



Legislation Text

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File #: 22-1570, Version: 1

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**PLANNING AND ZONING COMMISSION AGENDA ITEM**

**ACTION REQUESTED:**

Consider the Petitioner's appeal to the Zoning Administrator's finding in regards to the setback variance granted through Ordinance 21-111

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Adam Beaver, AICP Candidate

**ENTITLEMENTS REQUESTED:**

- The petitioner is requesting an appeal to the Zoning Administrator's interpretation in order to permit the construction of a porch that is larger than previously approved through Ordinance 21-111.

**BOARD/COMMISSION REVIEW:**

Per Code, official notice in the newspaper is not required.

**BACKGROUND:**

The subject property is located at 214 N. Laird Street, at the corner of Laird Street and Douglas Avenue. The property owners, Daniel and Jill Ignash, received variance approval through Ordinance 21-111 for a porch to encroach 6.75 feet into the corner side yard (1.75 feet more than what is permissible per Naperville Municipal Code Section 6-2-3:3.2 (Yard Requirements)). In November 2022, the property owners applied for building permits to construct a single-family home. The plans provided in the permit application do not match those that were approved via Ordinance 21-111.

**DISCUSSION:**

Ordinance 21-111 permitted a variance to Naperville Municipal Code Section 6-6B-7:1 (R1B: Yard Requirements) to allow a porch to encroach 6.75 feet into the required 15-foot corner side yard as depicted on a site plan attached to the Ordinance as Exhibit B.

The building permit that the petitioner submitted in November 2022 included a porch that was approximately 16 feet wider than what was shown on the site plan approved through Ordinance 21-111, resulting in a porch encroachment that is approximately 33% larger than what was originally anticipated. In response, staff rejected the building permit noting that the porch encroachment had to be reduced so that the proposed porch is consistent with the site plan attached to and referenced in Ordinance 21-111

The petitioner has informed staff that they were under the impression that the site plan approved through Ordinance 21-111 could undergo further modifications so long as the final porch design did not encroach more than 6.75 feet into the required corner side yard setback. Staff finds that the

approved ordinance does not give any indication that future flexibility would be offered. In other ordinances where flexibility has been built in, it is specified in the “sections” portion of the ordinance and provides details and conditions regarding this flexibility.

Staff finds that changes to the porch cannot be administratively approved; however, per Section 6-3-4:1 of the Naperville Municipal Code, the property owners may appeal the Zoning Administrator’s interpretation. The petitioner’s appeal is attached for review by the Planning and Zoning Commission (PZC).

### ***PZC Action***

Section 6-3-4.1 of the Naperville Municipal Code states that an appeal may be taken from any interpretation, requirement, decision, or determination of the Zoning Administrator, and that the Zoning Administrator shall transmit the appeal to the Planning and Zoning Commission (PZC).

Following the petitioner’s presentation at the 12/21/22 meeting, the PZC should discuss the appeal and determine if they (a) concur that the proposed porch must comply with the footprint depicted in Ordinance 21-111; or (b) find that the footprint of the proposed porch may vary from the attached site plan as long as it complies with the overall 1.5’ setback variance granted.

The PZC’s recommendation on the appeal will be forwarded to the City Council for final action.

### **Key Takeaways**

- The Petitioner is appealing the Zoning Administrator’s interpretation of Ordinance 21-111.
- Staff does not support the requested appeal.