

Standards for Granting a Zoning Variance

Municipal Code Section 6-3-6:2. Standards for Variances: Any recommendation by the Planning and Zoning Commission and any decision by the City Council shall be predicated on evidence and finding that:

Minimum Lot Area Per Dwelling Unit:

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

The requested variance to allow for a three (3) unit townhome on 11,400 square feet in lieu of 12,000 square feet is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. The proposed construction of a three (3) unit townhome is consistent with the City's vision for the Subject Property as evidenced by the Naperville Downtown 2030 Plan which designates the Subject Property as Transitional Use. The directive of the Transitional Use areas within the 2030 Plan is to "provide low-intensity office, service and residential uses that are designed in a manner compatible with the adjacent neighborhood". The Petitioner requests the entitlements necessary so that he will be allowed to remove the existing structure and construct a three (3) unit townhome building on the Subject Property which is complementary to the surrounding land uses. The requested variance will provide a significant improvement.

2. *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 consists of approximately 11,400 square feet. The City's TU zoning district requires 4,000 square feet per dwelling unit. Consequently, to construct a three (3) dwelling unit townhome, 12,000 square feet of lot area is required. 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 a three (3) dwelling unit townhome is a substantially less intense use than other uses within the surrounding area and what is appropriate for a downtown area.

3. *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 structure which is currently located on the Subject Property is generally run down and out of character for the neighborhood. The Petitioner's request will provide for the improvement of the area with three upscale townhomes complementary to the surrounding uses.

Driveway Setback:

1. *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 and the adopted comprehensive master plan. The Code prohibits parking lots to be located within five (5) feet of any property line. Presently, the Code does not distinguish between a parking lot and a driveway. As a result, the Petitioner requires a variance to have its driveway located four (4) feet from the

northern property line. The purpose of the parking lot setback requirement is to protect adjacent properties from encroachment of incompatible parking lots. In this case, Petitioner is proposing to locate a driveway four feet (4') from the property line. Because the adjacent property consists of a surface parking lot, there is no threat of incompatible use.

2. *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 the five (5) foot parking lot setback requirement would result in practical difficulties due to the special and unusual conditions of the Subject Property. Petitioner desires to maximize vehicle movement such that the driveway can accommodate two-way traffic. In order to provide such vehicle movement the driveway will need to be situated four (4) feet from the property line to allow for proper two way movements. For this reason strict compliance with the five (5) foot setback would have an appreciable adverse effect upon the Subject Property by limiting the full use and enjoyment of the Subject Property.

3. *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. Because the adjacent property is a parking lot, approval of Petitioner's variance request will have no effect on the adjacent property nor the essential character of the neighborhood. Also, the one foot (1') variance would be virtually undetectable. Instead approval of the variance will permit the Petitioner to utilize the driveway in the manner consistent with the adjacent property and enable vehicles to pass one another. In addition, it will enable the Petitioner to utilize the Subject Property to highest and best use and permit the construction of an upscale three unit townhome consistent with Naperville Downtown 2030 Plan and TU zoning district

Front Yard Patios:

1. *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 and the adopted comprehensive master plan. The purpose of the setback requirement is twofold. First, the requirement ensures adequate provision is established for light, air, and open spaces. Second, it is intended to ensure aesthetically pleasing outdoor spaces are developed. In this case, both goals are fulfilled. Situating the patio in the front yard enhances aesthetics and provides a charming amenity to the future residents of the townhome. The rear yard is not well suited for outdoor seating and is more appropriate for parking and access; with the patio situated in the front yard, residents will have an excellent view to central park which is a more efficient use of space. Additionally, Petitioner's lot depth is approximately one hundred and fourteen (114) feet. Because of the smaller lot depth there is not sufficient space to situate the patio out of front yard setback and provide parking and access in the rear yard. Additionally, a patio has virtually no impact to light, air and open spaces. Instead, locating the patio in the front yard improves the Subject Property by providing an aesthetically pleasing amenity for future residents of the townhome and utilizes the Subject Property to its highest and best use.

2. *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 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. In this circumstance, the lot depth is a special and unusual condition. Most lots have much greater lot depth than the Subject Property. The lot depth is approximately one hundred and fourteen (114) feet. With such a small lot depth, it is impossible to accommodate a patio in the front yard while simultaneously providing parking and access in the rear of the Subject Property. Strict enforcement of this Title would eliminate an aesthetically pleasing and desirous amenity many residents find attractive.

3. *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. Instead, situating the patio in the front yard setback will improve the character of the neighborhood by providing a charming amenity for the future residents of the newly constructed townhome. Moreover, Central Park is located directly across the street, the front yard provides an ideal location for future residents to enjoy an outdoor patio living space. Removal of the patio from the front yard will have a substantial negative effect on the proposed development because it will diminish aesthetics and eliminate the patio entirely from the proposed development plans.