

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 *DAH*

DATE: July 14, 2010 (B of T) Date: August 19, 2010

TITLE: ZBA 10-05: 208 S. Westmore-Meyers Rd

SUBMITTED BY: Department of Community Development *WHB*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District.

The ZBA recommended approval of this petition with conditions.

Please place this item on the August 19, 2010 Board of Trustees consent agenda.

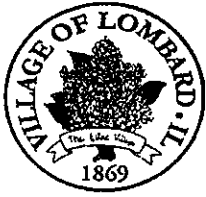
Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *DAH* \_\_\_\_\_ Date 7/26/10

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 *WH*

**DATE:** June 24, 2010

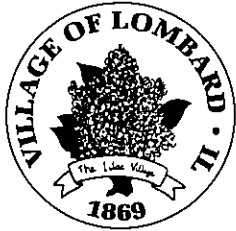
**SUBJECT:** ZBA 10-05; 208 S. Westmore-Meyers Rd.

Please find the following items for Village Board consideration as part of the August 19, 2010 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 10-05; and
3. Plans associated with the petition.

The Zoning Board of Appeals recommended approval of this petition with conditions. Please place this petition on the August 19, 2010 Board of Trustees consent agenda.





## VILLAGE OF LOMBARD

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

**Village President**  
William J. Mueller

August 19, 2010

**Village Clerk**  
Brigitte O'Brien

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

**Trustees**

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

**Subject: ZBA 10-05; 208 S. Westmore-Meyers Rd.**

Dear President and Trustees:

**Village Manager**  
David A. Hulseberg

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on June 23, 2010.

*"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."*

Mohammed I. Mohiuddin, 208 S. Westmore-Meyers, presented the petition. Mr. Mohiuddin stated that he is requesting a variation for two existing air conditioning condensers. He stated that the location of the units is not a problem because the adjacent property is commercial and the business is setback roughly thirty-five (35) feet from the property that they share. Mr. Mohiuddin then stated that he called about five contractors to see what it would take to have the units moved. The contractors told him that the units would required to move about one hundred (100) feet away from the current location, which might not allow the units to function properly. He also added that the cost would be around \$2400 to have the units moved.

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

Mr. Mohiuddin stated that the commercial property to the north does not have an issue with the location of the air conditioning condensers. He added the adjacent business is unable to hear the units. He then stated that the neighbor to the south does not have a problem with the units. Lastly, Mr. Mohiuddin stated that he plans to erect a fence that would conceal the air conditioning condensers.

Michael Toth, Planner I, presented the staff report.

As part of the construction of a new single family residence, two (2) existing air conditioning condensers were placed three (3) feet from the northern property line

on the subject property, located within the interior side yard. As new air conditioning condensers are not listed as a permitted encroachment in the interior side yard, a variation is needed.

The petitioner purchased the home under construction on the subject property in 2009. The previous property owner had been advised by the Village that the placement of new air conditioning condensers was not permitted in the interior side yard. The air conditioning units were not depicted on the approved plans for the new residence. In conducting the final inspection for the Certificate of Occupancy, the Building Division noticed that the air conditioning units were placed in the interior side yard and notified the Planning Services Division. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department could not sign off on a final Certificate of Completion unless the new air conditioning condensers were relocated or a variation was granted.

The Zoning Ordinance lists new air conditioning condensers as permitted encroachments only within a certain portion of the rear yard, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The subject air conditioning condensers are located in the interior side yard along the northern side yard. The subject property shares the northern property line with a property in the B2 zoning district (Marberry Cleaners). The subject business is setback over thirty (30) feet from its southern property line (the northern property line of the subject property).

Pertaining to lots in the R2 zoning district, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty (60') feet. The subject lot has a total lot area of 16,000 square feet; however, the lot width is only 50.00 feet. Because the lot width is smaller than most typical R2 lots, the efficient areas for the condensers to be located are significantly reduced. There is adequate space behind the residence, but the petitioner has indicated in the Standards to Variations that moving the units would be costly and would diminish the efficiency of the units.

