

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda


_____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
 X Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: March 26, 2012 (BOT) Date: April 5, 2012

TITLE: PC 12-09: 640 - 685 N. Charlotte Street and 2 - 23 E. LeMoyne Avenue

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village take the following actions for the subject properties located in the R2PD Single-Family Residence District, Planned Development:

1. An amendment to Ordinances 4566 & 4772, for the Providence Glen Planned Development, to provide exceptions to the minimum rear yard setback requirements of the R2 Single-Family Residence District. This amendment would allow for a further deviation from Section 155.407(F)(4), as amended by Ordinance 5083, to reduce the rear yard setback from thirty-five (35) feet to fifteen (15) feet within the Providence Glen Planned Development, for purposes of constructing attached one-story screen porches (three season rooms).
2. A variation from Section 155.508(C)(6)(a) (Planned Development Standards) to allow the rear yards on the perimeter of the planned development to be less than that required in the abutting zoning district and underlying subject properties.

The Plan Commission recommended denial of this petition.

At the April 12, 2012 Village Board Meeting, it was suggested that the rear yard setback amendments associated with PC 12-09 may not be appropriate for the entire Providence Glen Subdivision. As a result the petition was remanded to the Plan Commission specifically directed the Plan Commissioners to review only the following items:

1. Should only those properties along the east side of N. Charlotte St. (11 lots) have the right to a rear yard setback reduction from thirty (30) feet to fifteen (15) feet for purposes of constructing a screen porch addition.

2. Should the area of the screened porch additions be capped, not to exceed 300 square feet in area?

*At the May 21, 2012 Plan Commission meeting the above items were considered and the Plan Commission once again recommended **denial** of this request.*

Please place this on the June 7, 2012 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP,
Director of Community Development *WA*

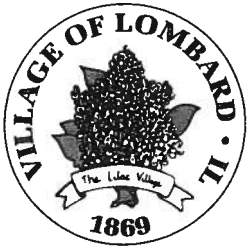
DATE: June 7, 2012

SUBJECT: PC 12-09; 640 - 685 N. Charlotte Street and 2 - 23 E. LeMoyne Avenue

Please find the following items for Village Board consideration as part of the June 7, 2012 Village Board meeting:

1. Plan Commission referral letter dated June 7, 2012 (Exhibit A);
2. Petitioner's PowerPoint Presentation given at the May 21, 2012 Plan Commission meeting (Exhibit B);
3. Pictures submitted by James Donovan at the May 21, 2012 Plan Commission meeting (Exhibit C);
4. Staff's Remand Memorandum to the Plan Commission dated May 21, 2012 (Exhibit D);
5. E-mail from James Donovan dated May 14, 2012 (Exhibit E);
6. E-mails to the Board of Trustees in support of the petition (Exhibit F); and
7. Documents associated with ZBA 11-06 to reduce the required rear yard setback to 15' where 30' is required for the property located at 661 N. Charlotte (Exhibit G).

The Plan Commission recommended denial of this petition at their May 21, 2012 meeting. Please place this petition on the June 7, 2012 Board of Trustees agenda under items for Separate Action.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

June 7, 2012

Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Keith T. Giagnorio, Dist. 2
Zachary C. Wilson, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
David A. Hulseberg

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Mr. William J. Mueller,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 12-09; 640 - 685 N. Charlotte Street and 2 - 23 E. LeMoyne Avenue:

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village take the following actions for the subject properties located in the R2PD Single-Family Residence District, Planned Development:

1. An amendment to Ordinances 4566 & 4772, for the Providence Glen Planned Development, to provide exceptions to the minimum rear yard setback requirements of the R2 Single-Family Residence District. This amendment would allow for a further deviation from Section 155.407(F)(4), as amended by Ordinance 5083, to reduce the rear yard setback from thirty-five (35) feet to fifteen (15) feet within the Providence Glen Planned Development, for purposes of constructing attached one-story screen porches (three season rooms).
2. A variation from Section 155.508(C)(6)(a) (Planned Development Standards) to allow the rear yards on the perimeter of the planned development to be less than that required in the abutting zoning district and underlying subject properties.

The Village Board of Trustees remanded this petition to the Plan Commission to review an alternate option pertaining to the rear yard setback amendments associated with the petition, citing that it may not be appropriate for the entire Providence Glen Subdivision. These issues were addressed at the May 21, 2012 Plan Commission meeting.



