



Legislation Text

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File #: 21-0025, Version: 1

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**PLANNING AND ZONING COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Conduct the public hearing to consider a variance to Section 6-2-10:6 for the property located at 1516 Mya Court - PZC 20-1-112

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, Community Planner

**ENTITLEMENTS REQUESTED:**

A variance to [Section 6-2-10:6 \(Accessory Buildings, Structures, and Uses of Land: Time of Construction\)](https://library.municode.com/il/naperville/codes/code_of_ordinances?nodet=62106) <[https://library.municode.com/il/naperville/codes/code\\_of\\_ordinances?nodet=TIT6ZORE\\_CH2GEZOPR\\_6-2-10ACBUSTUSLA](https://library.municode.com/il/naperville/codes/code_of_ordinances?nodet=TIT6ZORE_CH2GEZOPR_6-2-10ACBUSTUSLA)> of the Municipal Code is required in order to construct a game court and shed on the property located at 1516 Mya Court without a principal structure.

**BOARD/COMMISSION REVIEW:**

Official notice for the public hearing for PZC 20-1-112 was published in the Daily Herald on December 21, 2020.

**BACKGROUND:**

The 12,538-square foot vacant subject property is zoned R1A (Low Density Single Family Residence District). The property is known as Lot 1 of the 77<sup>th</sup> Street Project development which was approved by the City Council on August 18, 2020 as a 10-lot subdivision (Final Subdivision Plat Approval Ord. 20-080). The subject property is generally located east of Wehrli Road, just north of 77<sup>th</sup> Street and has a common street address of 1516 Mya Court.

The owner of the subject property is Wehrli Place LLC. The petitioners, Adam and Heather Tritt, currently reside at 1520 Mya Court which is the single-family lot east of the subject property (Lot 17 of the Lizzadro Subdivision). The petitioners are under contract to purchase 1516 Mya Court and are requesting approval of a variance in order construct accessory structures on the vacant lot without a principal structure.

**DISCUSSION:**

The petitioners intend to purchase 1516 Mya Court and use the vacant lot for open space amenities. Municipal Code provision 6-2-10:6 states that accessory structures cannot be constructed prior to the establishment of the principal structure. Accessory structures by definition are intended to be incidental to the principal use. Therefore, construction of the proposed accessory structures requires approval of a variance.

The proposed game court is a 65' by 40' concrete slab (2,600 sf) and the shed is 10' by 15' (150 sf). The shed will be installed adjacent to the game court. Both the shed and the game court are in compliance with all other accessory structure regulations. The petitioners plan to install landscaping on all four sides of the game court in compliance with the code required landscaping for game courts.

Staff typically instructs applicants to seek approval of an administrative plat of subdivision to consolidate the lots in order to maintain compliance with the code's requirement that an accessory structure not be constructed without a principal use. For the current proposal, the applicants are unable to seek consolidation. This is due to the fact that the two lots are located within different subdivisions and are governed under separate Homeowners Associations. Additionally, the lots are separated by a 20' wide public utility & drainage easement which provides access to the existing stormwater management easement (Lot 18 of the Lizzadro Subdivision). Both the location of the easement and the separate subdivisions prevent lot consolidation. For these reasons, staff is supportive of the requested variance.

It should be noted that if future accessory structures are proposed on the lot, beyond the installation of a game court and shed, an additional variance will be required (subject to PZC review and City Council approval). The petitioner's responses to the Standards for Granting a Zoning Variance are attached. Upon review, staff agrees with the petitioner's findings and recommends their adoption by the Planning and Zoning Commission.

### **Key Takeaways**

- The petitioner is proposing to construct a game court and a shed on the vacant property located at 1516 Mya Court. A variance is required from Section 6-2-10:6 in order to construct the structures without a principal structure.
- Staff is in support of the variance request finding the location of the existing easement to prove hardship that prevents the consolidation of the two properties.