



## Legislation Details (With Text)

**File #:** 18-321B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 4/19/2018      **In control:** City Council

**On agenda:** 5/15/2018      **Final action:** 5/15/2018

**Title:** 1. Concur with the petitioner, the Historic Preservation Commission, and the Planning and Zoning Commission and pass an ordinance approving height, setback, and lot coverage variances to Section 6-2-10:1, Section 6-2-10:5, and Section 6-2-10:3 of the Naperville Municipal Code for the property located at 122 N. Loomis, Naperville - PZC #18-1-006; or

2. Concur with staff and pass the ordinance approving setback and lot coverage variances to Section 6-2-10:1 and Section 6-2-10:5, and denying a height variance to Section 6-2-10:3 of the Naperville Municipal Code for the property located at 122 N. Loomis, Naperville - PZC #18-1-006

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance Option #1, 2. Exhibit A- Legal Description, 3. Exhibit B- Site Plan, 4. Exhibit C- Standards, 5. Exhibit D- Elevations, 6. Ordinance Option #2, 7. Exhibit A- Legal Description, 8. Exhibit B- Site Plan, 9. Exhibit C- Standards, 10. Letter from Petitioner, 11. HPC Draft Minutes- 03222018.pdf, 12. PZC Minutes- 04182018.pdf, 13. Application.pdf, 14. Location Map, 15. Public Comment

Date	Ver.	Action By	Action	Result
5/15/2018	1	City Council	passed	Pass

## PLANNING AND ZONING COMMISSION AGENDA ITEM

### ACTION REQUESTED:

1. Concur with the petitioner, the Historic Preservation Commission, and the Planning and Zoning Commission and pass an ordinance approving height, setback, and lot coverage variances to Section 6-2-10:1, Section 6-2-10:5, and Section 6-2-10:3 of the Naperville Municipal Code for the property located at 122 N. Loomis, Naperville - PZC #18-1-006; or

2. Concur with staff and pass the ordinance approving setback and lot coverage variances to Section 6-2-10:1 and Section 6-2-10:5, and denying a height variance to Section 6-2-10:3 of the Naperville Municipal Code for the property located at 122 N. Loomis, Naperville - PZC #18-1-006

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly

### BOARD/COMMISSION REVIEW:

At their March 22, 2018 meeting, the Historic Preservation Commission (HPC) recommended approval of the variance requests as follows: height variance: approved (vote 3-2), setback variance: approved (vote 5-0), lot coverage variance: approved (vote 4-1). The Planning and Zoning Commission considered this matter on April 18, 2018 and voted to recommend approval of the request (approved 8-0). Staff supports the recommendation for the lot coverage and setback

variances; however, staff does not support the variance for increased height.

### **BACKGROUND:**

The subject property is located within the historic district at 122 N. Loomis Street. It is an approximately 10,165 square foot parcel located on the east side of Loomis Street, just north of Franklin Avenue. The property is zoned R2 (Single-Family and Low Density Multiple-Family Residence District) and is currently improved with a two and half story single-family home and detached garage.

### **DISCUSSION:**

The petitioner, Kathy West, on behalf of the homeowners Brian and Rebecca Wright, has requested approval of 3 variances in order to demolish the current detached garage at the subject property and construct a 3 car, 682 square foot detached garage in its place. The proposed detached garage will be located approximately 5' from the northern property line and 3' from the eastern property line. It will be 21' 5- 5/8" in height and 682 sq. ft. in size. Construction of this structure requires approval of three variances to Section 6-2-10 (Accessory Buildings, Structures, and Uses of Land) of the Naperville Municipal Code. The variances are as follows:

- Request to reduce the required five foot (5') rear yard setback from the eastern property line to allow the garage to be placed at a setback of 3' from the rear property line (Section 6-2-10:1, Accessory Buildings, Structures, and Uses of Land: Location).
- Request to exceed the permitted 480 sq. ft. lot coverage in the required rear yard; the lot coverage proposed is 682 sq. ft. (Section 6-2-10:5, Accessory Buildings, Structures, and Uses of Land: Percentage of Required Yard Occupied).
- Request to exceed the maximum height requirement of 18'; the height requested is 21' 5- 5/8" (Section 6-2-10:3, Accessory Buildings, Structures, and Uses of Land: Height Limitations).

### ***Requested Variances***

Based on the factors and analysis below, staff recommends approval of the variances to the 25% lot coverage and rear yard setback and denial of the variance to the height requirement.

#### ***Setback from the Eastern Property Line***

The proposed detached garage will be built 3' from eastern property line. Per Section 6-2-10:1 of the Municipal Code, detached accessory structures shall not be located within 5' of any rear or interior side lot line. Staff finds that the reduced setback from the rear property line may be supported based on the fact that the proposed garage will be accessed from the alley. Staff recommends approval of the variance to the setback requirement from 5' to 3' from the eastern property line.

