



Legislation Details (With Text)

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**File created:** 12/4/2017      **In control:** City Council

**On agenda:** 12/19/2017      **Final action:** 12/19/2017

**Title:** Deny the request for a variance to permit a 6' tall solid fence in the required corner side yard at the subject property located at 2816 Rolling Meadows Drive, Naperville - PZC 17-1-114.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2816 Rolling Meadows - Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Standards, 5. 11.15.17 PZC Minutes, 6. Public Comment - PZC 17-1-114, 7. Development Petition\_PZC 11.15.17, 8. Location Map\_PZC.11.15.17, 9. Existing 6' Solid Fence\_PZC.11.15.17, 10. Previous 4' Open Fence\_PZC.11.15.17

Date	Ver.	Action By	Action	Result
12/19/2017	1	City Council	approved	
12/19/2017	1	City Council	approved as amended	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Deny the request for a variance to permit a 6' tall solid fence in the required corner side yard at the subject property located at 2816 Rolling Meadows Drive, Naperville - PZC 17-1-114.

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered PZC 17-1-114 on November 15, 2017 and voted to recommend denial of the case (denied, 8-0). Staff concurs.

**BACKGROUND:**

The subject property is zoned R2 (Single-Family and Low Density Multiple-Family Residence District) and is also located within the Midam's Brook Crossing Unit 5 Planned Unit Development. The 8,680 square foot property is currently improved with a single-family residence, driveway, and attached deck. The property is bound by Rolling Meadows Drive to the north, Gateshead Drive to the west, and 95<sup>th</sup> Street to the south. Rolling Meadows Drive is the front property line and Gateshead Drive is the corner side property line.

The petitioner, David Garza, requests approval of a variance to allow an existing 6' tall solid style fence in the required 15' corner side yard. The fence was constructed without a permit. Staff learned about the existence of the fence through a Code Enforcement complaint.

**DISCUSSION:**

Per Section 6-2-12:1.2 (General Zoning Provisions: Fences), an open, or picket style, fence 4' tall or less is permitted in the required corner side yard. An open fence is defined in Section 6-1-6 (Zoning Title, Purpose, Definitions: Definitions) as a fence which has at least 30% of the surface area in open spaces which afford direct views through the fence. Due to the location of the fence in the required 15' corner side yard, as well as the solid style of the fence, a variance is required.

The petitioner's responses to the Standards for Granting a Variance are included in the Development Petition; staff does not concur with the responses to the standards submitted by the petitioner. Staff's comments with respect to the proposed variance standards, based upon a review of the subject property, applicable Code provisions for the R2 Zoning District and standards for variance requests, and the Southwest Community Area Plan, are as follows:

*Variance Standard #1: The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan.*

Staff Comments: As noted above, only 4' tall open (picket style) fences, are permitted in the required corner side yard. The purpose of this regulation is to preserve sight lines and the open nature of the corner side yard. The same regulation applies to fences located in the required front yard. The existing 6' tall solid style fence is currently not in compliance with the fence regulations. Staff finds the fence does not preserve the open nature of the corner side yard and therefore, is not in harmony with the intent of the fence regulations.

*Variance Standard #2: Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district.*

Staff Comments: The subject property is zoned R2. It is not unique from other properties in the same zoning district and strict enforcement of the fence regulations does not result in a hardship. Per Section 6-2-12:1.2 (General Zoning Provisions: Fences), the petitioner has the option to locate a 6' solid fence at the 15' corner side yard setback.

*Variance Standard #3: The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

Staff Comments: The proposed variance for the height and style of the fence will alter the essential character of the neighborhood. Fences located on adjacent corner lots meet the Code requirements and are not located in the required corner side yard. Based on photos available in Google Maps, a compliant fence (4' open) was previously constructed along the subject corner property line that is now improved with the non-complaint fence. As noted above, the petitioner can locate a 6' tall, solid style fence at the 15' corner side setback and meet the code requirements.

**Planning & Zoning Commission Action**

The Planning and Zoning Commission considered this matter at their meeting on November 15, 2017. David Garza spoke as the petitioner. No members of the public provided testimony. After limited discussion, the Planning and Zoning Commission moved to adopt the findings of facts as presented by staff and recommend denial of the case (denied, 8-0). Staff concurs with the Planning

and Zoning Commission's recommendation.

***City Council Action***

If City Council disagrees with the Planning and Zoning Commission and staff's recommendation to deny the request, and seeks to approve the fence variance, staff has prepared an ordinance approving the requested variance which can be amended to include any conditions City Council finds appropriate.

***Key Takeaways***

- The petitioner requests a variance to permit a 6' tall, solid style wooden fence along the corner side property line.
- Staff does not support the requested variance because the fence is not consistent with the standards for Granting a Variance, the Code requirements, and surrounding fences.

**FISCAL IMPACT:**

N/A