



Legislation Details (With Text)

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Type: Ordinance **Status:** Passed

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Title: Option 1: Concur with staff and uphold the Zoning Administrator's interpretation of the setback variance granted through ordinance 21-111; or Option 2: Concur with the PZC and petitioner and overturn the Zoning Administrator's interpretation of the setback variance granted through ordinance 21-111

Sponsors:

Indexes:

Code sections:

Attachments: 1. Variance appeal letter and response to standards from Ordinance 21-111, 2. Ordinance 21-111, 3. 214 N Laird Site Plan Encroachment measurements, 4. New site plan, 5. New blueprints, 6. Old blueprints, 7. PZC Meeting Minutes 12-21-22 DRAFT, 8. Public Comment

Date	Ver.	Action By	Action	Result
1/17/2023	2	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Option 1: Concur with staff and uphold the Zoning Administrator's interpretation of the setback variance granted through ordinance 21-111; or Option 2: Concur with the PZC and petitioner and overturn the Zoning Administrator's interpretation of the setback variance granted through ordinance 21-111

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Adam Beaver, Assistant Planner

ENTITLEMENTS REQUESTED:

The petitioner is requesting an appeal of the Zoning Administrator's interpretation in order to permit the construction of a porch that is larger than previously approved through ordinance 21-111.

BOARD/COMMISSION REVIEW:

On December 21, 2022 the Planning and Zoning Commission (PZC) considered the petitioner's appeal to the Zoning Administrator's finding in regard to the setback variance granted to ordinance 21-111 and voted to overturn the Zoning Administrator's interpretation (approved 7-0).

BACKGROUND:

The subject property is located at 214 N. Laird Street, at the corner of Laird Street and Douglas Avenue. The property owners, Daniel and Jill Ignash, received variance approval through ordinance 21-111 for a porch to encroach 6.75 feet into the corner side yard [1.75 feet more than what is permissible per Naperville Municipal Code Section 6-2-3:3.2 (Yard Requirements)]. In November

2022, the property owners applied for building permits to construct a single-family home. The plans provided in the permit application do not match those that were approved via ordinance 21-111.

DISCUSSION:

Ordinance 21-111 permitted a variance to Naperville Municipal Code Section 6-6B-7:1 (R1B: Yard Requirements) to allow a porch to encroach 6.75 feet into the required 15-foot corner side yard as depicted on a site plan attached to the ordinance as Exhibit B.

The building permit submitted in November 2022 included a porch that was approximately 16 feet wider than what was shown on the site plan approved through ordinance 21-111, resulting in a porch encroachment that is approximately 33% larger than what was originally anticipated. In response, staff rejected the building permit noting that the porch encroachment had to be reduced so that the proposed porch is consistent with the site plan attached to, and referenced in, ordinance 21-111.

The petitioner has informed staff that they were under the impression that the site plan approved through ordinance 21-111 could undergo further modifications so long as the final porch design did not encroach more than 6.75 feet into the required corner side yard setback. Staff finds that the approved ordinance does not give any indication that future flexibility would be offered. In other ordinances where flexibility has been built in, it is specified in the “sections” portion of the ordinance and provides details and conditions regarding this flexibility.

Staff finds that changes to the porch cannot be administratively approved; however, per Section 6-3-4:1 of the Naperville Municipal Code, the property owners may appeal the Zoning Administrator’s interpretation. The petitioner’s appeal is attached for review by the City Council.

Planning and Zoning Commission Action

The PZC considered the Petitioner’s appeal to the Zoning Administrator’s finding in regard to the setback variance granted through ordinance 21-111 on December 21, 2022. Marilyn Schweitzer provided public testimony concurring with staff. Commissioners confirmed with the petitioner that the design of the home changed after the ordinance was passed. After the discussion, the PZC voted to overturn the Zoning Administrator’s interpretation and allow the petitioner to modify the footprint of the proposed porch so that it varies from the site plan attached to ordinance 21-111 so long as it does not exceed a 6.75-foot encroachment into the corner side yard (approved 7-0).

It should be noted that while staff does not concur with the PZC’s findings regarding the applicability of the exhibits attached to ordinance 21-111, staff does not have a concern with the porch that is currently being proposed. If the City Council concurs with the petitioner’s appeal, staff will re-record an amended ordinance 21-111 to modify the site plan to correctly represent the petitioner’s requested porch improvement.

Key Takeaways

- The Petitioner is appealing the Zoning Administrator’s interpretation of Ordinance 21-111.
- Staff does not support the requested appeal.

FISCAL IMPACT:

N/A