Prior to considering the testimony relative to the remand issues, Chairperson Ryan indicated that Trustee Peter Breen wanted to address petition PC 12-09 in order to give the reasons why the Board of Trustees had remanded the item to the Plan Commission. Due to another commitment Trustee Breen had that evening, he requested to be allowed to speak first unless there were any objections from the Commissioners. Hearing none, Chairperson Ryan requested Trustee Breen present his comments.

Peter Breen indicated he came there not only as Trustee of the district in which the property is located but also to explain that he was the one that made the remand motion at the Village Board meeting. He explained that after reviewing the proposed amendment, the way the land was situated, as well as the responses received from the residents in the area he thought the impact of the amendment to the planned development might be a better fit if it was only confined to the properties on the east side of Charlotte Street rather than throughout the whole planned development. He has been personally involved in the process of this issue and indicated that he has received the most feedback from his constituents on this particular item than any other since taking office almost a year ago. Most constituents' comments have been in favor of the amendment by a ratio of 10:1. He respects the opinions of those that do not favor the petition but believes that by narrowing the petition request to the east side of Charlotte, it will minimize the impact and allow for a development that will add value to an area where the lots are too small and have a difficult topography.

As this amendment will be a benefit to his district as well as to the planned development, it would be helpful to him and the other trustees for this Commission to be specific as to why the amendment would not be beneficial. Relaying a conversation he had with Mr. Heniff about this amendment, he indicated he asked him if there was something wrong with it and Mr. Heniff's response was that he couldn't find anything. Trustee Breen noted that the staff report includes a recommendation for a conditional use option. There are two ways the Plan Commission can provide a favorable recommendation and if not, he is requesting the Commissioners to explain in detail the reasons for their decision as well as their assessment of how the conditional use impacts the merit or demerit of the particular amendment as it has been narrowed to the east side of Charlotte.

Chairperson Ryan asked if there were any questions of Trustee Breen. Hearing none, he requested that staff read the public hearing procedures. William Heniff, Director of Community Development, read the Rules of Procedure and By-Laws.

Chairperson Ryan then requested staff to address the remand issue.

William Heniff, Director of Community Development, stated that at the April 12, 2012 Village Board of Trustees meeting, the Village Board remanded PC 12-09 back to the Plan Commission for further consideration and discussion relative to specific issues. He gave a brief history of the petition and summarized the zoning actions associated with it. The Board of Trustees at their April 12 meeting specifically directed the Plan Commission to review only two items as they

thought the rear yard setback amendments associated with the petition may not be appropriate for the entire Providence Glen Subdivision. Those items are:

1. Should only those properties along the east side of N. Charlotte St. (11 lots) have the right to a rear yard setback reduction from 30 feet to 15 feet for purposes of constructing a screened porch addition. An alternate draft ordinance was introduced at the Village Board meeting which was included in the Commissioners packets. Also, as part of the Village Board's discussion, it was noted the adjacent lots to the east along Garfield Street have larger rear lots.
2. Should the area of the screened porch additions be capped, not to exceed 300 square feet in the area?

The Plan Commission is being asked to review this information and offer a recommendation back to the Board of Trustees. He then explained the format of the meeting.

Chairperson Ryan asked if anyone had any questions of staff. Hearing none, he requested that the meeting begin with PC 12-09.

Matt Berberich, 661 N. Charlotte, presented the petition. He stated that this amendment would not diminish this property or surrounding property values, impact the health, safety, morals or the welfare of the public, negatively affect the uses of nearby properties, and not have an impact on flooding or open space. The proposed screened in porch is built on an existing deck structure built with a permit in 2002. The hardship being suffered is the inability to use the property in which the owner sees fit and to enjoy the outdoors. He then showed pictures of his four year old son. He stated that this was the main reason for the request in that his son is allergic to mosquitoes, which has been documented with a copy of the doctor's note, and they need to protect him.

Next, he showed some aerial photos. The first was a view of his house signified by the letter "A" which shows everything behind him. The following photos were taken from different locations on his property. He noted that he did not walk on anyone's property. The numbers on the photo signify the location of where the pictures were taken:

- | | |
|------------------|--|
| Photo labeled #1 | taken at an angle toward his property |
| Photo labeled #2 | taken straight back from the street |
| Photo labeled #3 | taken at an angle to the north. |
| Photo labeled #4 | taken one lot up looking from the street back. |

The next aerial photos show the buffers that currently exist between his house and the ones around him with the exception of one house.

- | | |
|------------------|---|
| Photo labeled #5 | shows one house down and shows the trees and screening. |
|------------------|---|

Photo labeled #6 shows further to the south looking caddy corner can only see the side of the house on Garfield.

