

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

**PETITION TO THE NAPERVILLE CITY COUNCIL AND
PLANNING AND ZONING COMMISSION**

THE UNDERSIGNED Petitioner, Marji J. Szwaya (hereinafter the “Petitioner”) as owner of the property legally described on **Exhibit A** (hereinafter the “Property”) respectfully petitions the City of Naperville to grant a variance from Section 6-2-10:5 of Naperville’s Municipal Code (hereinafter the “Code”) to allow for an existing Sport Court to occupy more than twenty-five percent (25%) of a required rear yard. A picture of the existing Sport Court is attached hereto as **Exhibit B**.

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

1. The Owner of the Property is Marji J. Szwaya who currently resides at the Property which has a common address of 2631 Sweet Broom Lane, Naperville, Illinois 60564.
2. The Property is zoned R1A (Low Density Single-Family Residence District) with a lot size that consists of approximately 11,200 sq. ft.
3. The existing land uses surrounding the Property are as follows:
 - a. North: R1A – Single Family Residence
 - b. East: R1A – Single Family Residence
 - c. South: R1A – Single Family Residence
 - d. West: R1A – Single Family Residence
4. The Subject Property is located in Will County, Illinois and is improved with a single family residence and Sport Court in the rear yard.
5. The Sport Court located in Petitioner’s rear yard is frequently utilized by Petitioner and guests throughout the surrounding neighborhood for recreational/sport purposes.
6. The Sport Court was installed using a permeable gravel base and permeable sports

tile in lieu of pavers, concrete or asphalt as a court surface.

7. The Petitioner respectfully seeks approval of a variance from Code Section 6-2-10:5 to permit an existing Sport Court to occupy more than twenty-five percent (25%) of the required rear yard.

8. The requested relief meets the requirements for variance under the Code, Section 6-3-6, 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 variance is in harmony with the general purpose and intent of this title and the adopted comprehensive master plan. The purpose of the Code's limitation on the size of an accessory building or structure in the rear yard is to prevent overcrowding of land, to establish adequate standards for the provision of light, air and open spaces, to provide adequate drainage, curbing or erosion, and the reduction of flood damage. The Code's technical application, in Petitioner's case, limits accessory structures and buildings to six hundred (600) square feet. Petitioner's Sport Court is seven hundred and fifty (750) square feet.

In the case at bar, the variance is in harmony with the general purpose and intent of this Title for the following reasons: (1) it does not cause any overcrowding of land; (2) it has not caused any intrusion of light, air and open space, and (3) it has improved the condition of Property as set forth below. The Sport Court is a welcome addition to the neighborhood as is evident by Petitioner's and adjacent residents' use and enjoyment of the Sport Court. Additionally, the Sport Court has improved the overall condition of the Property, particularly the rear yard. The Sport Court was installed using a permeable gravel base, similar to a permeable paver surface. Permeable sports tile was utilized in lieu of pavers as the court surface, as depicted on **Exhibit C**. Not only does this base allow water to flow through the Sport Court and drain into the native soils below as

it naturally would, but the base also serves the dual purpose as a “Dry Well” which also acts as a large reservoir collecting water runoff which would normally pass through neighboring properties allowing water to drain into native soils below, unseen. The installation of the Sport Court has greatly improved the water drainage of Petitioner’s rear yard and reduced the water runoff onto adjacent property owners’ lots. It is important to note, that prior to the installation of the Sport Court, during rain storms, pools of water would accumulate in the rear yard often taking days to evaporate. With the installation of the Sport Court, this condition has been eliminated.

In the R1A zoning district Section 6-6A-7 “Yard Requirements” defines the required rear yard as: *“twenty-five percent (25%) of the lot depth which need not exceed thirty feet (30’)”*. Petitioner’s lot has a depth of one-hundred forty feet (140’). Therefore, twenty-five percent (25%) of the lot depth is thirty-five feet (35’). Although the Code specifically states twenty-five percent (25%) of the lot depth, the technical application of the Code’s provision *“which need not exceed thirty feet (30’)”* causes the required rear yard to be based upon thirty feet (30’) instead of thirty-five feet (35’). Section 6-2-10:5 mandates that *“Detached accessory buildings or structures shall not occupy more than twenty-five percent (25%) of the area of a required rear yard...”* Petitioner’s lot width is eighty feet (80’); therefore, based upon the technical application of the Code’s definition of required rear yard, Petitioner is limited to an accessory building or structure that is six-hundred (600) square feet. Under this technical application, Petitioner’s Sport Court is one hundred and fifty (150) square feet larger than what is permitted.

Moreover, the Code’s technical application leads to problematic results. For example, when one applies the technical interpretation to a much larger lot, say for example a lot with a depth of two hundred and fifty feet (250’) and a lot width of eighty feet (80’), the Code’s technical application would once again limit an accessory structure or building to six hundred (600) square

feet. This result does not make sense when we have a lot much larger in size. Surely a lot of this size should be permitted to place an accessory structure or building larger than six hundred (600) square feet in its rear yard. If this were not the case, larger sized lots would only be permitted to install very small accessory structures or buildings in relation to their lot size.

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 result in practical difficulties or impose exceptional hardship due to special and unusual conditions which are not generally found on other properties in the same zoning district. As previously stated, the unusual grading of the property causes water accumulation in the rear yard during rain storms. This condition is generally not present on other properties in the same zoning district. Here, the installation of the Sport Court has improved the overall condition of the Property and the adjacent properties by alleviating water accumulation and providing nearby residents an amenity previously not available. If Petitioner removes the Sport Court, the water accumulation will return potentially causing damage to Petitioner's rear yard and adjacent property owners' lots.

Section 6-2-10:5 applies to accessory buildings and structures. Here, Petitioner's Sport Court has been designed with a permeable gravel base instead of concrete, asphalt or some other type of impervious surface. Accordingly, the Sport Court does not have the same impact as "structures" that 6-2-10:5 was intended to regulate. This is a unique condition to the type of Sport Court Petitioner installed and strict enforcement would cause practical difficulties in the use of the Sport Court that would no longer comply with the standard size of a Sport Court.

In conclusion, strict enforcement of Code will impose exceptional hardship on Petitioner by causing a water accumulation in Petitioner's and adjacent property owners' lots.

- 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 adjacent property. The character of the neighborhood is residential. Many residents currently have accessory structures or buildings in their rear yard. Petitioner's Sport Court is consistent with the types of accessory structures already present in the rear yard of many residents in the neighborhood. In fact, proximate to Petitioner's residence another resident has installed a Sport Court in their rear yard. Approval of the variance will not alter the essential character of the neighborhood.

Additionally, the Sport Court has improved the overall condition of the Property and the adjacent property due in large part to water drainage. Prior to installation of the Sport Court large pools of water would accumulate on Petitioner's yard during rainfall, overflowing onto adjacent property owners' lots. This condition has now been eliminated. Additionally, the Sport Court has improved the character of the neighborhood by providing an amenity that previously was not available to Petitioner and guests.

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WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the Planning and Zoning Commission and the Naperville City Council take the necessary steps to grant the Petitioner's request for a variance from Section 6-2-10:5 of Naperville's Municipal Code to allow for an existing Sport Court to occupy more than twenty-five percent (25%) of a required rear yard.

RESPECTFULLY SUBMITTED this 28 day of March 2017.

PETITIONER: Marji Szwaya

By: 
Rosanova & Whitaker, Ltd.
Attorneys for Petitioner