#### ***25% Lot Coverage Variance***

Section 6-2-10:5 of the Municipal Code permits detached accessory structures to cover a maximum of 25% of the required rear yard or 480 square feet, whichever is greater. Given the lot size, a maximum of 480 square feet of detached accessory structures is permitted at the subject property. The 682 square foot detached garage is located completely within the 25' required rear yard, creating a variance from the maximum permitted 480 square feet. Currently, no driveway exists on the subject property; in addition, the placement of the proposed garage will not allow installation of a driveway. Accordingly, additional parking options will not exist on the subject property and therefore staff is supportive of the variance to the 25% lot coverage.

#### ***Height Variance***

The petitioner also requests a variance from Section 6-2-10:3 to allow the proposed detached garage to exceed the maximum height of 18' in order to construct a garage that is 21' 5- 5/8" in height. The petitioner's responses to the standards for granting a variance are attached; staff does not concur with the responses to the standards submitted by the petitioner and found no hardships were created by the lot that would prevent the detached garage from complying with the height requirement. Staff's comments with respect to the proposed findings for the requested variance are based upon a review of the subject property, applicable Code provisions, and the standards for variance requests. Staff recommends denial of the requested height variance based on the following:

1. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

*Staff Analysis: The current request is to exceed the maximum 18' height requirement in order to propose a 21' 5 - 5/8" tall detached garage. The variance is not in harmony with the general purpose of the accessory structure regulations given that the purpose of a garage is for the storage of vehicles. The owners intend to construct a garage that has an upper level for additional storage. This does not serve the intended function of a garage.*

2. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and

*Staff Analysis: Requesting the property owner to modify the current proposal to comply with the height requirement does not pose an exceptional hardship due to unusual conditions which are not generally found on other properties in the same zoning district. The proposed height will actually require the owner to move existing utilities at their own expense. This is a practical difficulty imposed by the variance request and not by existing conditions on the lot.*

3. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

*Staff Analysis: Neighboring properties have received variances to the Naperville Municipal Code for detached accessory structures. However, these requests did not require more than 1 -2 variances to the Code. Approval of 3 variances is inconsistent with the character of the neighborhood.*

#### **City's Utility Departments**

Review was conducted by the City's utility departments and it was found that the subject property currently does not have easements. Therefore, a 5' utility easement will be requested to be located along the northern property line and 3' utility easement will be requested along the eastern property line. The City's electric department has recommended the 3' setback from the east property line, with the knowledge that prior to the issuance of the building permit for the garage, the homeowner will either design the garage to meet NESC clearance requirements or pay NDPU-E to make changes to the NDPU-E electrical system located in the alley. Concern has also been raised that the proposed height may conflict with overhead electric service. The City's Utility department will also require these utilities to be moved, at the owners' expense, prior to issuance of building permit in order to mitigate the issue.

#### **HPC Review**

Per Section 6-11-5:3 (Applicability of Zoning Provisions: Conditional Uses; Variances; Amendment to Zoning Title) of the Municipal Code, the HPC is required to review any variances requested for properties located within the historic district to determine if the requested variances impact the historic nature of the property or district; HPC's recommendation is forwarded to the Planning and Zoning Commission (PZC) for their consideration. However, per Section 6-11-7: 3 of the Municipal Code, a COA is not required for a detached garage; therefore, the HPC did not review the style of the proposed detached garage. On March 22, 2018, the HPC reviewed the application (COA #18-163) and made a positive recommendation on each requested variance as follows (draft minutes from the HPC meeting are provided in the attachments): height variance: approved (vote 3-2), setback variance: approved (vote 5-0), lot coverage variance: approved (vote 4-1). Dissenting votes were cast based on concerns for the lot coverage and height variances finding that the allowances in the code are sufficient for existing properties within the City of Naperville and that the property did not present a hardship.

### ***Planning & Zoning Commission Action***

The Planning and Zoning Commission considered this matter at their meeting on April 18, 2018. No one from the public provided testimony on this case. The Planning and Zoning Commission inquired about the support of the variances from staff and the Historic Preservation Commission. PZC supported all three variance requests, finding that the variances would not change the character of the neighborhood and would also reduce the on-street parking load. PZC moved to adopt the findings of fact as presented by the petitioner and approve PZC 18-1-006.

Staff concurs with the Planning and Zoning Commission's recommendation to approve the setback and lot coverage variances; however, staff does not recommend the approval of the height variance.

### ***Key Takeaways***

- The petitioner is requesting approval of PZC #18-1-006 in order to construct a detached garage at 122 N. Loomis Street.
- The HPC and PZC recommended approval of the requested variances.
- Staff recommends approval of variances from Section 6-2-10 (Accessory Buildings, Structures, and Uses of Land) of the Naperville Municipal Code in order to reduce the setback from the rear property line and exceed the 25% lot coverage in the required rear yard to allow for construction of a detached garage for the property.
- Staff recommends denial of the variance from Section 6-2-10 (Accessory Buildings, Structures, and Uses of Land) of the Naperville Municipal Code in order to exceed the 18' maximum height for accessory structures to allow for construction of a detached garage for the property.
- The City's Utility departments are in support of the requested variance as long as existing utilities are moved at the owners' expense.