The next photos were pictures taken from the porch:

Photo labeled A	taken from the north
Photo labeled B	taken from the east
Photo labeled C	taken from the south

These show a different perspective and one cannot see the neighbors from the porch and vice versa.

The final slide depicted a petition with signatures from the ZBA 11-06 case without comment. Concluding, Mr. Berberich acknowledged the people in the audience that were there to speak about his petition and indicated that he respects their opinions. Specifically mentioning Mr. Donovan, he stated that from the beginning he has been outspoken with his feelings about this subdivision but he appreciates and understands his concerns. He mentioned that Mr. Donovan used to enjoy the benefit of having an open field behind his house but a developer bought the lot and developed it and this could be why he has been so outspoken. Lastly, Mr. Berberich stated that there are plenty of buffers around the houses.

Chairperson Ryan asked if there was anyone to speak in favor or against the petition.

Against the petition were:

Dave Kundrot, 600 block of North of Charlotte in the Providence Glen Subdivision. He stated that this petition is about people who followed the rules, who applied for variances and have gotten permission from the various committees to do things. This petitioner applied for the same variance in 2002 and was denied. The room being discussed today was built without a permit and without a variance. The verbiage presented tonight is the same verbiage as previously submitted at the March Plan Commission meeting but is now limited to the east side of Charlotte. He doubts that it is new testimony. He referred to the six e-mails supporting the petition and stated that only one lives on the east side of Charlotte. Referring to the slide Mr. Berberich displayed showing the signed petition he stated that signatures were secured based on the information that was provided at the time. The petition did not specify that it had already been built and it was signed by ten homeowners of the 42 residents which represents 15% of the subdivision. He stated he is against creating an ordinance for a specific individual based on one person's request. His concern is that it will set a precedent and questioned what would stop someone on the west side of Charlotte or LeMoyne from building a three season room and thereafter petitioning for relief. Concluding, Mr. Kundrot stated that variances are for a hardship but according to the staff report, there is no hardship. This will hurt the character, intent and congestion of the neighborhood. The subdivision was built with a variance for the rear yards and this adds to it. He is against this petition.

Jim Donovan, 700 N. Garfield, Lombard, also spoke against the petition. He mentioned he was here not only for himself but also for his neighbor, Mary, who gave her permission for him to speak on her behalf. He acknowledged that he and Mary signed the petition with the understanding that it was for Mr. Berberich's lot as a result of his child's condition. He did not know it would end up affecting the whole east side. He was concerned about flooding and wants to see the flooding study and doubted that it wouldn't cause flooding should everyone take advantage of the variance. Another issue were the pictures that Mr. Berberich showed. He noted he took some of his own pictures, which show the opposite, and explained that when the leaves on the trees are gone, you get a different perspective- he indicated can actually watch the Berberichs' TV from his house. He submitted his pictures for the public record. Mr. Donovan stated that he doubted that this variance, if granted, would add any value to his property. All the homeowners that bought these houses knew the setback when they bought them and he is against allowing any more.

Mr. Berberich rebutted. He clarified the comment that there were 42 homes in the subdivision – there are actually 32. As far as the flooding concerns, he agrees, noting that if there is a study, he would like to see it as well. He mentioned how two oversized retention ponds were put in when the subdivision was built. One is a retention pond and the other is a detention pond. The State of Illinois crushed the pipe under North Avenue and caused the detention to become a retention pond. The homeowners association paid to have the pipe cleaned out. He understands the flooding concern.

Chairperson Ryan then requested the staff report.

Mr. Heniff noted that the staff report is being submitted to the public record in its entirety and any previous documents remain part of the public record. On January 19, 2012, the Village Board denied a variation request (ZBA 11-06) for the property located at 661 N. Charlotte St. to reduce the required rear yard setback to fifteen feet (15') where thirty feet (30') is required, to allow for a screened porch addition. This denial was based on the lack of a demonstrated hardship unique to this property and that the requested relief was not consistent with the existing neighborhood.

In response to the denial, the property owner petitioned to amend the planned development for the entire Providence Glen Subdivision to allow all properties within the subdivision the right to a further reduction from the existing thirty foot (30') rear yard setback to fifteen feet (15'), for purposes of constructing a screen porch addition (PC 12-09). Staff recommended denial of the request based upon the petition's inability to meet the applicable standards. The Plan Commission concurred with staff, forwarding a recommendation for denial to the Village Board based on the fact that the proposed planned development amendment did not comply with the standards and that granting the associated relief did not enhance the overall planned development and is not in the best interest of the Village.

