



Legislation Details (With Text)

**File #:** 24-0331B      **Version:** 1

**Type:** Ordinance      **Status:** Agenda Ready

**File created:** 3/21/2024      **In control:** City Council

**On agenda:** 4/2/2024      **Final action:**

**Title:** Pass the ordinance approving a variance to Section 6-6A-7:1 (R1A: Yard Requirements) of the Naperville Municipal Code for the property located at 384 River Bluff Circle - PZC 24-1-005

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Zoning Variance Application, 3. Response to Standards, 4. Legal Description, 5. Plat of Survey, 6. Plan Set, 7. Public Comment PZC 24-1-005 384 River Bluff Circle, 8. City of Naperville Engineering Comments, 9. City of Naperville Fire Department Comments

Date	Ver.	Action By	Action	Result
4/2/2024	1	City Council	passed	Pass

**PLANNING AND ZONING COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance approving a variance to Section 6-6A-7:1 (R1A: Yard Requirements) of the Naperville Municipal Code for the property located at 384 River Bluff Circle - PZC 24-1-005

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Brad Iwicki, Assistant Planner

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered PZC 24-1-005 on March 20, 2024, and recommended approval of the request (approved 8-0). Staff concurs.

**BACKGROUND:**

The owners and petitioners, Judith Wivell and Ron Szmurlo, have submitted a variance request for the property generally located north of Aurora Avenue and north of River Bluff Circle with a common address of 384 River Bluff Circle. The variance request has been submitted in order to allow a 170 square-foot screened-in porch and 50 square-foot wood deck to encroach into the required rear and interior side yard setbacks. The subject property is approximately 7,183 sq. ft. and is currently zoned R1A PUD (Low Density Single Family Residence District). This request will require approval of a variance from Section 6-6A-7:1 of the Naperville Municipal Code which regulates yard requirements in the R1A zoning district.

**DISCUSSION:**

The subject property is located within the River Bend Planned Unit Development (PUD). Many of the properties within this development feature smaller lot sizes and have rear yards that are impacted by floodways due to adjacency to the DuPage River, resulting in restrictions on buildable area. As such,

several properties have had decks and porches constructed in their side yards. The subject property has an existing, nonconforming deck extending into the required interior side yard setback. Per the property owner/petitioner, the deck is in disrepair and in need of replacement.

The owners and petitioners, Judith Wivell and Ron Szmurlo, are proposing to construct a screened-in porch addition on the west side of their duplex, in the same location of the existing deck to be removed. The proposed addition will encroach into the required 8-foot interior side yard setback and the 30-foot rear yard setback as depicted on the site plan in the attachments. The new screened-in porch will be 170 square feet in area and will encroach approximately 3 feet 2 inches into the required interior side yard setback and 1 foot 1 inch into the required rear yard setback. The proposed 50 square foot deck will function as a landing space for the screened-in porch and encroach 3 feet 2 inches into the required interior side yard.

The Municipal Code provides that no portion of the principal structure shall encroach into the required interior side yard or rear yard setback. Therefore, the petitioner requests a variance from the R1A side yard and rear yard setback requirements provided in Section 6-6A-7:1 (Low Density Single-Family Residence District: Yard Requirements) of the Naperville Municipal Code in order to construct the proposed screened-in porch and attached deck.

The existing home complies with the 8-foot R1A interior side yard setback requirement. The purpose of the requested variance is to provide a screened-in porch that will accommodate the petitioner's needs during inclement weather. Currently, an elevated deck is located on the west side of the home generally in the same location as the proposed screened-in porch. To staff's knowledge, the deck did not cause any issues to adjacent property due to its reduced setbacks.

Review of the proposal has been completed and it has been determined that there are no issues with encroachments into any easements. The impact is minimal on the neighborhood streetscape given that the proposed addition is located near the rear of the property. Given the location, the screened-in porch will not be a substantial detriment to the subject property and is consistent with the appearance and scale of the existing duplex. The requested variance, if approved, will be subject to compliance with the attached site plan.

The engineering team reviewed the request and noted the floodway adjacent to the DuPage River. This floodway is shown to encroach minimally onto the subject site but maintains at least 27 ft separation from the structure. The proposed structure extends about 8'-8" further north (towards the river) than the existing wood deck, but due to the lateral and vertical offsets, there are no concerns. An existing storm sewer is located along the western property line, but no concerns with the structure were voiced.

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

The petitioner's responses to the Standards for Granting a Zoning Variance are attached. Staff is in agreement with the petitioner's Findings for the variance from Section 6-6A-7:1 (R1A: Yard Requirements) and recommends their adoption by the Planning and Zoning Commission.

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

The Planning and Zoning Commission considered this matter at their meeting on March 20, 2024. Two members of the public provided testimony, sharing concerns regarding access to the rear of the property for lawn care, utilities, and emergency and fire services. The neighbor directly adjacent to the proposed screened porch stated concern that the improvement will impact their river view. There

were also assertions that the proposed screened porch conflicts with the River Bank Homeowners Association bylaws and compatibility with neighborhood character and that the project did not receive HOA approval.

In response to the concerns regarding HOA approval, staff provided documentation showing proof of approval and a member of the public, Terry Cieniank, spoke on the matter as a member of the River Bank HOA board and stated the project was approved by the board. The PZC noted that HOA bylaws are not considered by the PZC, who considers land use cases under the purview of the Naperville Municipal Code. Chairman Athanikar requested that staff consult the Naperville Fire Department regarding access to the property. The Fire Department staff did not identify any concerns with the proposed plans.

Chairman Athanikar asked about flood plain impacts due to the proximity to the DuPage River. City of Naperville engineering staff did not share any concerns. Following discussion, the PZC closed the public hearing and voted to recommend approval of the petitioner's request (approved 8-0).

**FISCAL IMPACT:**

N/A