

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

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION TO
GRANT A HEIGHT VARIANCE FOR THE PROPERTY
AT 204 N. HUFFMAN ST.**

THE UNDERSIGNED Petitioner, Lakewest Custom Homes, Ltd., an Illinois corporation (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to (i) grant a variance from Section 6-2-26:4 of the Naperville Municipal Code (the “Code”) so as to permit the residence on the property legally described on Exhibit A (the “Property”) to exceed the Height Limitation/Bulk Regulations; and (ii) grant such other relief from the Code as may be deemed necessary and appropriate to develop the Property.

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

1. The Owners of the Property are Milton and Marisa Charter (“Owner”).
2. The Petitioner, Lakewest Custom Homes, Ltd., is the contract purchaser of the Property.
3. The Subject Property is zoned R2 in the City of Naperville and consists of one (1) lot totaling approximately 0.25 acres.
4. The existing land uses surrounding the Property are as follows:
 - a. North: R2 single-family and low density multiple-family residential
 - b. East: R1A single family residential
 - c. South: R2 single-family and low density multiple-family residential
 - d. West: R2 single-family and low density multiple-family residential
5. The Petitioner requests a variance from Section 6-2-26:4 of the Code, which restricts the height of structures to two and one-half stories not to exceed a mean height of thirty-five feet (35’) with a maximum roof peak of forty feet (40’).

6. Petitioner is proposing to construct a duplex on the Property, which will have a mean height of $32' - 3\frac{5}{8}"$ and a height to the roof peak of $39' - 1.75"$, thereby complying with the maximum mean height and maximum height to the roof peak under the Code.

7. Under the Code, the datum point is used to measure the height of the structure and a basement shall be counted as a story if the basement ceiling measures four feet or greater above the datum point.

8. Due to the location of the datum point, the basement is counted as a story and the proposed duplex will be considered 3 stories tall.

9. The City previously passed Ordinance No. 14-051, recorded as document number R2014-044140 in DuPage County, Illinois, which granted a height variance for the Property to exceed 2.5 stories in height recognizing the challenging lot topography resulting in the basement ceiling measuring greater than 4' from the datum point.

10. The requested variance is necessary and appropriate due to the challenging topography of the Property resulting in the datum point being located underground.

11. The requested variance is appropriate and meets the requirements for a variance pursuant to Section 6-3-6, 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 Height Limitations/Bulk Regulations were modified in 2005 in response to teardowns occurring throughout the City of Naperville. As the teardowns grew in height, concerns were raised about the manner in which the new structures imposed on adjacent properties. This was of particular concern due to the fact that many of the teardowns were occurring on small downtown lots consisting of six to eight thousand square feet. To address this concern, the Teardown/Infill

Regulations were imposed and regulated both the height of structures and the bulk of structures. The Code was further modified to redefine the manner in which the height of a structure is measured. The modified height measurement was intended to prevent artificial filling of the property so as to raise the ground level and increase the height of the home. According to Section 6-1-6 of the Code (Definition of "Height, Building or Structure") the height of a building is measured as follows:

Height of a building or structure is the vertical distance measured from a datum point established by the average of the two (2) grades along each side lot line where the front yard line meets the side lot lines to the highest point of the roof surface or parapet, in case of a flat roof; to the deck roofline of a mansard roof; and to the mean level of the underside of the rafter between the eaves and the ridge of a gable, hip or gambrel roof. When determining front yard line, variances shall not be considered.

Here, the concerns over which the subject regulations were imposed are not applicable. The Property will meet the height requirements as set forth in the Code as it relates to the maximum mean height and maximum height to the roof peak. However, the proposed duplex will technically exceed 2.5 stories due to the height of the basement ceiling from the datum point, which is 5.27 ft due to the challenging topography of the lot. The total height of the actual duplex will be unaffected and the requested variance will not be perceivable from the naked eye since the proposed duplex will appear to be a 2-story structure.

- 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*

The Subject Property is unique for a Teardown/Infill site due to its size and topographic conditions. Petitioner seeks to maintain the general grade of the Subject Property and to preserve trees where possible, however, there is a natural elevation change on the Property and the datum point used to measure the height of the structure is actually located underground. As a result, the

proposed duplex is considered a 3-story structure, which exceeds the maximum height requirements as set forth in the Code due to where the datum point is located. Due to the manner in which height is measured under the Code, this unique condition will create practical difficulties in the design of the homes and exceptional hardships by deflating the value of the property. In fact, the City recognized this hardship when granting the same variance for the Property in 2014 and Petitioner would not need to request a variance if the relief granted in 2014 had not since expired.

- 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 will not alter the character of the neighborhood. The neighborhood surrounding the Property is in transition. Many of the older homes have been replaced with large teardowns. While some of the older homes remain, the general character of the area has certainly shifted. In fact, there are duplexes constructed around 2010 located on the same block of Huffman street just north of the Property.

The proposed height variance was previously granted in 2014. The City recognized the unique topography of the Property coupled with the manner in which the height of a structure is measured is an artificial construct that will not be perceivable to the naked eye. Here, it is this artificial means of measuring the structure by using datum points along the two property lines that necessitates the variance. From the front of the home, the proposed variance will not be recognizable and the actual height of the duplex will comply with Code requirements. The proposed variance only relates to the number of stories, and Petitioner will only exceed 2.5 stories due to the location of the datum point and its distance to the basement ceiling exceeding 4'. As such, there is no impact on an innocent adjacent property owner and the character of the

surrounding neighborhood will not be altered.

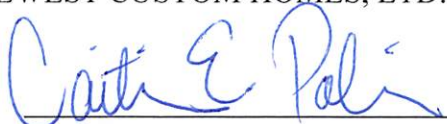
WHEREFORE, by reason of the foregoing, the undersigned Petitioner respectfully requests the City of Naperville (the "City") to (i) grant a variance from Section 6-2-26:4 of the Naperville Municipal Code so as to permit the residences on the property legally described on Exhibit A (the "Property") to exceed the Height Limitation/Bulk Regulations; and (ii) grant such other relief from the Code as may be deemed necessary and appropriate to develop the Property.

RESPECTFULLY SUBMITTED this 2nd day of July, 2020.

PETITIONER:

LAKEWEST CUSTOM HOMES, LTD.

By:



ROSANOVA & WHITAKER, LTD.
ATTORNEY FOR PETITIONER

EXHIBIT A
LEGAL DESCRIPTION

THE SOUTH ½ LOT OF LOT 4 AND ALL OF LOT 5 IN BLOCK 1 IN DECLARA HEIGHTS, BEING A SUBDIVISION IN SECTION 18, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 14, 1922 AS DOCUMENT 159824 IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 204 N. Huffman St., Naperville, IL 60540

PIN: 08-18-211-005