

Responses to the Standards for Granting a Zoning Variance

8. Petitioner seeks a variance from Code section 6-6C-8 to permit: (i) an increase in the maximum allowable height for a duplex building (from 35' to 40'); and (ii) to permit an increase in the maximum permitted stories (3.5 stories) for both the duplex and the attached single family building.

9. The requested height variance meets the standards for a variance as follows:

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

In normal application, the Code provision does not create conflict because the different

housing types- duplexes/single family homes and townhomes/rowhomes are not traditionally intermingled. While the different products types may be built side-by-side, there is usually a transition or some distinction between the products. Here, we have exactly the opposite situation. Petitioner started with a traditional rowhome development that consisted of two buildings- a four unit building along Chicago Avenue and a five-unit building to the rear of the Property. However, in working with City staff and refining the site plan, the four unit building located along Chicago Avenue was split into two separate and distinct buildings. This change created additional architectural interest, upgraded the entrance to the community and resulted in better individual living units. However, as an unintended consequence, the building was no long classified as a rowhome or “attached single family dwelling,” but was classified as a duplex and more restrictive height limitations were imposed. Accordingly, Petitioner seeks a variance to permit the duplex structures at a height of forty feet, consistent with the City’s requirement for an attached single family structure.

Additionally, Petitioner seeks a variance from the zoning ordinance height requirements to permit both the duplex buildings and the attached single family structure as 3.5 story buildings. The story limitation arose from teardown and infill regulations. Prior to the regulation, builders were lifting foundations out of the ground to create walkout or lookout conditions. The lower level of the home, while rising above the surrounding grade, wasn’t being construed as a “story” and was resulting in taller homes. That issue is not applicable in the present case. Petitioner will comply with the 40’ height limitation. Here, the classification of the buildings as 3.5 story structures does not result in an increase in the height of the buildings, but merely permits a portion of the attic space to be utilized as an access to a rooftop deck. The rooftop deck is a unique amenity that has been incorporated into a number of recent townhome projects in the City

of Naperville. It does not change the relationship or height of the building vis-à-vis adjacent structures- which was the original intent of the story limitation. Accordingly, the proposed variance is in harmony with the purpose and intent of the applicable height regulations.

- 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 title would substantially negatively affect the marketability and viability of these homes and this project. The proposal consists of nine single-family attached homes that all function identically and are designed as a compatible integrated community. While the buildings fronting Chicago Avenue are duplexes under the zoning code, they will function and be sold as rowhomes along with the dwellings in the five-unit building. All of the buildings will comply with the 40' height limitation. The terrace level of each home will include access to a rooftop deck, which is a highly desirable feature for the target market. Similar designs have been approved at Charlestowne Row and Columbia Park Townes, with both of those projects being well received. Failure to approve the variance would not affect the overall height of the structure, it would merely prevent Petitioner from utilizing a portion of the attic space and creating a rooftop terrace. The failure to include such amenities would negatively affect the development's ability to compete with similar projects in the market.

- 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 proposed variance to permit 3.5-story and 40' tall buildings along the Chicago Avenue frontage will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. As outlined for the conditional use above, the Property is largely

isolated from the surrounding neighborhoods. To the east, the Property is bordered by the 3-story Sunrise Senior Living, a fire station and the Charlestowne Woods townhome community. To the south and west the Property is bound by East Greens Park. While there is a large single family neighborhood further to the south and west, the Property functions independently and is not an integrated part of that neighborhood. Chicago Avenue serves as a delineation of the neighborhood to the north. However, that neighborhood includes a mix of single family, duplex, multiple-family and commercial uses. The evolution of that neighborhood to the north reflects how certain properties along Chicago Avenue have traditionally been treated differently. Because of the manner in which the Property is segregated from surrounding single family neighborhoods the proposed variance will not alter the character of those neighborhoods nor will it be a detriment to property values. If anything, the proposed 3.5-story design proposed by Petitioner is consistent with the character of the adjacent Sunrise Senior Living community.