

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

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR  
A VARIANCE AT 1516 MYA COURT**

**THE UNDERSIGNED** Petitioners, Adam Tritt and Heather Tritt (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to: (i) grant a variance from section 6-2-10 from the Naperville Municipal Code (the “Code”) to permit detached accessory structures to exist with no principal building or structure on the property legally described on **Exhibit A** (the “Subject Property”); and (ii) such other variances, departures or deviations from the Code as may be necessary to permit the installation of the game court and shed as depicted on the plans submitted herewith.

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

1. The Owner of the Subject Property is Wehrli Place LLC (the “Owner”).
2. The Petitioner is the contract purchaser of the Subject Property.
3. The Subject Property was originally part of one large parcel, which was recently annexed to the City of Naperville and subdivided into ten (10) lots pursuant to Ordinance No. 20-080 approving the Final Plat of Subdivision for 77<sup>th</sup> Street Project, recorded as Document No. R2020-118895 in DuPage County, Illinois (“77<sup>th</sup> Street Project Plat”).
4. The Subject Property is approximately 12,538 square feet (0.288 acres) and is depicted as Lot 1 on the 77<sup>th</sup> Street Project Plat.
5. Upon annexation to the City of Naperville, the Property was zoned R1A Low Density Single Family Residence District.
6. The existing land uses surrounding the Property are as follows:

- a. North R1A Detached Single Family Residential
- b. East R1A Detached Single Family Residential
- c. South R1A Detached Single Family Residential
- d. West R1A Detached Single Family Residential

7. The Petitioner owns the parcel immediately adjacent to the Subject Property located at 1520 Mya Court, Naperville, Illinois and which is the Petitioner's primary residence ("Petitioner's Property").

8. The Petitioner seeks to acquire the Subject Property and install an approximately 2,600 square foot game court and 150 square foot shed as an extension of the Petitioner's Property.

9. The Petitioner's Property and the Subject Property are both governed by two separate homeowner's associations ("HOA" or "HOAs").

10. Petitioner initially sought to consolidate the Petitioner's Property and the Subject Property, but is unable to do so because both properties are governed by different HOAs and there is a small portion of land owned by one of the HOAs located between Petitioner's Property and the Subject Property.

11. The Code does not generally permit accessory structures to exist without a principal structure.

12. The variance from section 6-2-10 of the Code to permit a game court and shed (accessory structures) on the Subject Property with no principal structure meets the requirements for a zoning variance under the Naperville Municipal Code, Section 6-3-6:2 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 purpose and intent of this Title is to improve and protect the public health, safety, comfort, convenience and general welfare of the people and a specific objective sought under this

Title's intent is to fix reasonable standards to which buildings and structures shall conform. The requested variance is in harmony with the same. Petitioner thoughtfully considered other options including lot consolidation of Petitioner's Property and the Subject Property, which would have ultimately provided a principal structure to complement the proposed accessory uses and in turn would have met the standards for which buildings and structures shall conform.

Due to circumstances outside of Petitioner's control, the HOA governing the Petitioner's Property will not permit the consolidation of the two adjacent properties given the unfortunate location of a small sliver of HOA owned property located between the Subject Property and the Petitioner's Property, which cannot be transferred to the Petitioner. Petitioner intends to utilize the Subject Property as natural extension of the Petitioner's Property and will treat both properties as if it was one consolidated parcel. Therefore, from a practical standpoint, the game court and shed will be an accessory to the petitioner's home or "principal structure" and will appear to conform to the Code's intent from the naked eye.

*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*

Petitioner's request is the result of unique conditions not generally found on other properties. Petitioner's intent was to consolidate the two parcels into one (1) lot so as to comply with the Code's requirements as it relates to the regulation of accessory structures on residential properties. Unfortunately, there is a small sliver of land located between the Petitioner's Property and the Subject Property owned and maintained by an HOA, who will not permit such a consolidation to occur. Petitioner is otherwise an innocent purchaser who seeks to extend its property directly west for the purposes of installing a game court and shed. Petitioner would otherwise be permitted to do so, but is restricted based upon the unfortunate location of the HOA

parcel, which cannot be vacated or otherwise extinguished. Petitioner will treat the Subject Property as a natural extension of the Petitioner's Property in the sense that both parcels will appear to be consolidated from the naked eye. The game court and shed will stand alone on the Subject Property from a legal standpoint, but in actual reality the game court and shed will appear as accessory structures to the principal structure of Petitioner's home and thus appearing as they would had Petitioner been authorized to consolidate the two parcels into one parcel, which would have eliminated the need for such a variance request.

*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 the adjacent property. To the contrary, the game court and shed will be appealing, tasteful and will have a positive effect to the character of the neighborhood. The proposed game court will be designed, laid out, and constructed, in a manner that achieves both balance and harmony with the neighborhood, and blends in a visually unobtrusive manner with the surroundings. In fact, the game court and shed on the Subject Property will appear as a natural extension of the Petitioner's Property in the same sense as it would appear had the Petitioner not been faced with the conflict presented by the HOA and been able to consolidate the two parcels.

**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to grant: (i) a variance from section 6-2-10 of the Code to permit a game court and shed to be installed on the property as accessory structures with no principal structure; and (ii) such other variances, departures, deviations or other relief which is deemed necessary to approve the installation of the proposed game court and shed as depicted on the plans submitted herewith.

**RESPECTFULLY SUBMITTED** this 30<sup>th</sup> day of November, 2020.

PETITIONER:

Adam Tritt and Heather Tritt

A handwritten signature in cursive script that reads "Caiti E. Paley". The signature is written in black ink and is positioned above the typed name of the attorney.

By: \_\_\_\_\_  
ROSANOVA & WHITAKER, LTD.  
ATTORNEY FOR PETITIONER

LEGAL DESCRIPTION

LOT 1 IN FINAL PLAT OF SUBDIVISION FOR 77TH STREET PROJECT BEING A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 15, 2020 AS DOCUMENT R2020-118895, IN DUPAGE COUNTY, ILLINOIS.