

PIN: 08-19-400-034

ADDRESS:  
815 South Julian Street  
NAPERVILLE, IL 60563

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

PZC Case #21-1-092

ORDINANCE NO. 21 - \_\_\_\_\_

**AN ORDINANCE GRANTING A DEVIATION FROM  
SECTION 7-1-13 (PLATTED SETBACKS AND BUILDING LINES)  
OF TITLE 7 (SUBDIVISION REGULATIONS) OF  
THE NAPERVILLE MUNICIPAL CODE  
FOR THE PROPERTY LOCATED AT 815 SOUTH JULIAN STREET**

**RECITALS**

1. **WHEREAS**, Scott Mathieson ("Owner" and "Petitioner") is the owner of real property located at 815 South Julian Street, Naperville, Illinois, legally described on **Exhibit A** and depicted on **Exhibit B** ("Subject Property"), and has petitioned the City of Naperville to grant a deviation from Section 7-1-13 (Platted Setback and Building Lines) of the Naperville Municipal Code for the Subject Property; and
2. **WHEREAS**, the Subject Property is located within the Arthur T. McIntosh and Company's Naperville Estates Subdivision; and
3. **WHEREAS**, the Final Plat of Subdivision was recorded in DuPage County in 1927 as document number R1927-236013 (the "Plat"); and

4. **WHEREAS** the Plat depicts a thirty-three (33) foot setback requirement in the rear yard of the Subject Property with language that states: “no building shall be erected on the...West Thirty Three (33.0) feet of Lots...6;” and
5. **WHEREAS**, the Subject Property was annexed in 2020 to the City of Naperville and subdivided pursuant to the Plat of Subdivision for M. House Creek Estates recorded as document number R2020-1416686 in DuPage County; and
6. **WHEREAS**, the platted 33’ rear yard setback line was not abrogated during the subdivision process; and
7. **WHEREAS**, the Subject Property is zoned R1A (Low Density Single-Family Residence District), which requires a rear yard setback of 25% of the lot depth, not to exceed 30 feet; and
8. **WHEREAS**, per Section 6-2-10:1, detached accessory structures shall not be located within five (5) feet of any rear or interior side lot line; and
9. **WHEREAS**, per Section 7-1-13 (Platted Setbacks and Building Lines), where a platted building or setback line is in conflict with the required yard provisions of Title 6, Zoning Regulations of the Naperville Municipal Code, the more restrictive requirement shall apply; and
10. **WHEREAS**, nearby and adjacent properties which were originally subject to the 33’ platted rear yard setback line have since abrogated said setback line; and
11. **WHEREAS**, the Petitioner intends to construct a cabana, pool, deck, and patio on the Subject Property which will encroach into the 33’ platted setback; and

12. **WHEREAS**, the Petitioner intends to comply with the R1A required rear yard setback requirements and the City's detached accessory structure requirements at the Subject Property; and

13. **WHEREAS**, pursuant to Section 7-1-8:2.3 (Standards for Subdivision Deviations) of the Naperville Municipal Code, the requested deviation meets the Standards for granting a Subdivision Deviation as provided in **Exhibit C** attached hereto; and

14. **WHEREAS**, the City Council of the City of Naperville has determined that the Petitioner's request should be granted as provided herein.

**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 incorporated as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

**SECTION 2:** A deviation to Section 7-1-13 (Platted Setbacks and Building Lines) of the Naperville Municipal Code is hereby granted to allow for an encroachment into the 33' platted rear yard setback line for the purpose of constructing a pool, cabana, patio, deck, and associated appurtenances on the Subject Property, as depicted on the Site Plan attached hereto as **Exhibit B**. Approval of this deviation is subject to compliance with the Site Plan approved in Section 3 below.

**SECTION 3:** The Site Plan, attached to this Ordinance as **Exhibit B**, is hereby approved as the controlling site plan for the Subject Property.

**SECTION 4:** Any additional encroachments into the zoning setback and/or the platted setback line other than those approved by this Ordinance, as depicted on **Exhibit B**, shall require a separate variance and/or deviation to be processed.

**SECTION 5:** The deviation approved by this Ordinance shall expire unless within two (2) years from the effective date of this Ordinance if: (1) a building permit has been obtained and the construction or alteration of the structure as specified in this Ordinance has been started, or (2) the use specified in this Ordinance has commenced.

**SECTION 6:** This deviation shall be subject to revocation for failure to comply with all other applicable provisions set forth in the Naperville Municipal Code, as amended from time to time, and all other applicable laws.

**SECTION 7:** 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 8:** The City Clerk is authorized and directed to record this Ordinance with the DuPage County Recorder.

**SECTION 9:** This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph. D.  
City Clerk