At the April 12, 2012 Village Board Meeting, the Board of Trustees remanded the petition to the Plan Commission for additional consideration and testimony for a partial consideration of the relief. This relief was introduced to the Board of Trustees as a draft ordinance which was included in the Plan Commissioners' packets. The Plan Commission is now being asked to consider two specific questions:

1. Should only those properties along the east side of N. Charlotte (11 lots) have the right to a rear yard setback reduction from thirty (30) feet to fifteen (15) feet for purposes of constructing a screen porch addition. Also as part of the Village Board's discussion, it was noted that the adjacent lots to the east along Garfield Street have larger rear lots.
2. Should the area of the screened porch additions be capped, not to exceed 300 square feet in area?

Within the staff report is staff's review and three alternative recommendations. Staff notes that the petitioner had not offered any new testimony prior to the remand hearing. At the April 12, 2012 Village Board meeting, the concept of allowing only those eleven lots along the east side of N. Charlotte Street the right to a setback reduction for a screened porch was discussed. Some of the discussion for this option noted that the adjacent lots to the east along Garfield Street have larger rear lots. Staff still upholds its original recommendation from the March 19, 2012 IDRC report. However, should the Plan Commission support the relief for the eleven lots along the east side of N. Charlotte Street, they should make a finding that the relief enhances the Providence Glen planned development and granting the planned development amendment and variations is in the public interest. The Plan Commission should also adopt the responses to standards, or revise these responses as deemed appropriate. It should also be noted if there is a desire to cap the square footage if the Plan Commissioners decide to go this route.

If the Plan Commissioners recommend that only the eleven lots qualify, there is additional language in the staff report whereby relief can be granted as part of a separate conditional use process. For the record, staff is concerned with supporting relief through a conditional use process as the onus moves back to the Village who would have to demonstrate a unique and specific concern that this relief would not be appropriate at a given location.

The last option is a denial in its entirety which was the Plan Commissions' original recommendation. The Plan Commissioners can reaffirm their recommendation or provide any additional commentary. Ultimately, the Plan Commission should make specific references within their recommendation noting if the recommendation can stand as is or if it is based on new testimony, in part or whole, or if it is being approved as a conditional use process.

Chairperson Ryan asked if there were any questions of the staff report.

Mr. Berberich asked if any relief had been previously granted to any of the homeowners in the entire subdivision for a rear yard setback. He also had a question for Attorney Wagner. He was told this topic could not be discussed with any Plan Commission members outside of this public

hearing and wondered if that was true. Also, what are the ramifications if someone did talk to the Plan Commission members? Attorney Wagner responded that it was true. The basis for any decision of the Plan Commission needs to be based upon what is presented before the Plan Commission.

Mr. Heniff responded to the question about previous relief granted. He indicated that here was a blanket variation granted to the subdivision for rear yard setbacks from 35 to 30 feet and selected yards were given relief when the subdivision was originally created. Another case was for a rear yard deck. The deck abutted a detention facility and because it was over two feet, Village Code at that time said it couldn't encroach into the rear yard. The Zoning Board of Appeals and Board of Trustees made a finding of fact that based on the topographical conditions, the relief would not be injurious and the relief was subsequently granted.

Mr. Berberich asked about separate relief granted to both the homeowners at 685 and 684 for a rear yard setback. They have a deck that does not meet the current requirement for the 30' setback. Mr. Berberich confirmed his understanding of rear yard setback code and Mr. Heniff confirmed his understanding was correct. Mr. Berberich then asked if there was a public hearing for either of those addresses as they were not part of the initial development because they were built later by a different contractor. Attorney Wagner questioned whether those properties had any merit relative to this petition. Mr. Berberich answered that the staff report says there was no other relief granted other than the relief given to the initial development. He is trying to prove that there has been other relief granted in the neighborhood and wants all the facts to be out so when someone says that relief is being given to only one person, they know the facts and understand them.

Mr. Heniff affirmed the relief was for a deck not for a building addition that has living space. Mr. Berberich confirmed that it still would require a variance. Mr. Heniff answered yes. Mr. Berberich confirmed that it would have required a public hearing. Mr. Heniff stated that there was one case that went before the Zoning Board of Appeals and the petition was approved.

Chairperson Ryan opened the meeting for comments among the Commissioners.

Commissioner Olbrysh asked what happens to the addition if both the Plan Commission and the Board of Trustees deny the petition. Mr. Heniff answered that the petitioner would have exhausted all his options and he would have to remove the three season room. Commissioner Olbrysh stated that he had a problem with this petition because the Comprehensive Plan update talks about quality development. The rear lots are not that big and if you put up an addition, it cuts the rear yard in half and bulks up the neighborhood. He is concerned about approving this petition even though it is for the east side of Charlotte.

