



Legislation Details (With Text)

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On agenda: 9/4/2019 **Final action:**

Title: Conduct the public hearing to consider a variance from 7-4-4:2.4 and a variance from 6-6B-7:1 in order to approve the Preliminary/Final Plat of Subdivision to subdivide the existing lot into two lots for the property located at 724 Jackson Avenue - PZC 18-1-136

Sponsors:

Indexes:

Code sections:

Attachments: 1. Application, 2. Disclosure of Beneficiaries, 3. Legal Description, 4. Response to Standards, 5. Existing House Exhibit, 6. Location Map, 7. Preliminary-Final Plat of Subdivision, 8. 90% Rule Map and Calculation

Date	Ver.	Action By	Action	Result
9/4/2019	1	Planning and Zoning Commission	accept	Fail

PLANNING AND ZONING COMMISSION AGENDA ITEM

ACTION REQUESTED:

Conduct the public hearing to consider a variance from 7-4-4:2.4 and a variance from 6-6B-7:1 in order to approve the Preliminary/Final Plat of Subdivision to subdivide the existing lot into two lots for the property located at 724 Jackson Avenue - PZC 18-1-136

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Gabrielle Mattingly

BOARD/COMMISSION REVIEW:

Official notice for the public hearing for PZC 18-1-136 was published in the Daily Herald on August 19th, 2019.

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 separate lots into one lot, rezoning was required. On June 20th, 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 5th, 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 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 variances are required:

1. 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. 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.

90% Rule Variance

The ninety percent (90%) rule, located in Section 7-4-4:2.4 of the Naperville Municipal Code, 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).

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:

Interior Side Yard Setback Requirement:	
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.

Remaining Accessory Structures

Currently, a fence and gazebo exist on the west side of the lot. 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 will include a condition of approval within the variance ordinance stipulating that the accessory structures can remain on site for a period of one-year from the date of approval. If construction of the principal structure has not begun within this timeframe, the petitioner will be required to remove these accessory structures from the subject property to comply with the code.

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. The proposed subdivision requires two variances: 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; and 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 - PZC 18-1-163.
- Staff is 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.