



Legislation Details (With Text)

**File #:** 22-0988C      **Version:** 1

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

**File created:** 9/21/2022      **In control:** City Council

**On agenda:** 10/4/2022      **Final action:** 10/4/2022

**Title:** Option A: Concur with the Planning and Zoning Commission and the petitioner and pass the ordinance approving a variance to Section 6-6A-7 for the property located at 620 N Sleight Street - PZC 22-1-068; or Option B: Concur with staff and deny the variance - PZC 22-1-068

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance - concur with PZC, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Site Plan, 5. Exhibit D - Responses to Standards, 6. Development Petition, 7. Setback Exhibit, 8. November 17 2020 Council QA, 9. Public Comment, 10. PZC Meeting Minutes 9-7-22 DRAFT, 11. Location Map

| Date      | Ver. | Action By    | Action | Result |
|-----------|------|--------------|--------|--------|
| 10/4/2022 | 1    | City Council | passed | Pass   |

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Option A: Concur with the Planning and Zoning Commission and the petitioner and pass the ordinance approving a variance to Section 6-6A-7 for the property located at 620 N Sleight Street - PZC 22-1-068; or Option B: Concur with staff and deny the variance - PZC 22-1-068

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, AICP, Community Planner

**BOARD/COMMISSION REVIEW:**

On September 7, 2022, the Planning and Zoning Commission (PZC) considered PZC 22-1-068 and provided a positive recommendation on the request (approved 6,0). Staff does not concur with this recommendation for the reasons noted below.

**BACKGROUND:**

At its September 20, 2022 meeting, the City Council tabled this item to October 4.

The subject property is zoned R1A (Low Density Single Family Residence District) and is improved with accessory structures and open space. It is located on the east side of Sleight Street, just north of 6th Avenue and is commonly known as 620 N. Sleight Street. The subject property is owned by Andrew and Melissa Erickson.

***2008 Lot Consolidation***

The subject property was originally platted in 1950 as one 65' wide lot in the East-Park Addition. In

2008, the subject property was consolidated with the lot to the south into 1 large lot through the approval of Jarrett’s Resubdivision Plat. Following consolidation, the lot was referenced under one address, 610 N. Sleight Street. The south half of the lot was improved with a single-family residence and a horseshoe driveway; the north half of the lot was improved with accessory structures and open space.

**2020 Resubdivision**

In 2020, a petition was submitted to the City of Naperville by the prior owners to grant approval of a preliminary/final plat of subdivision to allow for the subdivision of the existing lot located at 610 N. Sleight Street back into two lots. The subject property, 620 N. Sleight Street, was created as Lot 1 of this subdivision (i.e., Waldron Resubdivision which was approved by Ordinances 20-117, 20-118, and 20-119 on November 17, 2020).

Entitlements were granted in order to allow for the subdivision of the lot. These entitlements included a preliminary/final plat of subdivision and OAA, approval of a temporary use to allow the accessory structures to remain for a temporary period of time following subdivision of the lot, and a variance to the R1A minimum lot width.

The variance to the R1A minimum lot width was to allow the newly created lots to be below the R1A minimum lot width of 70’. The lot widths that were approved through the Waldron Resubdivision are: 60.14’ for Lot 1 (620 N Sleight Street, the subject property) and 69.86’ for Lot 2 (610 N. Sleight Street); these lot widths were requested in order to accommodate the existing single-family home that would remain on Lot 2 of the Waldron Subdivision.

**DISCUSSION:**

**Interior Side Yard Setback Variance**

The owners and petitioners, Andrew and Melissa Erickson, are requesting a variance to the interior side yard setback to allow for construction of a new single-family detached home on the subject property (Lot 1 of the Waldron Subdivision). The accessory structures which currently exist on the lot will be removed upon construction of the new home. The R1A interior side yard setback requirements are as follows:

| <b>R1A Interior Side Yard Setback</b>   |   |
|---|---|
| Subdivisions for which final plats were applied for prior to January 27, 1989         | 8 feet  |
| Subdivisions for which final plats were applied for on January 27, 1989 or thereafter | 20 feet total for 2 interior side yards with each side yard a minimum of 8 feet |

The petitioner proposes to construct a new single-family residence on the subject property. Given the lot was subdivided in 2020 (as described above), any new single-family home constructed on the lot must comply with the post-1989 interior side yard setback of 20 feet total for both side yards, with each yard a minimum of 8 feet. The petitioner requests a variance to reduce the interior yard setback to 16 feet total for both side yards, with each yard a minimum of 8 feet, which is consistent with the setback requirements for lots created prior to 1989. The proposed residence will meet all other R1A site and structure requirements (Note: Per code, chimneys are permitted to extend 3’ into the required side yard. The proposed chimney in the required side yard setback, as depicted on the attached site plan, will be in compliance with this allowance should the setback variance be approved).

### *Findings of Fact*

The petitioner's responses to the Standards for Granting a Variance can be found in the attachments.

Staff does not concur with the responses to the standards submitted by the petitioner for the reasons noted below:

- **Lot width variance.** The 2020 Resubdivision included a variance to reduce the minimum lot width as required per the R1A zoning district from 70' to 60.14'. Since no variance to the interior side yard setback was requested at the time of subdivision, the subdivision was reviewed with the intent that the new home would be in compliance with the post-1989 setbacks. Staff did provide notification of the post-1989 setback requirement at the time of the 2020 subdivision approval; in addition, through Council Q & A and discussion (included in the attachments), it was noted that the lot width variance should not later be used as justification to support reduced setbacks on Lot 1, since the lot width reduction was created by the subdivision. Accordingly, staff does not find that the current proposal proves a hardship exists.
- **Surrounding zoning.** The subject property and the properties surrounding the subject property are zoned R1A. The petitioner's attorney has submitted additional information about the setbacks of the surrounding homes within this neighborhood. Staff does acknowledge that the pre-1989 setbacks have been generally utilized for new construction occurring in the vicinity of the subject property given that those properties are also zoned R1A. However, these lots were established pre-1989 and were not recently subdivided like the subject property.
- **New construction.** The proposed home constitutes a new development built from the ground up and the footprint of the home can be adjusted to comply with the setback. Staff does not believe that there are any hardships which would justify new construction which does not meet the required setbacks.

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

The Planning and Zoning Commission held a public hearing for PZC 22-1-068 on September 7, 2022. The petitioner's attorney, Caitlin Csuk, Rosanova and Whitaker, Ltd., spoke on behalf of the petitioner and provided additional details regarding the request. No members of the public spoke on the request during the meeting. The PZC closed the public hearing and provided a positive recommendation on the request (approved 6,0). The PZC did not provide any comments on the request prior to taking a vote.

### ***Key Takeaways***

- The petitioner requests approval of a variance to Section 6-6A-7 to reduce the required interior side yard setback from a total of 20' for both side yards a minimum of 8' (post-1989 setbacks), to a total of 16' for both side yards a minimum of 8' (pre-1989 setbacks) for construction of a new single-family home.
- The Planning and Zoning Commission provided a positive recommendation on the request (approved 6,0) at their meeting held on September 7, 2022.

### **FISCAL IMPACT:**

N/A