Commissioner Olbrysh asked if any of the other 10 homeowners are considering adding an addition. Mr. Heniff answered staff was not aware of any.

Commissioner Burke stated that he has not heard anything different tonight that would change the evaluation of their original decision. This month we have had people speak against it who weren't here last time which shows that this does affect neighboring properties.

Commissioner Sweetser concurred with Commissioner Burke. She agreed that nothing new and substantive was introduced by the petitioner to change their decision. Changing the character of a neighborhood has relevance and latitude was initially given when the subdivision was first approved to include a 30' setback. Having been given this initial relief it immediately sets a different tone. Lastly she felt the petition was counterintuitive to ask for relief for 11 properties when relief for one property is too much.

Commissioner Cooper had concerns about how allowing this petition would devalue the Village's ordinances. If a petitioner is allowed to seek a variation after the fact, it will set a precedent because everyone else is expected to follow the rules and regulations of the Village. While she appreciates the personal nature of this petition she doesn't see a reason to go against staff's report as nothing has changed from last month.

Commissioner Mrofcza stated that he supports denial of the petition as any deviation would infringe upon compliant residents and wouldn't act to support their diligence in adhering to the ordinances that we pass and are expected to abide by.

Chairperson Ryan clarified the Commissioners comments to understand that they are not in favor of granting further relief not only for the whole subdivision but also for the 11 properties along east charlotte – so it is for both.

Commissioner Flint stated that this petition can change the character of the neighborhood and potentially add water to the area so there are issues associated with it.

Mr. Heniff alluded to Trustee Breen's comments about wanting to know if he was missing something inherently wrong with this petition whether it be bulk, open space, etc. He responded that setback regulations are design aesthetic regulations. To answer the question if this addition would cause more flooding, it must be noted that when people come in for a permit, staff looks at such things as drainage patterns, coverage aspects and open space requirements. The key thing that one must keep in mind is if there is anything inherent of open space or flooding issues and whether it will cause more flooding. The relief in this petition goes to the design aesthetics of communities and neighborhoods. The Plan Commissioners need to ask how much the Village wants to encourage or discourage setback regulations and that is ultimately a policy question.

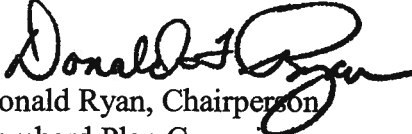
Commissioner Sweetser also responded to Trustee Breen's comments. She indicated that in his opening comments he stated that passing this proposal for the 11 properties would add value but wasn't specific as to what that meant. Since he requested that the Plan Commission come back to the Village Board with specifics of their decision she would also would like know the specifics of his comment.

Commissioner Burke stated that it was noted that the addition would not impact flooding but what about the other 11 lots or the other original lots, would any of them have an impact on flooding Mr. Heniff answered that we would look at each site improvement on its own value. If everyone wanted a 300 square foot addition and if they met all the other requirements, we would look at it on a case by case basis. If they could not be met, that person requesting it would have to make the requisite improvements.

Commissioner Olbrysh motioned that this recommendation relates to the Providence Glen Subdivision, 641, 645, 649, 653, 657, 661, 665, 669, 673, 677 and 681 N. Charlotte Street. Based on the submitted petition and the testimony presented, he moved that the proposed amendments to a conditional use for a planned development and variation are not in the public interest, do not enhance the Providence Glen planned development and do not comply with the standards required by the Lombard Zoning Ordinance and therefore, moves that the Plan Commission adopt staff's findings as set forth in the staff report, dated March 19, 2012, and recommend to the Corporate Authorities denial of the amendments to a conditional use for a planned development and variation associated with PC 12-09. Commissioner Flint seconded the motion. The Plan commission voted unanimously to recommend denial of the petition.

