



## Legislation Details (With Text)

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**On agenda:** 10/1/2019      **Final action:** 10/1/2019  
**Title:** Receive the staff report for D& K Wake Subdivision located at 724 Jackson Avenue- PZC 18-1-136 (Item 1 of 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Application, 2. Disclosure of Beneficiaries, 3. Location Map, 4. 90% Rule Map and Calculation

Date	Ver.	Action By	Action	Result
10/1/2019	1	City Council	approved	Pass

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Receive the staff report for D& K Wake Subdivision located at 724 Jackson Avenue- PZC 18-1-136 (Item 1 of 3)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly

#### **BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered PZC 18-1-136 on September 4, 2019; no members of the public spoke on this case. The PZC voted to recommend approval of PZC 18-1-136 (Approved 7, 0). Staff concurs.

#### **BACKGROUND:**

The subject property is located on the south side of Jackson Avenue, just west of West Street, near Centennial Park. The property is zoned R1B (Medium Density Single-Family Residence District).

Prior to 2017, the subject property was three separate lots; two of three lots fronted Jackson Avenue and were zoned R1B and the back lot was zoned R1A. The previous homeowners made a request to consolidate the three lots into one lot. In order for staff to administratively approve consolidation of the three lots into one lot, rezoning was required. On June 20<sup>th</sup>, 2017, the City Council granted approval of rezoning of the back lot to the R1B zoning district. The lots were then consolidated through the City's administrative approval process (note: lot consolidation can be approved administratively if the proposed consolidation meets the criteria stipulated in Section 7-2-5:2 (Subdivision Plat Procedures: Administrative Plat Procedures) of the Municipal Code).

On September 5<sup>th</sup>, 2017, the City Council granted a variance from Section 6-2-10:4 of the Municipal

Code in order to install an accessory structure (a sport court) which exceeded (in size) the footprint of the principal structure on the back portion of the lot. The sport court was installed, but has since been removed from the site.

**DISCUSSION:**

The current homeowner, Richard W. Wake as Trustee of the Richard W. Lake Living Trust dated December 11, 2006, is requesting approval of a preliminary/final plat of subdivision in order to subdivide the subject property into two lots in order to construct a new single-family residence on the vacant lot. Both lots will front Jackson Avenue and the existing home on the subject property will remain. In order to subdivide the lots, the following approvals are required:

1. Approval of the preliminary/final plat of subdivision and OAA with a variance to Section 7-4-4:2.4 (Subdivision: 90% Rule) in order to create a lot that is 10,808 square feet, below the minimum 12,225 square footage required per the 90% rule; and
2. Approval of a variance to Section 6-6B-7:1 (R1B: Setback Requirements) to the 6' minimum, total of 16' interior side yard setback requirement in order to locate the new property line 6' from the existing single-family residence, but not meeting the total of 16' required for interior side yard setback for the R1B zoning district.

**Preliminary/Final Plat of Subdivision and OAA with 90% Rule Variance**

The petitioner is requesting approval of a preliminary/final plat of subdivision and OAA with a variance to Section 7-4-4:2.4 (90% rule) of the Naperville Municipal Code. The 90% rule requires the minimum lot size for any newly created lots to be 90% of the mean of the lot sizes within 300' of the subject property. Upon review of the ninety percent rule regulations, the lot sizes within 300' of the subject property have a mean of 13,583.5 square feet, ninety percent of which equates to 12,225 square feet.

The R1B district has a minimum lot size requirement of 8,000 square feet for a single family detached residence. Per Section 7-4-4:2.4.3, where the 90% rule and minimum lot size designation conflict, the more restrictive requirement shall be applicable. Therefore, the 90% rule applies and the minimum lot size requirement for the newly subdivided lots is 12,225 sf. Since one of the proposed lots is 10,808 sf in size, a variance is required (a variance is not required for the other lot that is created through this plat of subdivision since the lot is 36,947 sf, which is above the minimum requirement).

**Findings of Fact**

The petitioner's responses to the Standards for Granting a Zoning Variance can be found in the attachments. Upon review, the Planning and Zoning Commission and staff agree with the petitioner's Findings and recommend their adoption by City Council.

