

## Legislation Details (With Text)

**File #:** 17-588      **Version:** 2

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

**File created:** 7/13/2017      **In control:** City Council

**On agenda:** 8/15/2017      **Final action:** 8/15/2017

**Title:** Pass the Ordinance approving a variance from Section 6-2-12 (Fences) of the Naperville Municipal Code in order to construct a 15' tall fence along the western border of Ashwood Park North Unit 4 - PZC 17-1-062.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance.pdf, 2. Exhibit A -Legal Description.pdf, 3. Exhibit B -Subject Property.pdf, 4. Exhibit C - Findings of Fact.pdf, 5. Exhibit D -Images.pdf, 6. Public Comment.pdf, 7. 7.19.17 PZC Minutes.pdf, 8. Location Map.pdf

| Date      | Ver. | Action By                      | Action                | Result |
|-----------|------|--------------------------------|-----------------------|--------|
| 8/15/2017 | 2    | City Council                   | passed                |        |
| 7/19/2017 | 1    | Planning and Zoning Commission | approved and referred | Pass   |

**CITY COUNCIL AGENDA ITEM****ACTION REQUESTED:**

Pass the Ordinance approving a variance from Section 6-2-12 (Fences) of the Naperville Municipal Code in order to construct a 15' tall fence along the western border of Ashwood Park North Unit 4 - PZC 17-1-062.

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered this matter on July 19, 2017 and voted to recommend approval of the case (Approved 9-0). Staff concurs.

**BACKGROUND:**

The owner and petitioner, Blue Ashwood LLC, represented by Manny Kianicky, has submitted a variance request for Ashwood Park North Unit 4 in order to construct a 15' tall fence along the western border of the subdivision. The subject property is currently zoned R1A (Low Density Single Family Residence District) and consists of 66 single-family residential lots. The property is approximately 31.9 acres and is generally located west of 248<sup>th</sup> Avenue, north of Chinaberry Lane, east of Normantown Road, and south of Wolf's Crossing Road.

On October 1<sup>st</sup>, 2013, the City Council adopted Ordinance 13-118 and Ordinance 13-119 approving a variance from Section 6-2-12 (Fences) of the Municipal Code to allow for the construction of a 10' tall fence located in the vacated Normantown Road right-of-way along the western boundaries of

Ashwood Park North Units 1-3 and Ashwood Park South Units 2-3 subdivisions. Since Ashwood Park North Unit 4 was not included in the 2013 variance, this is a request to extend the existing fence along the Normantown Road right-of-way as it abuts Ashwood Park North Unit 4 (note: the vacation of this portion of the Normantown Road right-of-way will be completed through a separate process). The expansion is approximately 1,070 feet long and this portion of the fence will be constructed at 15' tall. The petitioner has indicated that the purpose of this fence is to provide a barrier for the single family houses and the adjacent bike path from the EJ & E Railway (Elgin, Joliet and Eastern Railway).

### **DISCUSSION:**

Currently, the 10' tall fence is installed on top of a berm measuring approximately 6' tall along Ashwood Park North Units 1-3 and Ashwood Park South Units 2-3 and is made of concrete panels. The requested fence will be consistent in material, but will be constructed at 15' tall. These concrete panels will be built on top of a berm measuring 6' in height. The increased height of the fence has been requested due to the higher elevation of the train tracks along Ashwood Park North Unit 4. With the height of a double stacked freight car being 20' 2", as indicated by the petitioner, the proposed fence would screen the majority of the trains using the EJ & E Railway.

Section 6-2-12 (Fences) of the Municipal Code currently restricts residential fences to a height of 6' tall. In most residential settings, a 6' tall privacy fence provides sufficient screening between residential uses. In cases where residential properties border major arterial roads, the Code allows for fences to increase to a height of 9' in order to provide ample screening from the roadway. While the Code does not provide a section regarding residential properties adjacent to railways, staff finds the situation to be similar in nature to the Code section regarding residential properties adjacent to major arterial roadways. With a high train traffic volume, a double stacked freight car passing by every 20 to 30 minutes, the proposed fence would help mitigate the sound as well as provide a visual and safety barrier for the residential subdivision.

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

The petitioner's responses to the Standards for Granting a Zoning Variance are attached. Upon review, the Planning and Zoning Commission and staff agree with the petitioner's Findings and recommends their adoption by the City Council.

### ***Key Takeaways***

- The petitioner is requesting a variance from Section 6-2-12 (Fences) of the Naperville Municipal Code, in order to construct a 15' tall fence along the western border of Ashwood Park North Unit 4.
- Staff supports the proposed variance because it will provide a safety barrier, visual buffer and sound barrier from the high transportation volume of the EJ & E Railway for the residential properties.

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

The Planning and Zoning Commission conducted the public hearing for PZC 17-1-062 at their meeting on July 19, 2017. No members of the public provided testimony. Following brief discussion, the Planning and Zoning Commission moved to adopt the findings of fact as presented by the petitioner and approve PZC 17-1-062 (approved 9-0). Staff concurs with the Planning and Zoning Commission's recommendation.

### **FISCAL IMPACT:** N/A