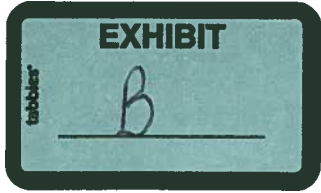
Respectfully,

VILLAGE OF LOMBARD

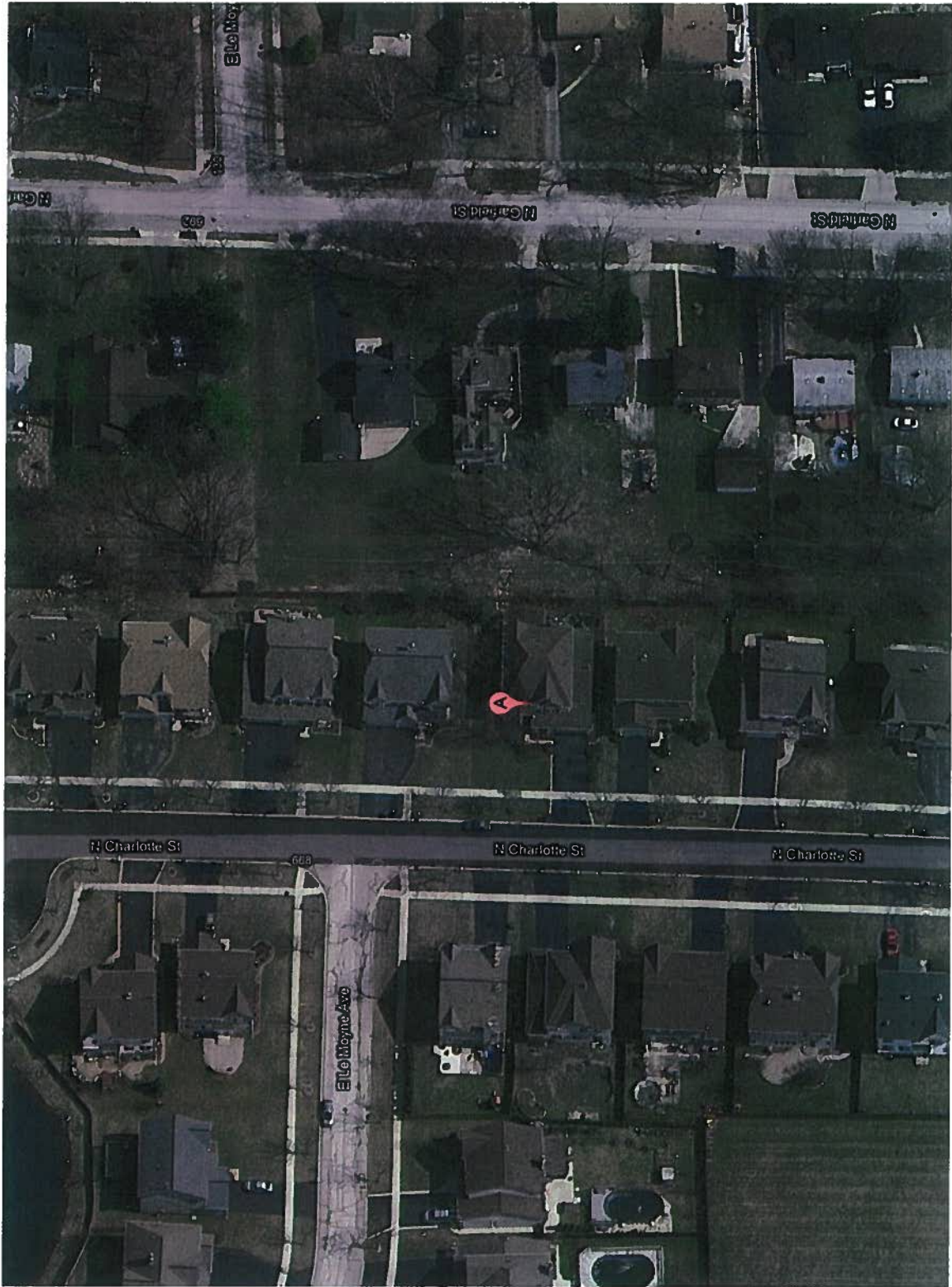


Donald Ryan, Chairperson
Lombard Plan Commission

