



## Legislation Text

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File #: 17-483, Version: 1

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### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Pass the Ordinance approving a variance to Section 6-2-12:1(Fences; Residence District) of the Naperville Municipal Code for the property located at 115 E. Benton Avenue. PZC 17-1-049

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly

#### **BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered this matter on June 7, 2017 and voted to recommend approval of the case (Approved 8-0). Staff concurs.

#### **BACKGROUND:**

The subject property, 115 E. Benton, is generally located on the west side of Ellsworth Street, north of Benton Avenue and is zoned R2 (Single Family and Low Density Multiple Family Residence District). The property is approximately 23,114 square feet and is currently improved with a surface parking lot that is owned and used by Saints Peter and Paul church and school. The petitioner, Brian Person, requests approval of a variance to Section 6-2-12:1(Fences; Residence District) to allow for a fence to be constructed in the rear, front, and corner side yard in excess of the required maximum height. The proposal calls for a 12' fence to be constructed in the rear yard and a 6' fence to be constructed in the front and corner side yard.

#### **DISCUSSION:**

Section 6-2-12:1 (Fences; Residence District) addresses the regulations of fences in residence districts. Given the location of the proposed fencing on the lot, multiple subsections of the fence code apply.

The petitioner is proposing to remove and replace the existing 12' chain link fence on the west property line, otherwise known as the rear yard. Section 6-2-12:1.4 addresses fencing in the rear yard as follows: "Fences up to six (6) feet in height shall be permitted in the required interior side yard or rear yard provided that the fence does not extend nearer to a front lot line than the longest distance between such lot line and the nearest wall of the principal building or structure". As the proposed 12' tall fence exceeds the 6' maximum height allowance, a variance is required.

In the front and corner side yard, the petitioner is proposing to place a 6' fence with 6' 4" masonry piers spaced evenly between the fencing. Section 6-2-12:1.2 provides that "Open fences, as defined in Section 6-1-6 (Definitions), not exceeding four (4) feet in height may be constructed and maintained at the front or corner side yard lot line." As the proposed 6' tall open fence exceeds the

4' maximum height allowance in the front and corner side yard, a variance is required.

The petitioner is seeking the increased fence height in order to provide a safety barrier for the elementary school children playing outside during recess. Staff has reviewed the proposal and given the openness of the proposed fencing, the overall aesthetic improvement, and the use as a safety barrier for the school, staff is in support of the proposal.

***Findings of Fact***

The petitioner's responses to the Standards for Granting a Zoning Variance can be found in the attachments. Upon review, the Planning and Zoning Commission and staff agree with the petitioner's Findings of Fact and recommend their adoption by the City Council.

***Key Takeaways***

- The petitioner is requesting approval of a variance to allow for a 12' fence to be constructed in the rear yard and a 6' open fence to be constructed in the front and corner side yard.
- Staff is in support of the variance request given the openness of the proposed fence, its overall aesthetic improvement, and its use as a safety barrier for the school.

***Planning and Zoning Commission Action***

The Planning and Zoning Commission conducted the public hearing for PZC 17-1-049 at their meeting on June 7, 2017. No members of the public provided testimony. Following limited comments, the Planning and Zoning Commission moved to adopt the findings of fact as presented by the petitioner and approve PZC 17-1-049 (approved 8-0). Staff concurs with the Planning and Zoning Commission's recommendation.

**FISCAL IMPACT:**

N/A