



Legislation Details (With Text)

File #: 19-989B **Version:** 1

Type: Ordinance **Status:** Failed

File created: 10/21/2019 **In control:** City Council

On agenda: 11/5/2019 **Final action:**

Title: Pass the ordinance granting a variance from Section 6-2-12:1.4 in order to permit a 7' and 8' tall privacy fence along the rear property lines at the subject property located at 5615 Rosinweed Lane, Naperville - PZC 19-1-101

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C -Standards, 5. Application, 6. Disclosure of Beneficiaries, 7. Letter from Homeowner, 8. Images of Fence and Property, 9. Location Map, 10. Public Comment, 11. 10.16.19 PZC Minutes DRAFT

Date	Ver.	Action By	Action	Result
11/5/2019	1	City Council	passed	Fail

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance granting a variance from Section 6-2-12:1.4 in order to permit a 7' and 8' tall privacy fence along the rear property lines at the subject property located at 5615 Rosinweed Lane, Naperville - PZC 19-1-101

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Gabrielle Mattingly

BOARD/COMMISSION REVIEW:

The Planning and Zoning Commission considered this matter on October 16, 2019. A representative of the South Pointe HOA Board of Directors spoke in opposition of the request stating the HOA has not granted approval of the taller fence and has major concerns for the overall height of the fence. The PZC voted to recommend approval of the request (approved, 5-1), staff concurs.

BACKGROUND:

The subject property is zoned R1A (Low Density Single Family Residence District) and is located west of Hawkweed Drive and south of Rosinweed Lane. The 25,975-square foot property is currently improved with a single-family residence.

In March 2019, a fence permit was issued by the City to allow for the installation of a 6' tall privacy fence on the subject property. Since approval of the application was granted, the 6' privacy fence was installed. The homeowner has indicated that after the 6' fence was installed, addition boards were added to portions of the fence in the rear yard to increase the height to 7' and 8' tall privacy fencing. The installation of these boards was done without a permit. The homeowner requests a variance to

allow the 7' and 8' tall privacy fencing to remain on the subject property. If the current request for a variance is granted, the homeowner will be required to submit a fence permit application. At that time, permit fees would be assessed and doubled (minimum \$500) based upon the fences installation without a permit.

DISCUSSION:

The owner and petitioner, Anthony Ducato, is requesting approval of a variance to allow the existing 7' tall privacy fence along the southern rear property line, as well an approximately 12'-14' long span of 8' tall privacy fence along the western rear property line to remain on the subject property. Section 6-2-12:1.4 (General Zoning Provisions: Fences) of the Municipal Code restricts residential fences to a maximum permitted height of 6' in the rear or interior side yard. The existing fencing is 7' and 8' tall in height, exceeding the maximum allowance, therefore requiring a variance from the Municipal Code.

In most residential settings, a 6' tall privacy fence provides sufficient screening between residential uses. In this instance, the subject property backs up to a patch of trees to the south. The petitioner has raised concern with the nearby wildlife entering the subject property. Accordingly, the petitioner has indicated that the taller fence along the rear property lines mitigates any potential issues.

Staff has conducted a review of the proposal and raises no concern with the fencing given its location along the rear property line and the minimal impact the taller fence has given the slope of the property. The petitioner's responses to the Standards for Granting a Variance are included in the Development Petition. Staff is in general agreement with the petitioner's Findings and recommends adoption by the City Council.

Planning and Zoning Commission Action

The Planning and Zoning Commission opened the public hearing to consider PZC 19-1-101 on October 16, 2019. A representative from the South Pointe HOA board of directors spoke in opposition of the fence stating the HOA has not received an application for installation of a taller fence on the property and has major concerns for the overall height.

The Planning and Zoning Commission inquired about the enforcement of HOA regulations; staff clarified that the City does not enforce HOA regulations and that the HOA can adopt and enforce regulations that are more restrictive than the Municipal Code. Further, the City's granting of a variance and permit for the requested fence does not overrule any action that the HOA may choose to take with respect to the fence. The Planning and Zoning Commission closed the public hearing and voted to recommend approval of PZC 19-1-101 (approved 5-1). Chairman Hanson cast the dissenting vote noting fences taller than 6' in height are only located along high traffic roadways. Staff concurs with the Planning and Zoning Commission's recommendation.

Key Takeaways

- The petitioner requests a variance from Section 6-2-12:1.4 to allow for the 7' and 8' tall privacy fence located along the rear property line to remain on the subject property at 5615 Rosinweed Lane.
- Staff and the Planning and Zoning Commission support the requested variance finding the fence to have no adverse impact on any neighboring property owners given its location in the rear yard.

FISCAL IMPACT:

N/A