

June 15, 2006

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

**Subject: ZBA 06-08; 512 S. Craig Place**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 47.1 percent where a minimum of 50 percent open space is required, to allow for the construction of a deck within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on May 24, 2006. Michelle and Kevin Wesling, owners of the property, presented the petition. Mrs. Wesling stated that they bought the property in 1997. She noted that originally the property was a double lot, and a previous property owner sold one of the lots which reduced the size of the property in half. She stated that she understands the reasoning behind the open space requirement, but they just want to replace the deck that has been there for years.

Mr. Wesling stated that the existing deck is rotting and is deteriorated. He noted that they use the rear entrance from the deck as the primary entrance to their home. He mentioned that the roof over the deck was needed for protection from bad weather conditions. He also mentioned that the roof could serve as a fire escape from his child's bedroom on the second floor. He noted that the house was originally designed with an attached garage on the side. The previous property owner demolished the attached garage and constructed a detached garage on the property. Mrs. Wesling noted that the existing detached garage is twenty-two feet (22') by twenty-six feet (26'), and the garage with the long driveway account for a large portion of their lot coverage.

Mr. Wesling stated that he did not believe their proposed deck would decrease the degree of non-conformity. He mentioned that since they bought the property, they removed a ten foot (10') by twelve foot (12') shed and grassed in a small area of the

driveway. He stated that they have actually decreased the degree of non-conformity since buying the property. He noted that the roof over the deck will not change the use of the deck. Mr. Wesling submitted an aerial photo to the Zoning Board of Appeals. He stated the variance comes down to two issues - density and drainage. He mentioned that drainage would not be an issue because they currently do not have any water problems. He stated that their house is modest relative to the new homes being constructed in Lombard. He mentioned that they are trying to improve the property and make it look nice. He noted that the deck is not excessively large and is of a reasonable size.

Chairperson DeFalco then opened the meeting for public comment. No one spoke for or against the petition. He then requested the staff report.

Michelle Kulikowski, Planner I, presented the staff report. She stated that the subject property currently maintains 47.1% open space and is considered legal non-conforming with respect to open space. She mentioned that the petitioners are proposing to remove an existing deck and replace it with a deck of approximately the same size and dimensions but also with a roof structure. She noted that once the existing deck is removed, any legal non-conforming rights associated with the deck are lost. She also noted that the removal of the deck would bring the property in compliance with the 50% minimum open space requirement. She stated that the petitioners request a variation to re-establish the legal non-conformity relative to open space, so that the deck can be replaced.

Ms. Kulikowski provided some background information regarding the property. She stated that the original residence located at 512 S. Craig Place was built on Lot 44 with a small portion of the garage on Lot 45. In 1992, a previous property owner received a building permit to demolish the attached garage and construct a new detached garage on Lot 44. She noted that Lot 45 no longer had any structures (or portion thereof), and the property owner was able to sell Lot 45 as a buildable lot. She mentioned that in 1993, a single family residence was constructed on Lot 45, which is now known as 508 S. Craig Place. She noted that when the building permit was issued for the detached garage in 1992, the zoning lot for the subject property consisted of all of Lot 44 and the Lot 45. The total area of the property (known as 512 S. Craig Place) and was used to calculate the open space requirement. She stated that at the time, the property far exceeded the minimum open space requirement. However, the sale of Lot 45 reduced the area of the property known as 512 S. Craig Place from 16,000 square feet to 8,000 square feet, and the property no longer met the 50% minimum open space requirement.

Ms. Kulikowski noted that the previous property owner was able to sell Lot 45 for development as a matter of right because it was a platted lot of record. She mentioned that the Village does not have any authority over the private sale of land and cannot deny a property from being developed on the basis of a nonconformity on an adjacent lot. She stated that at the time, the

Village did not have any regulations to prevent this situation from occurring. She noted that the current Zoning Ordinance regulates that certain construction activity can only occur on a single lot of record. Homes built on two lots would be required to consolidate the lots in order to build an addition or large accessory structure.

Ms. Kulikowski stated that staff typically has recommended approval for open space variations when there is an existing legal nonconforming situation and the improvements will not increase the degree of nonconformity. She mentioned that the proposed deck includes a roof structure, and that the roof structure would increase the degree of nonconformity. She mentioned that even though the calculated percent of open space would essentially remain the same, staff finds that the roof element increases the visual impact of the structure. She stated that the intent of the 50% minimum open space requirement is to limit bulk and density as well as the volume of stormwater runoff. The roof structure would be completely impervious, whereas the deck would allow some stormwater to reach the ground through the spaces between the wood planks.

Ms. Kulikowski reviewed the standards for variations as they apply to the proposed improvements. She noted that staff did not find any hardship for the roof over the deck. Staff did mention as an alternate consideration, that the Zoning Board of Appeals could chose to approve the open space variation so that the deck could be replaced without a roof structure.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Polley asked whether the roof would also serve as a second story balcony. Mrs. Wesling stated that it will be a gable roof and will only serve as a covering for the deck.

Mrs. Newman asked whether they considered covering just a portion with a roof rather than the entire deck. Mrs. Wesling noted that the roof will not cover the stairs. She also stated that reducing the area of the deck covered by the roof would make it would look awkward because they were trying to tie in with the roof pitch of the house.

Chairperson DeFalco asked whether about using a retractable awning or pergola and whether that would be allowed. Jennifer Backensto, Planner II, stated that a retractable awning would be allowed if it was not permanent. Mrs. Wesling stated that the problem with using an awning is that they are meant to provide shade from the sun, not protection from the weather.

Chairperson DeFalco referred to the aerial photo that was submitted by Mr. Wesling. He stated that it is easy to distinguish which property belongs to the petitioners because of the large pavement area in the aerial.

Mr. Wesling stated that they would consider removing a sidewalk in the front yard to come closer in compliance, but he wasn't sure if they could actually reduce it to fifty percent (50%).

Chairperson DeFalco asked whether they considered reducing the dimensions of the deck. Mr. Wesling stated that they wanted the peak of the gable under the second story window, and they needed the deck to extend to the entrance door.

Chairperson DeFalco discussed the percent of open space that would result from the removal of the sidewalk. For the purposes of calculating the lot area and amount of open space, Ms. Kulikowski explained the discrepancy between the "measured" lot depth and the "recorded" lot depth. She noted that the recorded number is always used for consistency purposes, and in this case, using the recorded lot depth results in a smaller lot area.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested open variation complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mr. Polley, the Zoning Board of Appeals recommended approval of the requested open space variation associated ZBA 06-08 by a roll call vote of 5 to 0, subject to the following conditions:

1. That the petitioner shall construct the deck in accordance with the plans submitted as part of the petition.
2. That the deck shall remain unenclosed.
3. The petitioner shall remove one hundred twenty (120) square feet of pavement area in the front yard.
4. 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, then any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson  
Zoning Board of Appeals

att-