



## Legislation Details (With Text)

**File #:** 19-797      **Version:** 1

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

**File created:** 8/8/2019      **In control:** City Council

**On agenda:** 8/20/2019      **Final action:** 8/20/2019

**Title:** Pass the ordinance approving a variance to Section 5-10-3:12 of the Naperville Municipal Code (Rooftop Structures and Equipment) for Mall of India located at 776 S. Route 59 - BRB Case #98

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Mall of India - Ordinance, 2. Exhibit A - Legal, 3. Exhibit B - Subject Property, 4. Exhibit C - Elevations, 5. Exhibit D - Line of Sight, 6. Exhibit E - Site Plan, 7. Survey, 8. Roof Plan, 9. Floor Plan

Date	Ver.	Action By	Action	Result
8/20/2019	1	City Council	passed	Pass

### CITY COUNCIL AGENDA ITEM

**ACTION REQUESTED:**

Pass the ordinance approving a variance to Section 5-10-3:12 of the Naperville Municipal Code (Rooftop Structures and Equipment) for Mall of India located at 776 S. Route 59 - BRB Case #98

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Sara Kopinski, AICP

**BOARD/COMMISSION REVIEW:**

The Building Review Board (BRB) considered this matter on February 20, 2019 and voted to recommend denial of the request (Denied 5-1). Following this meeting, and in response to modifications the petitioner has proposed, staff is supportive of the request.

**BACKGROUND:**

The subject building at 776 S. Route 59 was constructed in 1989 as part of the Fox River Commons Shopping Center. It was occupied by Walmart from the time of construction until it was vacated in 2014. Mall of India is currently working to fill the space with multiple tenants including retail stores, services, and restaurants.

The Northwest Sector Revision (1996) identifies the future land use of the property as "Commercial". Staff finds the petitioner's proposal to be consistent with this designation.

**DISCUSSION:**

The subject building was constructed prior to the implementation of the city's current requirements for rooftop unit (RTU) screening, which was enacted by ordinance in 2004. The existing building includes short segments of parapet wall around the entrance (approximately 4 feet high) and short

parapet walls along the north and south sides that range in height from 3.5 feet to less than one foot. There is no parapet wall along the east side, which is the rear of the building.

The current requirements for RTU screening require that all roof structures and equipment, such as heating, air conditioning, ventilation, exhaust or other mechanical equipment, located on the roof of any building or structure shall be screened or enclosed in a manner that will mask the equipment from view. Screening in the form of a parapet wall, unless otherwise approved by the Chief Building Official due to structural reasons, shall be installed so that the entire piece of equipment is completely enclosed on all sides to the full height of the unit plus any supporting curb work.

The applicant, Project Naperville, LLC, is proposing to convert the existing building into a retail mall with multiple tenants, including a grocery store and a food court. The significant scope of the proposed work requires the building to be brought into compliance with the current Municipal Code, including requirements for rooftop screening as outlined in Section 5-10-3 Subsection 12. The applicant has requested a variance from this section of the code, and instead proposes to provide limited screening in various locations on the building.

Based on the roof plan provided, the proposed development will include at least 50 RTUs of varying sizes. Since plans have yet to be provided for all future tenants, there will likely be additional RTUs that are not yet shown on the plans. For example, the proposed grocery store which will be the north anchor store has not yet submitted any plans for RTUs, including their refrigeration units.

### ***Building Review Board Consideration***

The BRB considered this matter at their meeting on February 20, 2019. When this case was presented to the BRB, the roof plan included minimal improvements to rooftop unit screening. Portions of the existing parapet wall around the front entrance were to be extended to be 8 feet tall, and additional screens set back from the face of the building were also proposed as follows: 85 lineal feet of 4-foot high screening on the south elevation; 100 lineal feet of 4.5-foot high screening; and, 60 lineal feet of 6-foot high screening on the front of the building. The applicant provided a line-of-sight diagram showing the impact of the screening for an observer located on Route 59 west of the building.

As initially presented, staff was not supportive of the variance request for the following reasons:

- No justification was provided by the applicant as to why the screening as required by the Municipal Code cannot be provided.
- The limited screening that was proposed was not consistent with the intent of the code.
- It was unclear as to the extent to which the partial screening proposed will block the view of the RTUs because the ultimate buildout of the mall/future RTU installations has yet to be determined.
- There was no screening along the east elevation of the building (rear) which is directly adjacent to residential zoning.
- The rooftop units are currently visible from Route 59.

The BRB inquired about future RTU installation on the building, line of sight studies, and whether or not the need for the variance was financially based. Mr. Russel, a representative on the BRB, also voiced concerns that granting Mall of India's variance request as proposed could set a bad precedence for other commercial buildings in the area. The petitioner's architect noted that in order to comply with the City's current Code regulations, 1,400 linear feet of wall would need to be constructed and concerns with drainage improvements required along the rear of the building would be raised as well. Following brief comments, the BRB voted not to support the petitioner's request (denied 5-1).

#### **Changes following the BRB Meeting**

Following the BRB's recommendation of denial, the petitioner made the following changes to proposed RTU screening:

1. The petitioner revised the front building elevation so that RTUs will be screened to their full height along the west side of the building, fronting Route 59.
2. A line of sight analysis was provided from the east property line (adjacent to residential), to identify a minimum distance that RTUs need to be set back from the east wall of the building in order to minimize their visibility. The analysis found that in a worst-case scenario, 10 ton RTUs would need to be set back a minimum of 37 feet and 8 inches from the east building wall to ensure that they were not visible to bystanders along the east property line. The petitioner has agreed to a provision in the approval ordinance stating that no RTUs now or in the future can be located within 37 feet and 8 inches of the east building line.
3. The petitioner has provided a landscape plan that includes additional evergreen trees to be planted along the east property line to assist with buffering the use from adjacent residential uses.

Upon review, staff is supportive of the petitioner's proposed RTU screening modifications.

#### **Key Takeaways**

- The petitioner requests a variance from Section 5-10-3 Subsection 12 of the Naperville Municipal Code (Rooftop Structures and Equipment) to eliminate the need for RTUs to be screened to their full height in the form of a parapet wall. The BRB was not supportive of the petitioner's original proposal.
- Following BRB's recommendation of denial, and in consideration of additional changes proposed, staff now believes the current RTU screening proposal is acceptable.

#### **Related Files**

N/A

#### **FISCAL IMPACT:**

N/A