Staff finds that the air conditioning condensers are in a suitable location as the property to the north is a commercially zoned property. While economic hardship does not constitute a hardship associated with the physical composition of a property, relocating the condensers to the rear yard would be costly and would not be recommended because the efficiency of the units could be greatly reduced.

Concluding, Mr. Toth stated that the Standards for Variations have been affirmed and staff is recommending approval of ZBA 10-05, subject to the three conditions outlined in the staff

report. Mr. Toth then made reference to the Private Engineering Service comment, which states that the air conditioning condensers are to be elevated out of the drainage swale.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Chairperson DeFalco asked how the units were placed in the interior sideyard when the Village had notified the homebuilder about the prohibited locations.

Mr. Toth stated that the specifics are outlined in the staff report. He added that the situation (as to how this issue came about) was put in the staff report to illustrate that the petitioner was not responsible for the location of the condensers.

Mr. Young asked about the status of the home purchase. He indicated that the plat of survey leads him to believe that the property is bank owned. He asked the petitioner if the home was in fact bank owned.

Mr. Mohiuddin replied, yes, it was bank owned.

Mr. Bartels asked if you need a permit to move an air conditioning unit.

Mr. Toth stated that you would need a permit to move an air conditioning unit as there is electrical work involved in such an undertaking.

Mr. Tap asked the petitioner had an issue with raising the air conditioning condensers.

Mr. Mohiuddin replied, no.

Mr. Tap asked how staff would handle this.

Mr. Toth stated that the raising of the air conditioning condensers would be addressed during the permit process.

Mr. Young asked the petitioner if he was residing in the home.

Mr. Mohiuddin replied, yes.

Mr. Young then asked whether the petitioner had a full occupancy license.

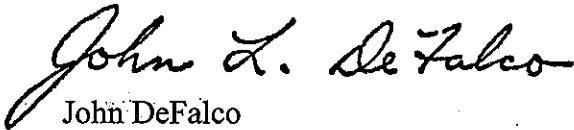
Mr. Toth stated that the petitioner has a conditional occupancy license, which will become a full occupancy license, once the air conditioning unit issue is resolved.

On a motion by Bedard and a second by Corrado, the Zoning Board of Appeals recommended by a vote of 6 to 0 that the Village Board **approve** the variation associated with ZBA 10-05, subject to the following conditions:

1. The property owner shall obtain a building permit for the air conditioning condensers.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, any new air conditioning equipment shall meet any required Code provisions.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco  
Chairperson  
Zoning Board of Appeals





## **ANALYSIS**

### **SUBMITTALS**

This report is based on the following documents, which were filed with the Department of Community Development on May 18, 2010.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by prepared by Teratek, Inc. dated December 14, 2009.

### **DESCRIPTION**

As part of the construction of a new single family residence, two (2) existing air conditioning condensers were placed three (3) feet from the northern property line on the subject property, located within the interior side yard. As new air conditioning condensers are not listed as a permitted encroachment in the interior side yard, a variation is needed.

### **INTER-DEPARTMENTAL REVIEW COMMENTS**

#### **BUILDING**

The Building Division has no comments.

#### **FIRE**

The Fire Department has no comments regarding this proposed variation to the Zoning Ordinance.

#### **PUBLIC WORKS ENGINEERING**

Public Works Engineering has no comments on this petition.

#### **PRIVATE ENGINEERING**

The PES Division of Community Development has the following comment on this petition:

- 1) The air conditioners shall not interfere with the sideyard swale. Should a variance be granted, a condition should be added to require that the units be mounted on brackets attached to the house, off of the ground.

## PLANNING

The petitioner purchased the home under construction on the subject property in 2009. The previous property owner had been advised by the Village that the placement of new air conditioning condensers was not permitted in the interior side yard. The air conditioning units were not depicted on the approved plans for the new residence. In conducting the final inspection for the Certificate of Occupancy, the Building Division noticed that the air conditioning units were placed in the interior side yard and notified the Planning Services Division. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department could not sign off on a final Certificate of Completion unless the new air conditioning condensers were relocated or a variation was granted.

