

**VARIANCE FROM CITY CODE SECTION 6-6C-8 TO ALLOW FOR 3.5 STORIES
AND A BUILDING HEIGHT OF 42'2"**

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

Code Section 6-6C-8 of the R-2 zoning district permits heights of up to forty (40) feet and three (3) stories. The story variances arises from the code requirement that the building not exceed three (3) stories. The main living areas will only encompass three (3) stories. However, code section 6-1-6 (Definitions) requires the rooftop deck area to be considered as a half ($\frac{1}{2}$) story as it is accessible by a stairwell, will include a small storage area, and is improved with floor decking. As a result, despite the building meeting the City's story requirement, the Petitioner must seek a variance for an additional half ($\frac{1}{2}$) story in order to provide for a roof top deck amenity. It is important to note, that if the variance were not granted, the building height and aesthetics will not change at all. If this variance is not granted, the only changes would be that there would be no roof top deck feature and the attic area would not be utilized for storage. The size, height and dimensions of the building would be exactly the same.

With regard to the height of the building, pursuant to Section 6-2-4 of the Code, as of July 5, 2005, building height is now measured from "datum points", which are established by calculating the average of the two grades taken where the front yard setback line intersects with the side property lines. Due to the unique topography of the Subject Property, if the property drops off over six feet (6') from the west datum point (682.6) to the east datum point (676.2), a distorted result is realized when the datum point height analysis is applied to the Subject Property. As such, Petitioner requests a variance to increase the maximum height from 40' to 42'2" to adjust for the unusual topography of the Subject Property. For reference, the existing

Charleston Row project consisted of the exact floor heights and building height but did not require a height variance because the site was generally flat. In calculating height, the method of calculation found in Section 6-2-4 is meant to account for subtle variations in topography on a given property. Here, the Subject Property features a significant slope that skews the resultant datum points in such a way as to unnecessarily and artificially restrict the height of any residence on the Subject Property, limiting height more drastically than the Code intends.

- 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*

Strict enforcement of this requirement would cause the Subject Property not to be developed in conformance with the highest and best use of the land. Additionally, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. In researching the viability of this development to our target market, (empty nesters and professionals) the roof top decks are a significant amenity and major selling point which have been positively received. In addition, the small attic storage areas will be beneficial as well. Should the roof top decks be removed, a significant enhancement and a marketable amenity will be lost. Lastly, although the underlying datum point calculation method usually creates an appropriate point from which to gauge the height of a home, in this instance, the topographical variation and unique features of the Subject Property skews the resultant datum point in such a way that creates a hardship imposed on Petitioner. While other owners whose property is relatively uniform are allowed up to forty feet (40') in actual height, because of the variation on Petitioner's property, the datum point calculation reduces the actual height afforded Petitioner. This reduction in the height allowed on Petitioner's property in turn creates architectural and engineering restrictions and difficulties that are generally not found on other

properties in the area.

- 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 help pave the way for a residential development in harmony with adjacent residential uses and will be the highest and best use of the property, so there will be no detriment to the adjacent properties. This variance would be virtually undetectable and would have no effect on the essential character of the area. In fact, the rooftop deck area is completely screened behind the roof area and invisible from view from the northern, eastern and western facing facades. The proposed use of the Subject Property is consistent with the residential character of the area, will actually improve upon the area, and will not be a substantial detriment to adjacent property. Instead, the variance will allow Petitioner to construct homes on the Subject Property consistent with the quality associated with the existing Charleston Row Homes, contributing to the growth of the neighborhood and Naperville in general. Moreover, the building will be setback approximately fifteen feet (15') from the east property line in lieu of the required six feet (6') further minimizing the height variance.

**VARIANCE FROM CITY CODE SECTION 6-6C-7 TO REDUCE THE REAR YARD
SETBACK FROM 25' TO 10'.**

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

The variance is in harmony with the general purpose and intent of this title. First, it is important to note that if someone were to build a single-family home along the southern property line, the interior side yard setback requirement of six feet (6') would be applicable. Here, because the two units to be built along the south property line are part of a larger row home project where the front yard is considered along Aurora Avenue, the south property line is

considered a rear yard. However, for or all intensive purposes the rear yard will actually function as a side yard in which case the proposed ten foot (10') setback will actually exceed what is required for an interior side yard. The property located immediately to the south of the Subject Property will be adjacent to the side elevation of the southernmost row home and open space areas which will function very much like two interior side yards. Lastly, the setback area will be extensively landscaped with arborvitae and decorate trees to create additional delineation. The proposed row homes located along the south property line will be a substantial improvement over the existing single-family home.

- 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*

The Subject Property is unique as it is bounded by two roads and is a transitional property separating a busy commercial center from a quiet residential setting. A residential use is the only appropriate use for the Subject Property, however a single-family home would not be viable at this location. Strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. Without this variance the Petitioner would have to achieve a twenty five foot (25') rear yard setback which would cause the elimination of two homes, and the project would no longer be viable.

- 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 will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. Currently, the existing home located on the Subject property is setback approximately fourteen feet (14') from the rear property line which is actually currently considered an interior side yard setback and permitted to be only setback six feet (6'). The variance will provide for the improvement of the Subject Property with a

complimentary residential use which will have a positive impact on property values. Lastly, the setback area will be extensively landscaped to create additional delineation between the two properties and enhance property values in the area.

**AREA REQUIREMENT VARIANCE FROM SECTION 6-6C-5 OF THE CITY CODE
TO ALLOW ONE UNIT PER 3,303 SQUARE FEET IN LIEU OF ONE UNIT PER 4,000
SQUARE FEET**

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

The Subject Property consists of approximately 26,426 square feet. The City's R-2 zoning district requires 4,000 square feet per dwelling unit. Density limitations ensure that public facilities, be it utilities, schools, parks, or roadway infrastructure, are not overwhelmed by the number of people output from a development. In this instance, the proposed use of the Subject Property as eight (8) dwelling units is a substantially less intense use than other uses within the surrounding area and is consistent with what is appropriate for a downtown area. Maintaining the Subject Property in its current configuration, with only three (3) homes, is not an efficient use of resources or the highest and best use of the Subject Property. The requested variance to allow for eight (8) homes on the Subject Property is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. Additionally, it is important to note that the existing Charleston Row project consists of a total building square footage of 9,878 square feet on 25,687 square feet which is actually a higher floor area ratio that what is proposed for the Subject Property. Lastly, the proposed Charleston Row II will include the open space amenity discussed above.

- 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*

The Subject Property is unique as it is bounded by two (2) roads and is a transitional

property separating a busy commercial center from a quiet residential setting. A residential use is the only appropriate use for the Subject Property; however a single-family home would not be viable at this location. Therefore, strict enforcement of this title would substantially negatively affect the marketability and viability of these townhomes and this project. Without the density variance the project would no longer be viable.

- 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 existing structures which are currently located on the Subject Property are generally run down and out of character for the neighborhood. As such, Petitioner's variance request could be restated as a request to improve the existing condition with townhomes complementary to the surrounding uses and which will increase the property values in the area.