



## Legislation Details (With Text)

**File #:** 23-0680B **Version:** 1

**Type:** Ordinance **Status:** Passed

**File created:** 6/8/2023 **In control:** City Council

**On agenda:** 6/20/2023 **Final action:** 6/20/2023

**Title:** Pass the ordinance approving a fence variance for the property located at 947 Mortonsberry Drive - PZC 23-1-028

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Exhibit A - Legal, 3. Exhibit B - Subject Property, 4. Exhibit C - Fence Elevation, 5. Exhibit D - Site Plan, 6. Exhibit E - Response to Standards, 7. Petition, 8. Public Comments, 9. 6-7-23 DRAFT PZC MINUTES

Date	Ver.	Action By	Action	Result
6/20/2023	1	City Council	passed	Pass

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Pass the ordinance approving a fence variance for the property located at 947 Mortonsberry Drive - PZC 23-1-028

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** John Scopelliti, Assistant Planner

#### **ENTITLEMENTS REQUESTED:**

A variance from Section 6-2-12 (Fences) to allow a fence to be located in the front/corner side yard setback.

#### **BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) considered PZC 23-1-028 on June 7, 2023 and recommended approval of the request (approved 8-0). Staff concurs.

#### **BACKGROUND:**

The subject property is zoned R1A (Low Density Single-Family Residence District) and is located at 947 Mortonsberry Drive. In this zoning district, the property has a required front/corner side yard setback of 30 feet. The approximately 17,665 square foot lot currently has a single-family home located on the property. The petitioner/property owner, Christopher Skubic, is seeking approval of a variance to allow a fence to be located in the front/corner side yard setback.

#### **DISCUSSION:**

The property is unique as it is not a traditional corner lot and only has three property lines (front/corner side yard, interior side yard, and rear yard). The property has an existing four-foot, open

-style fence located within the property's front/corner side yard, and along the rear and interior side yard property lines. Per Section 6-2-12 of the Naperville Municipal Code, open fences not exceeding four feet in height may be constructed and maintained at the front or corner side yard lot line. The petitioner's existing fence consists of a straight-line continuation from the front façade of the home until it touches the front/corner side yard property line (as shown on the site plan included in the attachments) and then extends around the curve before connecting to the fence located along the rear yard property line.

The petitioner is proposing a five-foot fence to replace the four-foot fence in the existing location. The proposed five-foot fence is a privacy fence that consists of a 50-inch solid vinyl portion with a ten-inch decorative lattice attached to the top. The color of the fence will match the trim color of the house (light beige). The proposal prompts a variance from Section 6-2-12:1.3 of the Naperville Municipal Code, which states, "Fences not exceeding six feet in height may be constructed and maintained at any point behind the corner side yard line, provided they do not extend forward of the wall of the principal building facing the front yard." Given the unique shape of the lot and its adjacency to a neighboring corner side yard, staff finds the petitioner's proposal to be reasonable.

The Engineering department reviewed the proposed fence prior to variance submission and asked the petitioner to create a six-inch clearance from the ground in certain critical overland flow points. The petitioner's contractor has reviewed the request and determined that the Engineering department's request can be met.

#### ***Findings of Fact***

The petitioner's responses to the Standards for Granting a Variance can be found in the attachments. Upon review, staff is in agreement with the variance findings and recommends adoption by the Planning and Zoning Commission.

#### ***Planning and Zoning Commission Action***

The Planning and Zoning Commission conducted the public hearing to consider PZC 23-1-028 on June 7, 2023. Patti Peltier, a nearby resident, spoke in strong opposition of the petitioner's request and asked if the applicant's fence could be located ten feet from the front/corner side yard property line.

In response, the petitioner indicated a willingness to set the fence 10' back from the property line. However, the Commissioners stated that due to staff's confirmation that the proposed placement of the fence along the property line causes no line-of-sight concerns, they did not find it necessary for the petitioner's request to be altered and have the fence located ten feet from the front/corner side yard property line. After limited discussion, the PZC closed the public hearing and voted to recommend approval of the petitioner's request as originally presented (approved 8-0). Staff concurs with the Planning and Zoning Commission's recommendation.

#### ***Petitioner Modifications Post-PZC***

Despite an unanimously approved decision by the PZC, the petitioner has stated that he intends to locate the fence approximately 10 feet from the front/side yard property line in consideration of the concerns raised by his neighbors. The site plan attached to the variance ordinance has been updated accordingly to reflect this change.

#### ***Key Takeaways***

- The petitioner requests a variance from Naperville Municipal Code Section 6-2-12 (Fences).

Staff supports the requested variance due to the unique shape of the lot and its adjacency to a neighboring corner side yard.

**FISCAL IMPACT:**

N/A