The Zoning Ordinance lists new air conditioning condensers as permitted encroachments only within a certain portion of the rear yard, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The subject air conditioning condensers are located in the interior side yard along the northern side yard. The subject property shares the northern property line with a property in the B2 zoning district (Marberry Cleaners). The subject business is setback over thirty (30) feet from its southern property line (the northern property line of the subject property).



(Subject air conditioning condensers)

Pertaining to lots in the R2 zoning district, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty (60') feet. The subject lot has a total lot area of 16,000 square feet; however, the lot width is only 50.00 feet. Because the lot width is smaller than most typical R2 lots, the efficient areas for the condensers to be

located are significantly reduced. There is adequate space behind the residence, but the petitioner has indicated in the Standards to Variations that moving the units would be costly and would diminish the efficiency of the units.

Staff finds that the air conditioning condensers are in a suitable location as the property to the north is a commercially zoned property. While economic hardship does not constitute a hardship associated with the physical composition of a property, relocating the condensers to the rear yard would be costly and would not be recommended because the efficiency of the units could be greatly reduced.

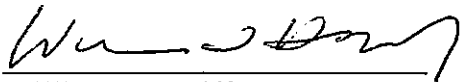
### **FINDINGS AND RECOMMENDATIONS**

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 10-05, subject to the following conditions:

1. The property owner shall obtain a building permit for the air conditioning condensers.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, any new air conditioning equipment shall meet any required Code provisions.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.

Inter-Departmental Review Group Report Approved By:

