

## ORDINANCE NO. F-0358

### AN ORDINANCE GRANTING FRONT AND SIDE YARD SETBACK VARIATIONS ON A CERTAIN PIECE OF PROPERTY COMMONLY KNOWN AS 104 SOUTH PROSPECT STREET - TAYLOR/DECK AND FRONT PORCH

WHEREAS, written application has been made requesting a variation from the provisions of Sections 10.2(5), 3.4A(5)(a) and 24.4(5) of the Wheaton Zoning Ordinance to construct a porch and allow the continued existence of a deck on certain property legally described herein and commonly known as 104 South Prospect Street, Wheaton, Illinois; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton Board of Zoning Appeals on April 27, 1999, to consider the variation request.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

#### Section 1: The City hereby makes the following findings of fact:

- A. The Owner of the subject property constructed the deck, which is a subject of this Ordinance, together with a playhouse and play-gym platform without first securing a building permit from the City.
- B. The subject property is uniquely shaped with respect to the location of the house requiring the existence of the deck, only, to encroach within the setbacks provided for by the zoning ordinance.
- C. The existence of the deck, only, within the front and side yard setback provided for by the zoning ordinance, does not alter the essential character of the neighborhood and is not detrimental to other real estate in the neighborhood.
- D. The construction of a front porch within the setback provided for in the zoning ordinance will not alter the essential character of the neighborhood and will not be detrimental to other real estate in the neighborhood.

Section 2: Pursuant to the findings of fact determined by the City, variations from the requirements of the following provisions of the Wheaton Zoning Ordinance are granted to allow for the construction of a front porch and the continued existence of the deck:

A. Section 10.2(5) allowing a front yard setback of twenty feet (20') in lieu of thirty feet (30'), 3.4A(5)(a) and 24.4(5) allowing a side yard setback on the south border of the subject property of one foot (1'), in lieu of ten feet (10') for the existing deck and allowing a front yard setback of twenty-two feet (22') in lieu of thirty feet (30') for the proposed front porch.

These variations are granted on the following-described property:

LOT 1 IN BLOCK 6 IN ARTHUR T. MCINTOSH AND COMPANY'S LORRAINE ROAD SUBDIVISION IN THE SOUTH HALF OF SECTION 15, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 6, 1925 AS DOCUMENT 202765 AND CERTIFICATE OF CORRECTION FILED OCTOBER 29, 1927 AS DOCUMENT 245767, IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-15-304-012

This property is commonly known as 104 South Prospect Street, Wheaton, IL 60187 ("subject property").

Section 3: It shall be a condition precedent to the effectiveness of the variations granted pursuant to Section 2 of this ordinance that the owner of the subject property remove (or move to a location in compliance with the zoning ordinance) the playhouse and play-gym presently existing on the eastern portion of the subject property, inasmuch as this structure was constructed without first securing a building permit and is presently in violation of the provisions of the Wheaton Zoning Ordinance.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

**Section 5:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

James Carr  
Mayor

ATTEST:

Emily M. Condelezio  
City Clerk

Ayes.

**Roll Call Vote:**

Councilwoman Davenport  
Councilman Eckhoff

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Councilman Gresk  
Mayor Carr  
Councilman Johnson  
Councilwoman Johnson

Nays: None

Absent: Councilman Mork

Motion Carried Unanimously

Passed: June 21, 1999  
Published: June 22, 1999