation of the Subject Property, approving rezoning of the Subject Property, and approving a preliminary/final subdivision plat (hereinafter cumulatively referenced herein as the "**831 S. Julian Street Ordinances**"); and

11. **WHEREAS**, Petitioner has requested that the City delay recordation of the 831 S.

Julian Street Ordinances with the DuPage County Recorder for a period of time not to exceed three hundred and sixty-five (365) calendar days after their passage in order to allow the Petitioner to finalize the purchase and sale agreement for the Subject Property and to transfer ownership of the Subject Property to the Petitioner; and

12. **WHEREAS**, subject to approval of the 831 S. Julian Street Ordinances, the City has

agreed to the proposed timeframe for their recordation with the DuPage County Recorder as set forth herein. In the event that all of the 831 S. Julian Street Ordinances are not recorded within the timeframe described above, the City and Petitioner agree that the 831 S. Julian Street Ordinances, including but not limited to this Ordinance, shall not become effective, shall not be recorded and shall be deemed to be automatically null and void with no further action being taken by the City or Petitioner; and

13. **WHEREAS**, both the Petitioner and the City acknowledge and agree that in the event

that the 831 S. Julian Street Ordinances, including but not limited to this Ordinance, are not recorded within the timeframe provided for herein, they shall be deemed to be automatically null and void with no further action being taken by the City or the Petitioner and that in no event shall the City be liable or responsible in any manner therefor.

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: If recordation of the 831 S. Julian Street Ordinances, including but not limited to this Ordinance, does not occur within three hundred and sixty-five (365) calendar days after passage of the 831 S. Julian Street Ordinances as provided herein, then said Ordinances shall be deemed to be automatically null and void and of no force and effect without any further action being required by the City or the Petitioner. Petitioner has acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if the 831 S. Julian Street Ordinances are not recorded within the three hundred and sixty-five (365) calendar day timeframe described herein.

SECTION 3: Subject to approval, execution, and 831 S. Julian Street Ordinances, a variance from Municipal Code Section 6-2-26:4 (Tear Down/Infill Regulations: Height Limitations) to allow a 3 story, 40' – 4 ½" tall single-family home on the southern lot of subdivided property located at 831 S. Julian Street is hereby granted.

SECTION 4: The variance approved by this Ordinance shall expire within two (2) years from the effective date of this Ordinance if a building permit has not been obtained and the construction or alteration of the structure as specified in this Ordinance has not been started within that two (2) year period.

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: Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, the City Clerk is authorized and directed to record this Ordinance, together with the exhibits attached hereto, with the DuPage County Recorder.

SECTION 7: 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 8: This Ordinance shall be in full force and effect upon its recordation with the DuPage County Recorder.

PASSED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph. D.
City Clerk