

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on June 5, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated November 19, 1987, and prepared by Village Green Assoc., Inc.
4. Site plan, prepared by the petitioner, showing location of proposed wrap-around porch.
5. Drawings of the proposed wrap-around porch.

DESCRIPTION

The subject property is located at the northeast corner of Maple Street and Craig Place. The property is legal non-conforming with respect to the corner side yard setback as the existing residence is setback 17.93' and the attached porch was only setback 10.10' from the corner side property line. The petitioner received a building permit for a porch repair and addition on a legal-nonconforming porch. Subsequently, the petitioner removed the porch, and doing so lost all non-conforming rights associated with the porch. The petitioner is requesting a variation to reestablish the nonconforming rights to construct a new porch.

At the June 28th Zoning Board of Appeals meeting, the Zoning Board of Appeals continued the public hearing for ZBA 06-17 in order to allow the petition to be re-advertised. The advertised request was to reduce the corner side yard to nine feet (9') and was based off of plans that were submitted for permit. The petitioner submitted the Zoning Board of Appeals application after staff had submitted the public hearing notice for publication. The application included revised plans with different dimensions for the porch and an eight and one half foot (8.5') setback. Upon further review of the revised plans, staff found that some of the setback measurements were inaccurate. Staff determined that the proposed porch would actually be setback seven feet (7') from the corner side property line. Because the amount of relief needed was greater than what was originally advertised, the petition had to be readvertised as a request to reduce the corner side yard to seven feet (7').

ENGINEERING

Private Engineering Services

From an engineering or construction perspective, PES has no comments.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

