



Legislation Details (With Text)

File #: 21-0966B **Version:** 1
Type: Ordinance **Status:** Passed
File created: 7/22/2021 **In control:** City Council
On agenda: 8/17/2021 **Final action:** 8/17/2021

Title: Option A: Concur with the Planning and Zoning Commission and Petitioners and pass the ordinance granting a variance to the percentage of required yard occupied section of the Municipal Code to permit a carport at 203 Center Street - PZC #21-1-036

Option B: Concur with staff and deny the variance to the percentage of required yard occupied section of the Municipal Code thereby requiring removal of the carport improvement recently installed at 203 Center Street - PZC #21-1-036

Sponsors:

Indexes:

Code sections:

Attachments: 1. 203 Center St Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Site Plan, 5. Exhibit D - Response to Standards, 6. Application, 7. Location map, 8. PZC Meeting Minutes 7-21-2021 - DRAFT

Date	Ver.	Action By	Action	Result
8/17/2021	1	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Option A: Concur with the Planning and Zoning Commission and Petitioners and pass the ordinance granting a variance to the percentage of required yard occupied section of the Municipal Code to permit a carport at 203 Center Street - PZC #21-1-036

Option B: Concur with staff and deny the variance to the percentage of required yard occupied section of the Municipal Code thereby requiring removal of the carport improvement recently installed at 203 Center Street - PZC #21-1-036

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Kathleen Russell, Community Planner

BOARD/COMMISSION REVIEW:

The Planning and Zoning Commission (PZC) considered this matter on July 21, 2021 and voted to recommend approval of the request (approved 9-0). Staff does not concur with the PZC’s recommendation.

BACKGROUND:

The subject property is located at 203 Center Street and consists of an approximately 7,500 square foot parcel. The property is zoned R2 (Single-Family and Low Density Multiple Family Residence District) and improved with a residence and detached garage. The property is located within the

Historic District, but the proposed structure is not subject to Historic Preservation Commission review.

DISCUSSION:

The Petitioners and Property Owners, Lynn Baron and Patrick Rubald, are seeking approval of a variance to permit a carport as illustrated on the site plan. Under the Code, detached accessory structures are permitted to cover 25%, or 480 square feet of the required yard, whichever is greater. For this property, detached accessory structures are permitted to cover 480 square feet, which is 55% of the required yard. The Petitioners are requesting approval of a variance to permit the proposed structure and the existing garage to cover approximately 798 square feet (or 91%) of the required yard.

The proposed carport is attached to the existing detached garage. The existing historic garage is 595 square feet, exceeding the 480 square feet permitted in the required rear yard, as described above. The proposed carport is approximately 523 square feet, but is not entirely within the required yard. The Petitioners have indicated that the existing garage and proposed carport would total 798 square feet (or 91%) of the required rear yard.

The existing garage does not meet the setback requirements, but the carport meets the setbacks. The carport will align with the existing concrete pad on the subject property. The Petitioners have described that there are limitations to retrofitting the historic garage and the carport would allow them to have additional parking spaces shielded from the elements.

Project Background

According to the Petitioners, there was a miscommunication between themselves and their carpenter and work began on the carport without a building permit. The building permit application had been through permit review, but was not approved as the variance requirement was not fulfilled. During construction, the City's Code Enforcement Team received an inquiry about the work and subsequently issued a Stop Work order until a building permit could be obtained as required by City Code. The work was not completed by the time staff visited the site.

Findings of Fact

The Petitioners' responses to the Standards for Granting a Variance are included in the attachments. Staff does not concur with the responses to the standards submitted by the Petitioners and does not support the requested variance. Staff finds the proposal does not meet the standards for hardship and does not comply with the general intent of the Municipal Code. Staff finds the construction of a carport does not preserve the open nature of the required yard and therefore, is not in harmony with the intent of the accessory structure regulations.

The subject property is not unique from other corner properties in the same zoning district and strict enforcement of the accessory structure regulations does not result in a hardship. The residential parking spaces required per code have been met at the subject property through the parking pad and detached garage that currently exist on the property.

Planning and Zoning Commission

The PZC considered the variance request on July 21, 2021. Patrick Rubald, one of the Property Owners, presented the request. No public comment was provided during the meeting. The PZC discussed building without a permit, history of the professionals conducting the work, and hardship of the variance. The Commission moved to adopt the findings of fact as presented by the Petitioners

and approve PZC #21-1-036 (approved 9-0). Staff does not concur.

Applicable Fines

The Petitioners will be required to apply for a building permit and pay all applicable permit and inspection fees. In addition, staff will take steps to assess the work without a permit fee (minimum \$500) per Section 109.4 (Work Commencing Before Permit Issuance) of the Naperville Municipal Code.

Key Takeaways

- The Petitioners' request for approval of a variance to Section 6-2-10:5 (Percentage Of Required Yard Occupied) of the Naperville Municipal Code to permit 798 square feet of the required yard to be covered at 203 Center Street.
- Staff is not in support the requested variance. While the proposed carport is not out of character with the neighborhood, staff finds the proposal does not meet the standards for hardship or practical difficulty and does not comply with the general intent of the Municipal Code.
- The PZC supported the requested variance (vote: 9 in favor; 0 opposed).

FISCAL IMPACT:

N/A