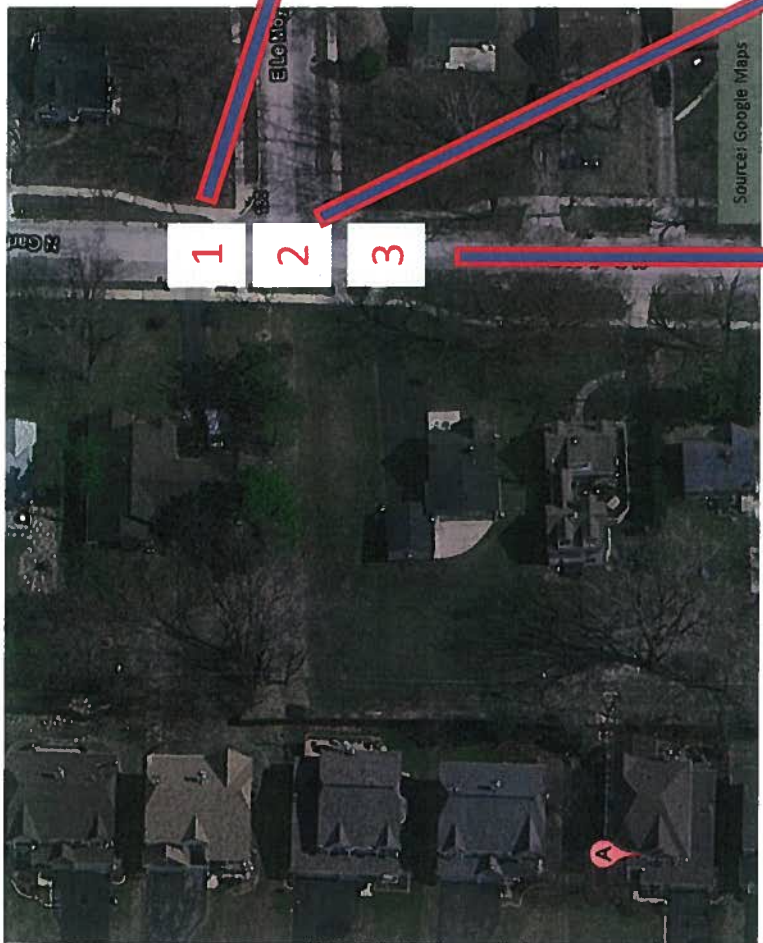
c. Petitioner
Lombard Plan Commission



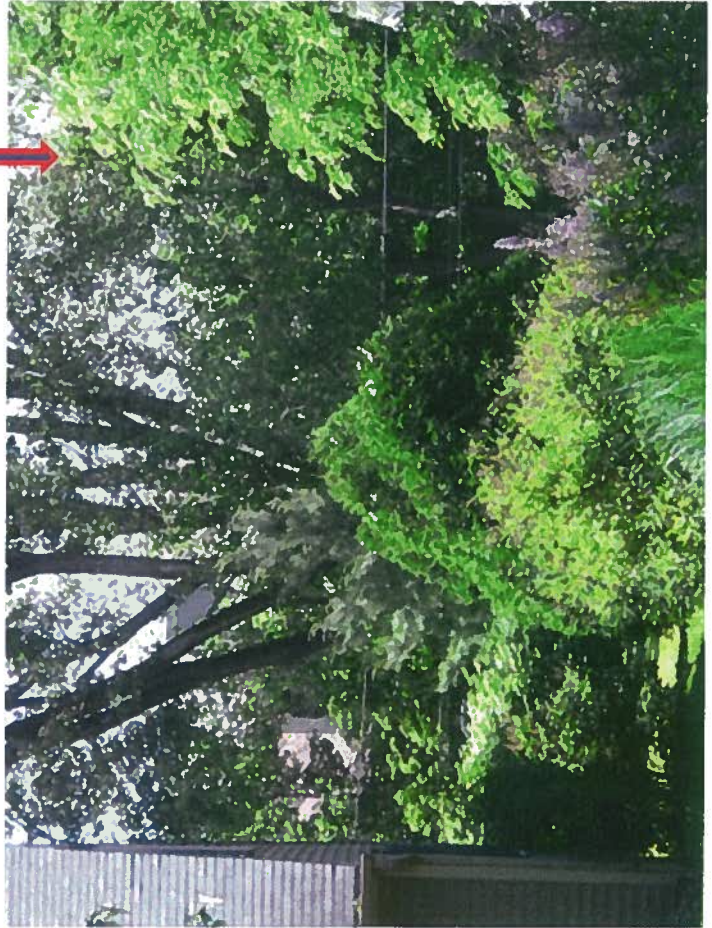
The number one reason for this amendment and the subsequent porch.

