

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals HEARING DATE: February 22, 2006
FROM: Department of Community DEVELOPMENT PREPARED BY: Michelle Kulikowski
Planner I

TITLE

ZBA 06-02; 44 S. Columbine Avenue: The petitioner requests a variation to Section 155.415(F)(4) to reduce the rear yard setback from thirty-five feet (35') to five feet (5') to allow for the construction of a deck over three feet (3') above average grade in the R2 Single Family Residential District.

GENERAL INFORMATION

Petitioner/Property Owner: William Soldwisch
44 S. Columbine Avenue
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single-Family Residence District
Existing Land Use: Single-Family Residence
Size of Property: Approximately 23,617 Square Feet

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District; developed as Single-Family Residences
South: Illinois Route 53 and Interstate 355 rights of way
East: R2 Single-Family Residence District; developed as a Single-Family Residence and a religious institution
West: Interstate 355 right of way

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on January 20, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by Preferred Survey, Inc., dated February 1, 2001
4. Site Plan
5. Drawings of Proposed Improvements

DESCRIPTION

The subject property is a triangular shaped lot that abuts Route 53 to the East and Interstate 355 to the south and west. The property is currently improved with two structures. The structure to the south is the principal structure where the petitioner resides. In January 2005, the residence was damaged from a fire. Prior to the fire, there was an attached deck in the rear which was setback three feet ten inches (3'10") from the rear property line. The deck on the subject property was more than three feet (3') above grade and was considered legal nonconforming. Decks are only a permitted encroachment in the rear yard if they are less than three feet (3') above average grade. Decks over three feet (3') must meet the thirty-five foot (35') rear yard setback. The deck remained intact after the fire, but in order to work on the foundation, the deck had to be removed. Once the deck was removed, any legal non-conforming rights associated with the deck were lost. The petitioner is proposing to reconstruct a similar deck with an additional expansion to the south of the residence. Because the proposed deck will be more than three feet (3') above grade and setback only five feet four inches (5'4") from the rear property line, a variation is needed.

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has the following comment on the subject petition:

- The rear yard is in the 100-year floodplain. The floodplain elevation is 692 feet, as shown on the Village topographic map. Per discussion with the Fire Department, the fire damage repair to the house was not a "substantial improvement", as defined by the Village Code (i.e. greater than 50% of the value of the structure, not including improvements required solely to comply with current health and safety codes). Therefore, the porch and deck may be constructed as shown on the petitioner's plans provided that no fill be placed in the floodplain.

Public Works Engineering

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments.

PLANNING

Background

The subject property consists of a triangular portion of Lot 17. Lot 17 was originally platted as a more rectangular shape, but the southwestern portion of the lot was acquired for the construction of Interstate 355. The two structures on the property were constructed prior to the construction of the tollway. The acquisition of the southwestern portion of the lot for the tollway created nonconformities relative to the front yard and rear yard setbacks for the structure to the south. Both structures were originally constructed as residences. The petitioner lives in the structure to the south and uses the structure to the north as an accessory structure for storage. The Zoning Ordinance only permits one principal structure (or residence) on a lot. Since more than a year has passed since the structure to the north was used as a residence, there are no longer any legal nonconforming rights to allow two residences on the property. The property would have to be subdivided in order to use both structures as separate residences.

The petitioner is also replacing the stairs to the front entrance. The stairs do not include a roof over the landing, and therefore are not considered a front porch. A front porch on the subject property would require a variation because the provisions for front porch encroachments would not be met. Stairs are a permitted encroachment in the front yard, and therefore, no variation is necessary.

Standards for Variations

In order to grant a variation, the petitioner must show that they have affirmed each of the "Standards for Variation". The following standards have been affirmed:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

There are several factors that present a hardship unique to the subject property. The nonconforming rear yard is a result of the acquisition of the southwestern portion of the lot for Interstate 355. Also, the proposed deck would be a permitted encroachment if it were less than three feet (3') above grade. Because the property slopes substantially towards the rear of the property, the deck must be built at a height greater than three feet (3') above grade.

2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.*

The triangular shape of the subject property is not typical for properties located within the R2 District.

- 3. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The proposed deck within the rear yard will not impact any properties to the rear as the property abuts Interstate 355. There is also a sound wall between the tollway and the subject property. The only adjacent property is to the north, and the residence on the subject property is more than one hundred feet (100') from the shared property line. The two story accessory structure will also obstruct the view of the deck from the adjacent property.

- 4. The granting of the variation will not alter the essential character of the neighborhood.*

The proposed deck will not affect the character of the neighborhood, as there was already a similar deck on the subject property prior to the fire. The proposed deck will decrease the degree of nonconformity as it will be setback five feet four inches (5'4") from the rear property and the previous deck was setback three feet ten inches (3'10") from the rear property line.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending approval of the variation:

Based on the submitted petition and the testimony presented, the requested variation **does comply** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 06-02 subject to the following conditions:

1. That the petitioner shall apply for and receive a building permit for deck.
2. That the variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, than any new structures shall meet the full provisions of the Zoning Ordinance.

Inter-Departmental Review Group Report Approved By:

Zoning Board of Appeals

Re: ZBA 06-02

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David A. Hulseberg, AICP
Director of Community Development

DAH:MK

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c: Petitioner

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