

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

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR
FENCE VARIANCES AT THE LAUREL SUBDIVISION**

THE UNDERSIGNED Petitioner, North Webster Place, LLC an Illinois limited liability company (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to: (i) grant a variance from section 6-2-10:6 to permit a fence to be located on two lots without a principal structure; and (ii) grant a variance from section 6-2-12:2.1 to permit a five foot (5’) tall powder coated aluminum fence to be located within the front and corner side yard setback for the property legally described on **Exhibit A** (the “Property”) and (iii) such other variances, departures or deviations as may necessary to permit the installation of the fence as depicted on the plans made a part hereof as **Exhibit B** pursuant to the Naperville Municipal Code (the “Code”).

In support of this Petition, the Petitioner represents to the City as follows:

1. The Owner of the Property is North Webster Place, LLC, an Illinois limited liability company with a principal place of business of 850 Pasquinelli Drive, Westmont, Illinois 60559.
2. The Subject Property is zoned “TU” (Transitional Use) and consists of three (3) lots totaling approximately 43,902 sq. ft. (Lot 1 – 23,688 square feet, Lot 2 – 9,781 square feet, and Lot 3 – 10,433 square feet) commonly known as 222 W. Van Buren Avenue, in Naperville, Illinois.
3. The existing land uses surrounding the Property are as follows:
 - a. North TU: Commercial/Office Building – St. John’s Place
 - b. East B4: Paw Paw Parking Lot & Main Street Promenade

- c. South TU: General Business Retail and Office – Hithcock Design and Chiropractor
- d. West R2: Single Family Home

4. The variance from section 6-2-10:6 to permit a fence to be located on two lots which do not contain a principal structure meets the requirements for a zoning variance under the Naperville Municipal Code, Section 6-3-6:2 and is appropriate based on the following factors:

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

The Property is located in the TU zoning district and consists of a recently constructed single family home located on one lot (the “Single Family Lot”) and two vacant lots directly to the east of the Single Family Lot (the “Vacant Lots”). The Petitioner would like to install a fence around the Vacant Lots which consists of a five (5) foot tall black powder coated aluminum fence and an eight (8) foot tall wooden fence (depiction attached). Section 6-2-10:6 of the Code prohibits fencing from being located on a lot which does not have a principal structure. In this instance, the Single Family Lot and Vacant Lots essentially function as one unified lot with the Vacant Lots serving as a side yard as well as a transition to the commercial uses to the east.

The Transitional Use District is intended to serve as a mixed use transitional area between low-density residential neighborhoods and other more intensive uses such as a business district. Consistent therewith, the installation of the fence on the Vacant Lots will provide a clear delineation from the more-dense commercial/business uses to the Single Family Lot. Additionally, installation of the fence will distinguish the residential character of the Property from the adjacent commercial/business uses. A stated purpose of the Code is “[t]o foster a more rational pattern of relationship between residential, business and industrial uses for the mutual benefit of all.” In this instance, the fence will fulfill the stated purpose of the Code by delineating the residential property from adjacent businesses and commercial uses which in turn fosters a

more rational pattern of relationship between uses.

In this instance, the fence will serve multiple functions including: (i) providing a clear delineation between public areas and a private residence; (ii) complementing the home and landscaping; (iii) increasing safety for the both the public and Petitioner; and (iv) allowing the Petitioner to better utilize their side yard.

- 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 location and transitional character of the Property together with the nature of the surrounding neighborhood creates a unique set of circumstances. The Property is in close proximity to downtown Naperville and the vast array of businesses located therein. Permitting a fence on the Vacant Lots will ensure the Property is properly delineated from the downtown businesses. Further, it will create consistency and ensure passersby will not confuse the property as public property. Strict enforcement of the Code could cause confusion for the public because the Property would not be clearly delineated from the adjacent commercial businesses and the pedestrian traffic generated by those businesses.

- 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. To the contrary, the fence will be appealing, tasteful and will have a positive effect to the character of the neighborhood. The proposed fence will be designed, laid out, and constructed, in a manner that achieves both balance and harmony with the neighborhood, fosters peaceful relations with neighbors, and blends in a visually unobtrusive manner with the surroundings. Further, the fence will be located as to not impose any hardship on any neighbors, nor serve to create a situation where any

neighbor's quality of life, property value, or peaceful co-existence would be negatively affected.

5. The variance from section 6-2-12:2.1 to permit a five foot (5') tall fence within the front and corner side yard setback meets the requirements for a zoning variance under the Naperville Municipal Code, Section 6-3-6:2 and is appropriate based on the following factors:

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

Section 6-2-12:2.1 does not permit fencing to exceed three (3) feet in height when installed within the front and corner side yard setback. Section 6-1-6 of the Code defines an "open fence" as a fence where for each one (1) foot wide segment at least thirty percent (30%) of the surface area is in open spaces which afford direct views through the fence. Here, the proposed fence far exceeds thirty percent (30%) to be classified as an "open fence." Given the location of the Property along with the style of the proposed fence, installation at this location will enhance the residential use of the Property, properly delineate the Property from adjacent business uses, while not visually cutting off the Property from the rest of the neighborhood.

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 location of the Property, coupled with the open fence design, together with the nature of the surrounding neighborhood creates a unique set of circumstances. The Property is in close proximity to downtown Naperville and the vast array of businesses located therein. Permitting a five (5) foot tall open fence on the Vacant Lots will ensure the Property is distinguished from the adjacent businesses. Further, it will create consistency and ensure passersby will not confuse the property as public property. Strict enforcement of the Code may confusion for the public because the Property will not be clearly delineated from the adjacent commercial businesses and the pedestrian traffic generated by those businesses

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. To the contrary, the fence will be appealing, tasteful and will have a positive effect on the character of the neighborhood.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to grant a variance from section 6-2-10:6 to permit a fence to be located on two lots without a principal structure; and (ii) grant a variance from section 6-2-12:2.1 to permit a five foot (5') tall powder coated aluminum fence to be located within the front and corner side yard setback; and (iii) grant such other variances, departures, deviations or other relief which is deemed necessary to approve the installation of the proposed fence as depicted on the plans submitted herewith.

RESPECTFULLY SUBMITTED this ____ day of _____, 2019.

PETITIONER: NORTH WEBSTER PLACE, LLC
A ILLINOIS LIMITED LIABILITY COMPANY

ROSANOVA AND WHITAKER LTD.


By: 
Matthew G. Goodman

EXHIBIT A
LEGAL DESCRIPTION

LOT 1, 2 AND 3 IN THE LAUREL, BEING A SUBDIVISION OF THE PART OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 29, 2016 AS DOCUMENT R2016-143976, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 222 Van Buren Avenue, Naperville, Illinois 60540

PIN: 07-13-421-018; 07-13-421-019 and 07-13-421-020

**EXHIBIT B
PLANS**