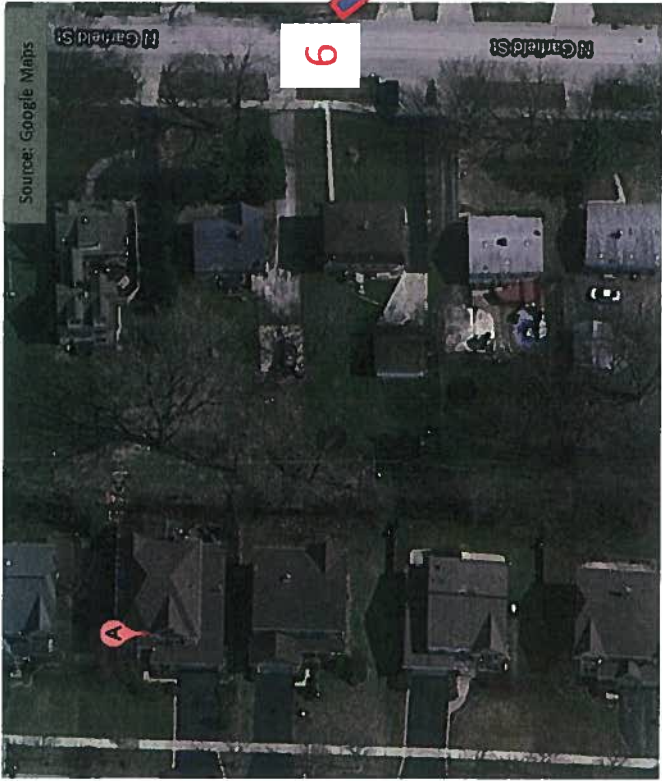
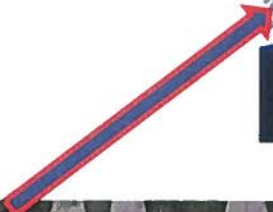
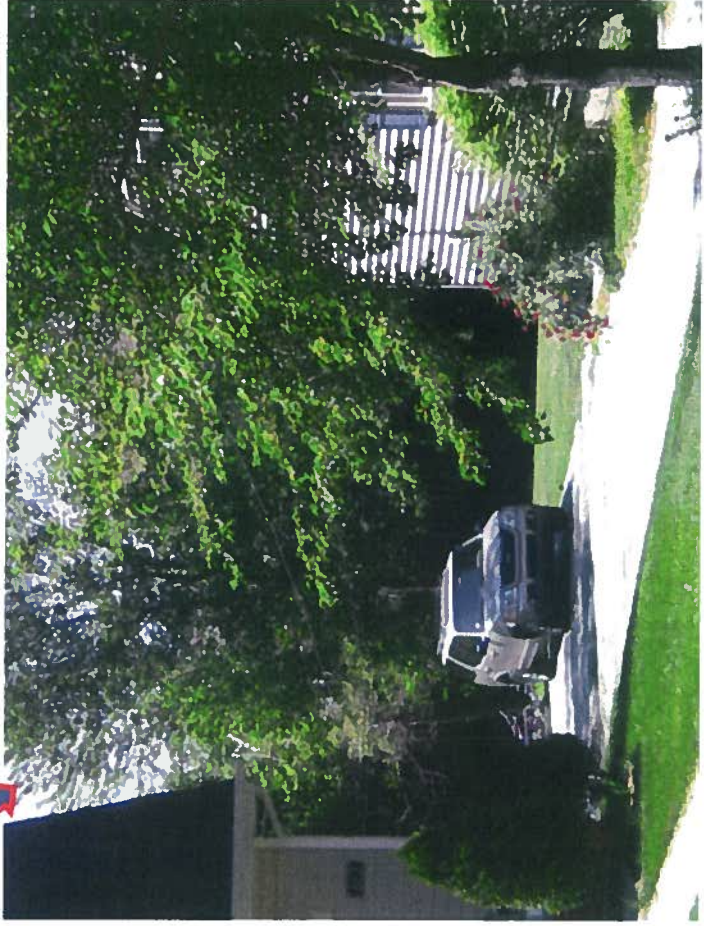


Source: Google Maps











Source: Google Maps

A



B



C



By signing below I am offering my support for the following petition, referred to as ZBA 11-06:

The petitioner requests a variation from Section 155.407(F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback to fifteen feet (15'), where thirty feet (30') is required to allow for the construction of a screened porch addition in the R2 Single-Family Residence District.

The property is located at 661 North Charlotte Street, Lombard, Illinois.















Printed Name	Signature	Address
Onyx Paeon		661 N. GARFIELD ST.
JAMES J. DARRIN		Lombard IL
Mary Kate Gallagher		700 N. GARFIELD ST.
Brian Josephus		706 N. Garfield St.
Laura Larkin		663 N. GARFIELD ST.
Uelko Kott		644 N. Charlotte St.
Law Mausona		640 N. Charlotte St.
Joe Butka		641 N. Charlotte St.
Adina Schuster		669 N. Charlotte St.
K. Kondrat		660 N. Charlotte St.
Melinda Wasca		574 N. Fairview
Rae Schaefer		665 N. Charlotte
Shari Jurek		656 N. Charlotte
Rich + Jennifer Graham		653 N. Charlotte
Syed Nasrullah Jurek		664 N. Charlotte St.
		657 N. Charlotte St.



EXHIBIT
C





