

Ordinance

DC-O-0054-22

WHEREAS, a public hearing was held on August 31, 2022 in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 2:30 P.M. before the DuPage County Zoning Hearing Officer and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting the following zoning relief:

Variation to allow a 5' fence within the 10' corner side yard setback, on the property hereinafter described:

LOT 51 I BRANIGAR'S MEDINAH SPRING VALLEY UNIT NO. TWO, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 11 AND PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 16, 1954 AS DOCUMENT 730223, IN DUPAGE COUNTY, ILLINOIS; and

WHEREAS, the Zoning Hearing Officer, having considered in relation to the above requested zoning petition presented at the above hearing and at the recommendation meeting held on August 31, 2022, does find as follows:

**FINDINGS OF FACT:**

- A. That the Zoning Hearing Officer finds that petitioner has demonstrated sufficient evidence for a Variation to allow a 5' fence within the 10' corner side yard setback.
- B. That petitioner testified that he has lived at the subject property since 2003.
- C. That petitioner testified that due to the topography of the neighborhood, the roadways, specifically Glendale Terrace, is approximately two (2) feet higher than the subject property.
- D. That petitioner testified that they are seeking the subject Variation to allow a five (5) foot tall fence on their corner side in order to protect their two large dogs from Glendale Terrace, and that as the subject property is located approximately two (2) feet lower than the adjacent street, they require a taller fence.
- E. That the Zoning Hearing Officer finds that petitioner demonstrated evidence for a practical difficulty and unique circumstance of the subject property, as the property is located approximately two (2) feet lower than the adjacent street, requiring a taller fence on the corner side property.

**STANDARDS FOR VARIATIONS:**

*\*Per Zoning Code Section 37-1411.3*

- 1. That the Zoning Hearing Officer finds that petitioner **has demonstrated** that the granting of the Variation is in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the County's comprehensive plan for development.

Ordinance

DC-O-0054-22

2. That the Zoning Hearing Officer finds that petitioner **has demonstrated** the granting of the Variation will not:
  - a. Impair an adequate supply of light and air to the adjacent property as petitioner **has demonstrated** that the proposed fence will be 50% open and will not impair an adequate supply of light and air to the adjacent properties.
  - b. Increase the hazard from fire or other dangers to said property as petitioner **has demonstrated** that the proposed fence will not increase the hazard from fire or other dangers and that they will receive a building permit for the proposed fence.
  - c. Diminish the value of land and buildings throughout the County as petitioner **has demonstrated** that the proposed fence will not diminish the value of land and buildings throughout the County and will be an added benefit to the neighborhood.
  - d. Unduly increase traffic congestion in the public streets and highways as petitioner **has demonstrated** that the proposed fence will not unduly increase traffic congestion in the public streets and highways, and that it will not impact line-of-sight clearance for vehicles.
  - e. Increase the potential for flood damages to adjacent property as petitioner **has demonstrated** that the proposed fence will not increase the potential for flood damages to adjacent properties.
  - f. Incur additional public expense for flood protection, rescue or relief as petitioner **has demonstrated** that proposed fence will not incur additional public expense for flood protection, rescue, or relief.
  - g. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of DuPage County as petitioner **has demonstrated** the proposed fence will be an added benefit to the neighborhood, and will not impair the public health, safety, comfort, morals, or general welfare of the inhabitants of DuPage County.

WHEREAS, the Zoning Hearing Officer, having considered in relation to the above and at the recommendation meeting held on August 31, 2022, recommends to approve the following zoning relief:

Variation to allow a 5' fence within the 10' corner side yard setback.

**Subject to the following conditions:**

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-22-000044 **Lanciloti** dated August 31, 2022.
2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.

Ordinance

DC-O-0054-22

3. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

**ZHO Recommendation to Approve**

WHEREAS, the County Board Development Committee on September 20, 2022, considered the above findings and recommendations of the Zoning Hearing Officer and recommends to concur with the findings and recommends to approve the following zoning relief:

Variation to allow a 5' fence within the 10' corner side yard setback.

**Subject to the following conditions:**

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-22-000044 Lanciloti dated August 31, 2022.
2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
3. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

**Development Committee VOTE (to Approve): 5 Ayes, 0 Nays, 1 Absent**

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following zoning relief be granted:

Variation to allow a 5' fence within the 10' corner side yard setback, on the property hereinafter described:

LOT 51 I BRANIGAR'S MEDINAH SPRING VALLEY UNIT NO. TWO, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 11 AND PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 16, 1954 AS DOCUMENT 730223, IN DUPAGE COUNTY, ILLINOIS; and

**The Zoning Relief is subject to the following conditions:**

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-22-000044 Lanciloti dated August 31, 2022.

Ordinance

DC-O-0054-22

2. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
3. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul J. Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; DuPage County Division of Transportation; DANIEL AND TAMARA LANCILOTI, 6N281 ACACIA LANE, MEDINAH, IL 60157; and Township Assessor, Bloomingdale Township, 123 N. Rosedale, Bloomingdale, IL 60108.

Enacted and approved this 27th day of September, 2022 at Wheaton, Illinois.



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DANIEL J. CRONIN, CHAIRMAN  
DU PAGE COUNTY BOARD

Attest:



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JEAN KACZMAREK, COUNTY CLERK

AYES 15  
NAYS 0  
ABSENT 3