

PIN: 02-05-403-040

**ADDRESS:
2515 PINE CONE CT
NAPERVILLE, IL 60565**

**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**

BRB Case #110

ORDINANCE NO. 22 -

**AN ORDINANCE GRANTING A VARIANCE FROM SECTION 5-1J-2 OF THE
NAPERVILLE MUNICIPAL CODE AMENDING SECTION 305.1 (BARRIER
REQUIREMENTS) OF THE 2018 INTERNATIONAL POOL AND SPA CODE FOR
2515 PINE CONE COURT.**

WHEREAS, the Chief Building Official for the City of Naperville has interpreted Section 5-1J-2 of the Municipal Code and has determined that a partially in-ground spa does not meet the intent of the codified exception to the code for spas and hot tubs and must be protected by a permanent barrier such as a fence; and

WHEREAS, the property owner, William Birkenbine, has petitioned the City of Naperville to grant a variance from Section 5-1J-2 of the Naperville Municipal Code amending Section 305.1 of the 2018 International Pool and Spa Code to omit the required barrier fence and instead provide a lockable cover and a security camera for a partially in-ground spa at 2515 Pine Cone Court ("Subject Property"), as legally described on Exhibit A; and

WHEREAS, the Forest View Estates Homeowners Association, which has authority over the Subject Property, prohibits any type of fences and has rejected the property owner's request for a fence in writing on March 22, 2022; and

WHEREAS, on June 15, 2022, the Building Review Board (BRB) discussed this matter and voted (5-0) to recommend approval of the variance with the caveat that a security camera be trained on the area of the spa; and

WHEREAS, the City Council of the City of Naperville has determined that the variance to the Naperville Municipal Code should be granted to the extent and subject to the terms and conditions set forth in this Ordinance.

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 substantive and are incorporated in this Section 1 as though fully set forth in this Section 1.

SECTION 2: A variance to Section 5-1J-2 of the Naperville Municipal Code amending Section 305.1 of the 2018 International Pool and Spa Code is hereby granted to allow the construction of a partially in-ground spa with a lockable cover and a security camera without a barrier fence.

SECTION 3: 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 4: The City Clerk is directed to record this Ordinance and its exhibits with the Will County Recorder.

SECTION 5: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____ 2022.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____ 2022.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue Ph.D.
Naperville City Clerk

EXHIBIT A

LOT 5 IN FOREST VIEW ESTATES, PART OF THE WEST HALF OF THE EAST HALF OF SECTION 5, TOWNSHIP 37 N, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 14, 2005 AS DOCUMENT NUMBER R2005-009425 IN WILL COUNTY, ILLINOIS,

PIN: 02-05-403-040

COMMONLY KNOWN AS 2515 PINE CONE COURT, NAPERVILLE, IL 60565