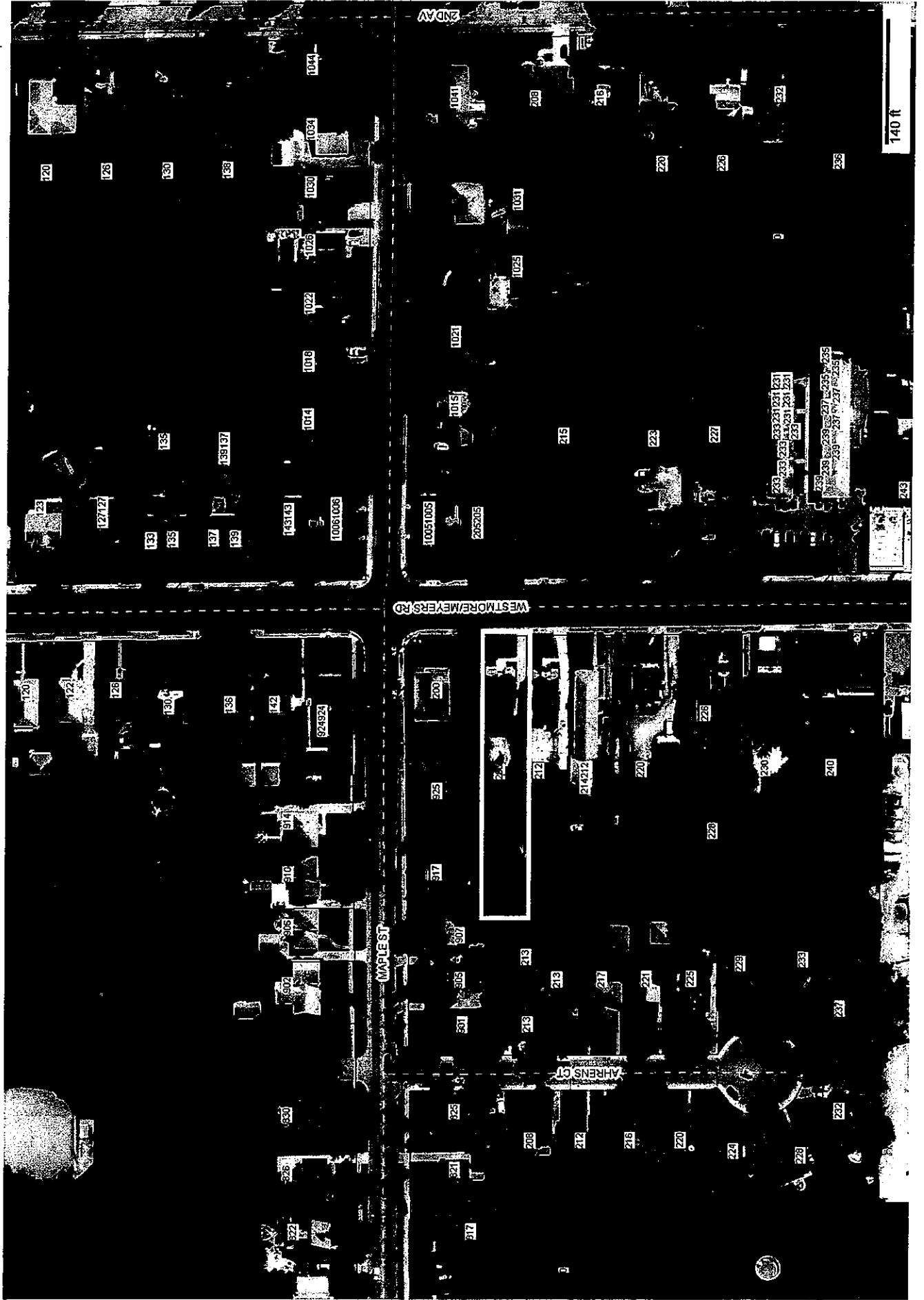


William J. Heniff, AICP  
Director of Community Development

WJH:MT

c: Petitioner

# ZBA 10-05: 208 S. Westmore-Meyers Rd.





Mohammad I. Mohiuddin  
208 Westmore Myers Rd  
Lombard, il 60148

To  
Village of Lombard  
Zoning Board of Appeals

Answers:

Section 155. 103. c. 7 of the lombard zoning ordinance:

1. Because of the location of the ac air conditioning unit it would be a financial hardship to move the unit, I have received multiple quotes. The cheapest quote was \$ 2, 300.00 to move the ac units from North side of the house to west side. In the process of moving the unit it will decrease the efficiency of the unit.
2. The property to the North is commercial property. They are open 8-5 pm. This request is not affecting another residential property.
3. According to the AC contractor the distance of 100 feet to move from the north side to west side will affect the efficiency of the air conditioning units. They also said that it would not work.
4. The Builder put the Ac line on the north side. The closing time with the bank took longer than expected winter month. The bank hired a heating/ Ac contractor. They were trying to protect the property during winter time. The contractor (Heat/Ac) under direction or lack of from the bank placed the heat and Ac without moving the Ac line.

5. The granting of the variation will not have a detrimental affect to the public. In fact a privacy fence will be placed to the back yard, and side yard. The unit will not be an eye sour.
6. Again I plan on placing a privacy fence in the back yard. The variance should not affect the character of the neighbor hood.
7. The variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets or increase the danger of fire, or impair natural drainage or create drainage problems, or adjacent properties or endanger the public safety, or substantially diminish or impair property values within the neighbor hood.



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A VARIATION  
OF THE LOMBARD ZONING ORDINANCE  
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 10-05; 208 S. Westmore-Meyers Rd)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the subject property is zoned R2 Single Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard.

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on June 23, 2010 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variation; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested variation.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

**SECTION 1:** That a variation is hereby granted from the provisions of Title 15, Chapter 155, Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District.

**SECTION 2:** This ordinance shall be granted subject to compliance with the following conditions:

1. The property owner shall obtain a building permit for the air conditioning condensers.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, any new air conditioning equipment shall meet any required Code provisions.

Ordinance No. \_\_\_\_\_

Re: ZBA 10-05

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- 3. That the petitioner shall satisfactorily address all comments included within the IDRC report.

**SECTION 3:** This ordinance is limited and restricted to the property generally located at 208 S. Westmore-Meyers Rd., Lombard, Illinois, and legally described as follows:

LOT 1 IN STADE'S SECOND RESUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON JULY 23, 2004 AS DOCUMENT NO. R2004-198300, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-09-113-068

**SECTION 4:** 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 on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

Ordinance No. \_\_\_\_\_

Re: ZBA 10-05

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Brigitte O'Brien, Village Clerk

Published by me this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Brigitte O'Brien, Village Clerk

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