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

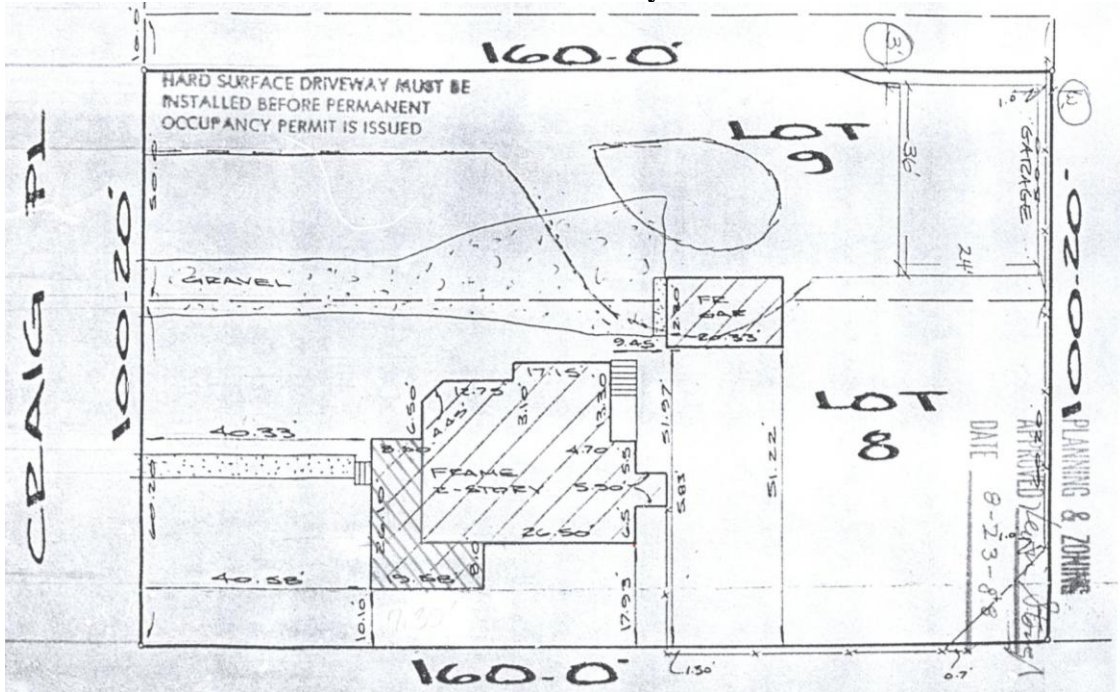
PLANNING

Background

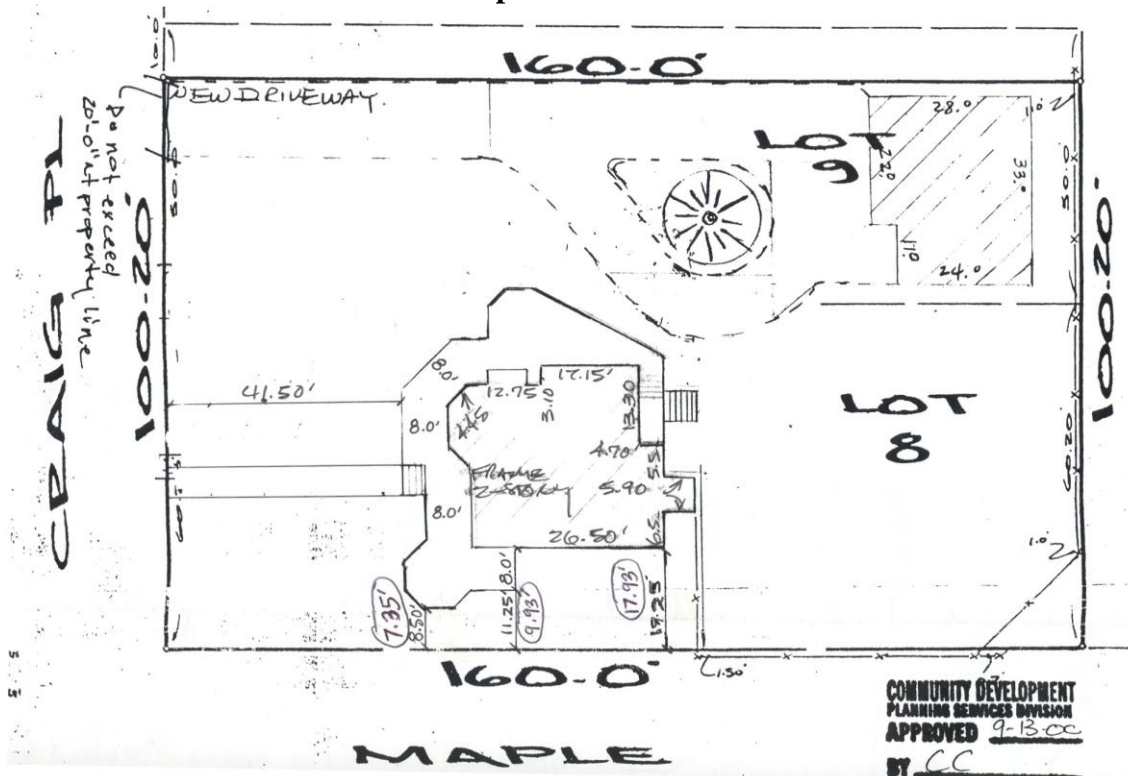
The Petitioner applied for a building permit for a porch on May 26, 2006. When reviewing the permit, staff contacted the petitioner regarding setbacks and the need for a Plat of Resubdivision due to the size of the porch. The petitioner indicated that there currently was a porch at the front and rear of the house, and that he would be connecting the two with a porch addition wrapping around the bay window. Staff reviewed the construction drawings and found notes indicating an existing deck and roof elements to be replaced, and staff issued the permit as a porch repair and addition. After work was started, the petitioner stopped in to ask about the corner side yard setback, noting that the deck handout stated the corner side yard setback was twenty feet (20'). When discussing the matter with the petitioner, staff learned that the existing porch had been removed and the entire porch would be new construction. Staff notified the petitioner that the legal non-conforming rights were lost when the porch was removed, and a variation would be needed in order to construct the new porch.

