



Development Ordinance

421 N. COUNTY FARM
ROAD
WHEATON, IL 60187
www.dupagecounty.gov

File #: DC-O-0034-23

Agenda Date: 8/1/2023

Agenda #: 11.D.

ORDINANCE

Zoning Petition ZONING-23-000031 Eiternick

WHEREAS, a public hearing was held on June 28, 2023 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:

Conditional Use to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years, on the property hereinafter described:

LOT 15 IN BLOCK 3 IN COUNTRY CLUB HIGHLANDS SUBDIVISION UNIT 2, BEING A SUBDIVISION OF PART OF THE WEST ½ OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 6, 1957 AS DOCUMENT 829770, 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 June 28, 2023 does find as follows:

FINDINGS OF FACT:

- A. That petitioner testified that the subject zoning relief is to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years.
- B. That petitioner testified that they have lived at the subject property since approximately 2013.
- C. That petitioner testified that the subject deck has existed prior to 2013.
- D. That petitioner testified that the subject deck is in great condition.
- E. That Hearing Officer finds that petitioner has demonstrated that subject zoning relief to allow an existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years does not have any impact on adjacent properties and roadways, does not impact on drainage, and does not impede ventilation and light to the subject property or adjacent properties.

STANDARDS FOR CONDITIONAL USES:

- 1. That the Zoning Hearing Officer finds that petitioner **has demonstrated** that the granting of the Conditional Use 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; and specifically, that the granting of the Conditional Use will not:
 - a. Impair an adequate supply of light and air to the adjacent property as petitioner **has demonstrated** that the existing deck does not impact or impair the supply of light and air to adjacent properties.
 - b. Increase the hazard from fire or other dangers to said property as petitioner **has demonstrated** that they will receive a building permit from the County for the existing deck and that it was built pursuant to the current DuPage County building codes.
 - c. Diminish the value of land and buildings throughout the County as petitioner **has demonstrated** that the existing deck does not diminish the value of land and that the adjacent neighbors do not object to the deck.
 - d. Unduly increase traffic congestion in the public streets and highways as petitioner **has demonstrated** that the existing deck is located behind the front wall of the home and does not impact traffic.
 - e. Increase the potential for flood damages to adjacent property as petitioner **has demonstrated** that the County’s Stormwater Department has no objections to the existing deck.
 - f. Incur additional public expense for flood protection, rescue or relief as petitioner **has demonstrated** that the County’s Stormwater Department has no objections to the existing deck.
 - g. Otherwise impair the public health, safety, comfort, morals, or general welfare of the inhabitants of DuPage County as petitioner **has demonstrated** that the existing deck does not have any impact on adjacent properties and roadways, does not impact on drainage, and does not impede ventilation and light to the subject property or adjacent properties.

PETITIONER’S DEVELOPMENT FACT SHEET

GENERAL ZONING CASE INFORMATION	
CASE #/PETITIONER	ZONING-23-000031 Eiternick
ZONING REQUEST	Conditional Use to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior property line, where it has existed for at least 5 years

OWNER	KENNETH AND TARA EITERNICK, 3N426 HOWARD STREET, ELMHURST, IL 60126	
ADDRESS/LOCATION	3N426 HOWARD STREET, ELMHURST, IL 60126	
PIN	03-25-115-021	
TWSP./CTY. BD. DIST.	ADDISON	DISTRICT 1
ZONING/LUP	R-4 SF RES	0-5 DU AC
AREA	0.21 ACRES (9,148 SQ. FT.)	
UTILITIES	WATER AND SEWER	
PUBLICATION DATE	Daily Herald: JUNE 13, 2023	
PUBLIC HEARING	WEDNESDAY, JUNE 28, 2023	
ADDITIONAL INFORMATION:		
Building:	No Objections.	
DUDOT:	<i>No Comments Received.</i>	
Health:	Our office has no jurisdiction in this matter.	
Stormwater:	No Objections.	
Public Works:	Our office has no jurisdiction in this matter.	
EXTERNAL:		
City of Elmhurst:	<i>No Comments Received.</i>	
Village of Bensenville:	<i>No Comments Received.</i>	
Addison Township:	<i>No Comments Received.</i>	
Township Highway:	<i>No Comments Received.</i>	
Bensenville Fire Dist.:	<i>No Comments Received.</i>	
Sch. Dist. 205:	<i>No Comments Received.</i>	
Forest Preserve:	"The Forest Preserve District of DuPage County staff has reviewed the information provided in this notice and due to the sizable distance between the subject property and District property, we do not have any specific comments. Thank you."	

GENERAL BULK REQUIREMENTS:

REQUIREMENTS:	REQUIRED	EXISTING	PROPOSED
Int. Side Yard:	3 FT	APPROX. 1 FT	APPROX. 1 FT

LAND USE

Location	Zoning	Existing Use	LUP
Subject	R-4 SF RES	HOUSE	0-5 DU AC
North	R-4 SF RES	HOUSE	0-5 DU AC
South	R-4 SF RES	HOUSE	0-5 DU AC
East	HOWARD AVENUE AND BEYOND R-4 SF RES	HOUSE	0-5 DU AC
West	R-4 SF RES	HOUSE	0-5 DU AC

WHEREAS, the Zoning Hearing Officer, having considered in relation to the above and at the recommendation meeting held on June 28, 2023, recommends to approve the following zoning relief:

Conditional Use to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years.

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-23-000031 Eiternick dated June 28, 2023.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:
 - a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
 - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
4. That petitioner maintains the existing landscaping around the perimeter of the subject property.
5. 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 August 1, 2023, 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:

Conditional Use to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years.

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-23-000031 Eiternick dated June 28, 2023.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:
 - a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
 - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
4. That petitioner maintains the existing landscaping around the perimeter of the subject property.
5. 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:

Conditional Use to allow existing deck structure to remain less than 3 feet (approximately 1 foot) from the interior side property line, where it has existed for at least 5 years, on the property hereinafter described:

LOT 15 IN BLOCK 3 IN COUNTRY CLUB HIGHLANDS SUBDIVISION UNIT 2, BEING A SUBDIVISION OF PART OF THE WEST ½ OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 6, 1957 AS DOCUMENT 829770, 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-23-000031 Eiternick dated June 28, 2023.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:

- a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
 - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
 4. That petitioner maintains the existing landscaping around the perimeter of the subject property.
 5. 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; KENNETH AND TARA EITERNICK, 3N426 HOWARD STREET, ELMHURST, IL 60126; and Township Assessor, Addison Township, 401 North Addison Road, Addison, IL 60101.

Enacted and approved this 8th day of August, 2023 at Wheaton, Illinois.



DEBORAH A. CONROY, CHAIR
DU PAGE COUNTY BOARD

Attest: 
JEAN KACZMAREK, COUNTY CLERK

AYES 16
NAYS 0
ABSENT 2