**R1B Interior Side Yard Setback Variance**

The R1B zoning district has two different interior side yard setback requirements for single family homes. Both setback requirements have been included below:

<b>Interior Side Yard Setback Requirement:</b>	
Subdivisions for which final plats were applied for prior to 1/27/1989	6 feet
Subdivisions for which final plats were applied for on 1/27/1989, or thereafter	16 foot total for 2 side yards, with each side yard a minimum of 6 feet

When the house was constructed, the applicable interior side yard setback requirement was the pre-1989 requirement of 6 feet. At the time of construction, the house complied with the 6' interior side yard setback. However, since the current request is to subdivide the lot to create a new buildable lot, the post-1989 interior side yard setbacks are applicable. These setbacks maintain the minimum of 6' requirement, but also require a total of 16' for both side yards. Upon review of the subdivision plat, it was determined that the existing home will be located approximately 6' from the eastern and western property lines but the total of the two setbacks will be 12'. This is 4 feet below the requirement of the 16-foot total for the two side yards, thus triggering a variance.

### ***Findings of Fact***

The petitioner's responses to the Standards for Granting a Zoning Variance can be found in the attachments. Upon review, the Planning and Zoning Commission and staff agree with the petitioner's Findings and recommend their adoption by City Council.

### ***Remaining Accessory Structures***

Currently, a fence and gazebo exist on the west side of the lot (future Lot 2). Per Code Section 6-2-10:6 (Accessory Structures: Time of Construction), an accessory structure cannot be constructed on a lot without a principal structure. If approval of the current request for a preliminary/final plat of subdivision is granted, these accessory structures will exist on the lot without a principal structure. However, the petitioner has indicated that the owner wishes to construct a new single-family residence on the property within the next year. Given this information, staff has included a condition of approval within the OAA stipulating that the accessory structures can remain on site for a period of two-years from the date of plat approval as long as the single-family home has been constructed and an occupancy permit has been issued for the single-family home within this timeframe. If construction of the principal structure is not completed within this timeframe, the petitioner will be required to remove these accessory structures from the subject property to comply with the code.

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

The Planning and Zoning Commission considered this matter at their meeting on September 4, 2019. No members of the public spoke on this case. The Planning and Zoning Commission closed the public hearing and moved to adopt the findings of fact as presented by the petitioner and approve PZC 18-1-136 (approved 7-1). Staff concurs with the Planning and Zoning Commission's recommendation.

### ***Staff Review***

Staff is in support of the requested variances taking into consideration that a lot of approximately the same size existed prior to the 2017 lot consolidation. Staff also finds that the proposed lot widths are consistent with the lot widths found in the surrounding neighborhood and are compliant with the minimum lot width requirement for the R1B district. In addition, staff has no concern with the interior side yard setback variance since the existing home meets the minimum of 6' required by code and was compliant with the code when constructed.

### ***Key Takeaways***

- The owner is requesting to subdivide the existing lot at 724 Jackson Avenue into two lots - PZC 18-1-163
- The proposal requires approval of a preliminary/final plat of subdivision and OAA with a variance from 7-4-4:2.4 (Subdivision: 90% Rule) in order to create a lot that is 10,808 sf, which is below the minimum lot size requirement per the 90% rule.

- The proposal also requires a variance from 6-6B-7:1 (R1B: Setback Requirements) in order to locate the newly created lot line 6' from the existing home but not meeting the total of 16' required for two interior side yards per the R1B setback requirements.
- Staff and the PZC are in support of the request finding the proposed lot width is consistent with existing lots in the neighborhood and concluding that a lot of approximately the same size existed prior to the 2017 lot consolidation.

***Related Files***

The following agenda items are related to PZC 18-1-136:

- Pass the ordinance approving the preliminary/final plat of subdivision and OAA for D&K Wake Subdivision with a variance from 7-4-4:2.4 for the subject property located at 724 Jackson Avenue - PZC 18-1-136 (Item 2 of 3)
- Pass the ordinance approving a variance from 6-6B-7:1 in order to subdivide the existing lot into two lots for the property located at 724 Jackson Avenue - PZC 18-1-136 (Item 3 of 3)

**FISCAL IMPACT:**

N/A