The original plans submitted for permit showed the porch extending seven feet (7') from the south wall of the residence with a turret element at the southwest corner projecting an additional twelve inches (12") from the porch. The plans submitted with the application for a variance were revised showing the porch extending eight feet (8') from the south wall of the residence with the turret at the southwest corner projecting an additional thirty-three inches (33") from the porch. The setbacks indicated on the revised plans are incorrect because the petitioner measured the setbacks from the sidewalk rather than from the property line. The correct setback measurements are circled on the proposed site plan below.

Plat of Survey



Proposed Site Plan



Standards for Variations

Staff has typically supported setback variances in circumstances where the proposed improvements will maintain the existing building line or where the lot width is less than the minimum required sixty feet (60'). A portion of the proposed porch would maintain a ten foot (10') setback, the same as the previous porch. However, the petitioner is proposing a turret element to be included at the southwest corner of the porch that would be set back only seven feet (7') from the corner side property line, thus increasing the degree of non-conformity.

In the staff report prepared for the July 26th Zoning Board of Appeals meeting, staff recommended approval of a variance to reduce the corner side yard setback to nine feet (9'). Staff did not object to the minor increase in the degree of non-conformity because the turret projection was intended to add an architectural feature to the porch rather than gain additional space. However, staff does not support a variation for revised plans for the porch with a seven foot (7') setback from the corner side property line. Staff finds that the additional encroachment will have a more significant impact.

In a review of past corner side yard variance petitions since 2000, staff found only one case where a variation was granted to reduce the corner side yard setback to less than seven feet (7'). In this case (ZBA 06-01) the variation was granted to reduce the setback to six feet (6') to allow for the construction of a roof over an existing four foot (4') by six foot (6') entry stoop on a legal non-conforming structure. Of the nineteen corner side yard variation petitions since 2000, seventeen petitions were requesting relief for encroachments of ten feet (10') or less. Prior to the current twenty foot (20') minimum corner side yard requirement, the Zoning Ordinance formulated the required corner side yard based on the width of the property with every property required to have at least a ten foot (10') setback.

Staff notes that the petitioner can still construct a front porch that complies with the setback regulations. A porch can be built across the front (west) wall of the residence extending to three feet from the southwest corner of the residence and meet the twenty-foot (20') corner side yard setback. The petitioner could also relocate the turret to another part of the porch such as the northwest corner.

In order to be granted a variation the petitioner must show that they have affirmed each of the "Standards for Variation". The following standards have not been affirmed:

- 1. That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.*

Staff finds that there is no demonstrated physical hardship, nor are there any unique topographical conditions related to this property that would prevent the owner from meeting the intent of the ordinance. The subject property has a sufficient width of one hundred feet (100').

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.*

Staff finds that the conditions are not unique to the subject property. The corner side yard setback restrictions have been consistently applied throughout the Village.

3. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that the ordinance has not caused the hardship, as the porch could have been repaired without the need for a variation. The hardship is based on the petitioner's desire to incorporate the turret element at the southwest corner of the porch. A turret element can be placed elsewhere in compliance with the setback requirements.

4. *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.*

Staff believes that the granting of the requested relief will set an undesirable precedent.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations for the requested relief. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **denial** of the requested variation:

Based on the submitted petition and the testimony presented, the requested variation **does not comply** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-departmental Review Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 06-17.

Alternate Recommendation:

In the event the Board chooses to recommend approval of the requested relief or approval of a lesser degree of relief associated with ZBA 06-17, staff recommends that the following conditions be added to the approval, as follows:

1. The petitioner shall submit final plans for the porch to the Bureau of Inspectional services for review and documentation.
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.

3. The petitioner shall submit a Plat of Resubdivision to the Community Development Department so that the subject property can be recorded as a lot of record.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

att-
c: Petitioner

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