
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE GRANTING VARIATION RELATED TO SETBACKS
FOR A FENCE FOR THE PROPERTY LOCATED AT 421 S. 3RD STREET,
ROCHELLE, ILLINOIS**

JOHN BEARROWS, Mayor
ROSE HUERAMO, City Clerk

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City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
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CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE NO. _____
Date: September 12, 2022

**AN ORDINANCE GRANTING VARIATION RELATED TO SETBACKS
FOR A FENCE FOR THE PROPERTY LOCATED AT 421 S. 3RD STREET,
ROCHELLE, ILLINOIS**

WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, on the Planning and Zoning Commission heard testimony on Petition #PZC-13-21 submitted by Betsy and Toby Petrie (“Petitioners”), requesting a Variation from certain setbacks requirements (“Variation”); and

WHEREAS, Petitioners seek a setback for variations of the building located at 421 S. 3rd Street, Rochelle, Illinois for the installation of a new fence; and

WHEREAS, the existing building at this location will require a variance for the setbacks of the fence, otherwise the fence would have to be installed directly through the middle of the usable yard, reducing the enclosed area to a 10-foot wide strip; and

WHEREAS, Section 110-545, entitled “Residential, Security and Farm Fences,” prohibits, on corner lots, any fence or wall from extending beyond the street setback requirements, or building line, whichever is greater; and

WHEREAS, Petitioners are requesting a variation to allow Petitioners to extend the fence on the property beyond the building line from the southeast corner of the driveway, south up to the public sidewalk, west parallel along the public sidewalk, then back north to the front southeast corner of the house; and

WHEREAS, the Petitioners are seeking the variation to ensure the safety of children by providing a minimally adequate enclosed play area along a busy street; and

WHEREAS, pursuant to Section 74-33, 74-34 and 110-101 of the City Code, the Planning and Zoning Commission has the authority to review and recommend a petition for Variations related to setbacks to the Mayor and City Council; and

WHEREAS, Petitioners have sought variation from the set-back requirements in their Petition; and

WHEREAS, on September 6, 2022, after hearing testimony on the petition, the Planning and Zoning Commission voted in favor recommending Petition #PZC-13-22, by a vote of 7-0, for a variation from the setback requirements of Section 110-545 to the Rochelle Municipal Code to the Mayor and City Council; and

WHEREAS, it the Mayor and City Council of the City of Rochelle find that the set-back Variation from Section 110-545 to the Rochelle Municipal Code meets all of the criteria necessary for the granting of said Variation; and

WHEREAS, it has been determined by the Mayor and City Council of the City of Rochelle that it is in the best interest of the City and its residents to accept the findings and recommendations of the Planning and Zoning Commission and to approve said set-back Variation as requested by Petitioners; and

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Rochelle, Ogle County, Illinois, as follows:

SECTION ONE: The foregoing recitals shall be, and are hereby, incorporated into and made a part of this Ordinance as if fully set forth in this Section One.

SECTION TWO. The Variation set forth herein below shall be applicable to the following described property:

See legal description attached hereto as Exhibit A.

(Located at 421 S. 3rd Street, Rochelle, Flagg Township, Ogle County, Illinois)

(Hereafter referred to as the “Subject Property”)

SECTION THREE. That the Variation at the Subject Property be granted as follows:

- 1.) A variance granting relief from Section 110-545, which provides that Residential, Security and Farm Fences on corner lots, cannot extend beyond the street setback requirements, or building line, whichever is greater.

- 2.) The variance shall allow Petitioners to extend the fence on the property beyond the building line from the southeast corner of the driveway, south up to the public sidewalk, west parallel along the public sidewalk, then back north to the front southeast corner of the house.

SECTION FOUR: The City Clerk shall be and is hereby authorized and directed to cause a certified copy of this Ordinance with the attached Exhibit A, to be recorded in the Office of the Ogle County Recorder.

SECTION FIVE: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION SIX: Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed Ordinance in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION SEVEN: The City Clerk shall publish this Ordinance in pamphlet form.

SECTION EIGHT: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 12th day of September, 2022.

AYES:

NAYS:

ABSENT:

APPROVED THIS 12th day of September, 2022.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A
LEGAL DESCRIPTION

PARCEL: 24-25-211-003

DESCRIPTION:

The North Sixty-one (61) feet of the South Sixty-two and one-half (62 ½) feet of Lot Two (2) in Block Four (4) in Braiden's (First) Addition in the City of Rochelle, According to the Plat Thereof recorded in Book A of Plats, Page 145, in the Recorder's Office in Ogle County, Illinois.

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, Rose Hueramo, City Clerk of the City of Rochelle, County of Ogle and State of Illinois,
DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____,
“AN ORDINANCE GRANTING VARIATION RELATED TO SETBACKS FOR A FENCE FOR THE
PROPERTY LOCATED AT 421 S. 3RD STREET, ROCHELLE, ILLINOIS” which was adopted by the
Mayor and City Council of the City of Rochelle on September 12, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of
the City of Rochelle this 12th day of September, 2022.

CITY CLERK