

**PINS:
01-14-300-005
01-14-300-013**

**ADDRESS:
3.8 ACRES OF VACANT PROPERTY LOCATED
NORTH OF 11007 S. BOOK ROAD
NAPERVILLE, IL 60564**

**.7 ACRES OF VACANT PROPERTY LOCATED
IMMEDIATELY ADJACENT TO AND NORTH OF
11007 S. BOOK ROAD
NAPERVILLE, IL 60564**

**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 #19-1-09

ORDINANCE NO. 19 -

AN ORDINANCE GRANTING VARIANCES FROM SECTION 6-6L-7:1 (R1: YARD REQUIREMENTS – FRONT YARD SETBACK); SECTION 6-6L-6:1 (R1: LOT WIDTH REQUIREMENTS), AND SECTION 6-6L-7:1 (R1: YARD REQUIREMENTS – INTERIOR SIDE YARD SETBACK) OF TITLE 6 OF THE NAPERVILLE MUNICIPAL CODE FOR THE ENCLAVE ON BOOK SUBDIVISION

WHEREAS, Zion Evangelical Lutheran Church, located at 11007 S. Book Road, is the owner of approximately 3.8 acres of vacant real property located on the east side of Book Road, north of Hassert Boulevard, legally described as Parcel A on **Exhibit A**, and having a parcel identification number of 01-14-300-005; and

WHEREAS, JHL Developments, LLC is the owner of approximately .7 acres of vacant real property located immediately adjacent to and south of Parcel A, legally described as Parcel B on **Exhibit A**, and having a parcel identification number of 01-14-300-013; and

WHEREAS, Parcel A and Parcel B are depicted on **Exhibit B** and are collectively referenced herein as “**Subject Property**”; and

WHEREAS, the owners of Parcel A and Parcel B are collectively referenced herein as “**Owners**”; and

WHEREAS, at the request of the Owners of the Subject Property, prior ordinances approving annexation and other entitlements for the Subject Property, brought pursuant to PZC 18-1-01 and approved by the City Council of the City of Naperville (“**City**”) on June 5, 2018, were revoked by the City Council on April 16, 2019; and

WHEREAS, with the approval and authorization of the Owners, McNaughton Development, Inc. (“**Petitioner**”), is requesting a variance from Section 6-6L-7:1 (R1: Yard Requirements) to reduce the front yard setback from 30’ to 25’ on lots 4-7 and a variance from Section 6-6L-6:1 (R1: Lot Width Requirements) to reduce the lot width from 85’ to a minimum of 78’ for lots 2-8 in order to construct an age-restricted single-family development (PZC 19-1-09); and

WHEREAS, the Petitioner is additionally requesting a variance from Section 6-6L-7:1 (R1: Yard Requirements) to reduce the interior side yard setback requirement from 25’ total, minimum of 10’ to 22’ total, minimum of 10’ for those units which will include a three-car garage floor plan that is 56’ wide; and

WHEREAS, the requested variances meet the Standards for a Variance as provided in **Exhibit C** attached hereto; and

WHEREAS, on March 20, 2019, the Planning and Zoning Commission considered the requested variances and recommended approval of the Petitioner’s request; and

WHEREAS, Petitioner has requested that the City approve this ordinance (“**Ordinance**”) along with ordinances approving an annexation agreement, approving annexation of the Subject Property, approving rezoning and approving a preliminary/final subdivision plat (hereinafter cumulatively referenced herein as “**The Enclave on Book Ordinances**”); and

WHEREAS, Petitioner has requested that the City delay recordation of The Enclave on Book Ordinances with the Will County Recorder until on or before July 31, 2019 in order to allow the Petitioner time to acquire fee simple ownership of the Subject Property; and

WHEREAS, subject to approval of The Enclave on Book Ordinances, the City has agreed to the proposed timeframe for their recordation with the Will County Recorder as set forth herein. In the event that all of The Enclave on Book Ordinances are not recorded on or before July 31, 2019, the City and Petitioner agree that The Enclave on Book Ordinances, shall not be recorded and shall be deemed to be automatically void with no further action being taken by the City or Petitioner.

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: If recordation of The Enclave on Book Ordinances, including but not limited to this Ordinance, does not occur on or before July 31, 2019 as provided herein, then said Ordinances shall be deemed to be automatically null and void and of no force and effect without any further action being required by the City or the Petitioner. Petitioner has

acknowledged that in no event shall the City be liable or responsible in any manner or for any claim if The Enclave on Book Ordinances are not recorded on or before July 31, 2019.

SECTION 3: Subject to approval, execution, and recordation of The Enclave on Book Ordinances, a variance Section 6-6L-7:1 (R1: Yard Requirements) to reduce the front yard setback from 30' to 25' for lots 4-7 and a variance from Section 6-6L-6:1 (R1: Lot Width Requirements) to reduce the lot width from 85' to 78' are hereby granted.

SECTION 4: Subject to approval, execution, and recordation of The Enclave on Book Ordinances, a variance from Municipal Code Section 6-6L:7:1 (R1: Yard Requirements) to permit an interior side yard setback of 22' total, minimum of 10' is approved, subject to the condition that that the variance is only applicable to those lots improved with a three-car garage as depicted on the floor plans provided in **Exhibit D** attached hereto.

SECTION 5: The variances approved by this Ordinance shall expire within two (2) years from the effective date of this Ordinance if a building permit has not been obtained and the construction or alteration of the structure as specified in this Ordinance has not been started within said two (2) year period.

SECTION 6: These variances 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: Upon confirmation from the City Attorney that the terms and conditions set forth or referenced herein have been fulfilled, the City Clerk is authorized and directed to record certified copies of The Enclave on Book Ordinances, including this Ordinance, together with their exhibits, with the Will County Recorder.

SECTION 8: 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 9: This Ordinance shall be in full force and effect upon its recordation with the Will County Recorder.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk