

June 2, 2005

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

**Subject: ZBA 05-05; 1475 Sycamore Court**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.205(F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback to twenty-nine feet (29') where thirty-five feet (35') is required to allow for the construction of an addition to serve as a three season room in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on May 26, 2005. Chairperson DeFalco stated that the petition was continued from the April 27, 2005 meeting. He stated that the members asked staff to provide more information regarding homes in the neighborhood. He stated that the members received the information within their packets. Chairperson DeFalco asked if the petitioner wanted to present anything further.

Amy Grandsard, property owner, asked if staff was going to read the comments outlined in the staff report. Angela Clark, Planner II, stated that she would summarize the report. Ms. Grandsard stated that she would like staff to speak first.

Ms. Clark stated that staff reviewed plats of survey for each property within the subdivision. She stated that the table on page two of the addendum outlined the setbacks for each property as well as setbacks from decking or patios. Ms. Clark stated that the lots in the subdivision were nearly identical and each lot was left with approximately one hundred and five (105) feet of area after accounting for the setbacks. Ms. Clark stated that regarding the property the petitioner identified during the previous meeting, staff found a building permit that was noted as a roofing and siding repair. She stated that while the permit implied repairs were being made to a nonconforming

structure, the enclosed screen room was actually constructed after issuance of the permit. She stated that the permit had been issued in error since staff believed the permit to be for repairs rather than new construction. She noted that staff has informed the property owner that the structure could not be reconstructed if damaged or destroyed. She noted that there was one other property in the neighborhood that received a variation for the rear yard setback. She stated that the property at 1500 Acorn Court was recommended for denial by staff. She stated that the ZBA recommended approval and the Board of Trustees subsequently approved the variation. She stated that the ZBA did not reference any findings upon recommendation of approval. Ms. Clark stated that she had the staff report and referral letter for the petition if there were further questions.

Ms. Grandsard asked for clarification regarding the table within the staff report. She asked what was the difference between the setbacks to the house and the setback to a patio or deck. Ms. Clark stated that there weren't any requirements for patios and decks are allowed to be as close as three feet from the property line. She stated that the column referencing patios and decks were the rear yard setbacks to those structures.

Ms. Grandsard stated that staff focuses on precedent. She stated that given the location of other structures within the neighborhood a precedent has already been set. She asked why staff would maintain a recommendation of denial if a precedent were already set.

Ms. Clark responded that staff's recommendation was based on whether or not there was a hardship on the lot. She stated that staff did not believe there was a hardship for the 1500 Acorn request and recommended denial. She stated that it is up to the discretion of the ZBA as to what their recommendation is as well as the discretion of the Village Board to whether or not the variation is approved. She stated that staff's findings were consistent with the standards regardless of the previous resulting actions of the ZBA or Village Board.

Ms. Grandsard asked why. Chairperson DeFalco stated that he did not want the hearing to be a discussion between staff and the petitioner. He stated that the Village Board made a judgment regarding the previous petition and the ZBA members would review Ms. Grandsard's petition and make a recommendation.

Ms. Grandsard stated that the existing utility lines and location of her home in reference to other properties represented the hardship on her lot. She stated that the neighboring properties did not have an existing patio when they constructed their screen room. She stated that other homes in the Pinebrook Subdivision have erected structures therefore a precedent has already been set.

Chairperson DeFalco then opened the meeting for public comment. No one spoke for or against the petition. Chairperson DeFalco stated that staff had already commented. He asked if staff had anything further to add. Ms. Clark stated that she did not.

Chairperson DeFalco opened the meeting for discussion among the members.

Mr. Bedard asked what was the rear yard setback when the property was constructed. Chairperson DeFalco stated that it may have been thirty feet then.

Mr. Young stated that we have made builders remove improperly placed foundations. He asked why wasn't the neighboring property owner being asked to remove the enclosed screen porch. He asked if removal was not requested since it was a staff error. Ms. Clark stated that this could be why it is not being removed.

Mr. Young asked for clarification about the 1500 Acorn property. He stated that the staff report indicated that the ZBA did not make a recommendation. Ms. Clark stated that the ZBA recommended approval of the petition. She stated that comment in the staff report referred to the lack of findings to substantiate the recommendation.

Dr. Corrado stated that the code change from thirty feet to thirty five feet was made to allow for a line of sight area within backyards. He stated that the petitioner's structure would not infringe on the sight of other structures or properties.

Mr. Young asked when was the property platted. Chairperson DeFalco referenced the 1982 date written in the staff report. He stated that the setbacks were thirty feet then.

Dr. Corrado stated that variations were granted in previous years for similar requests. He stated that if the structure did not infringe on someone's view it should be approved. He stated that she was asking for the same thing.

Mr. Polley stated that structures were located near the homes because of the slopes of the rear yards. He asked if the petitioner had submitted floor plans. Chairperson DeFalco stated that the plans were submitted with the original request.

Ms. Grandsard stated that the 16' by 11' patio was existing and they were hoping to enclose the structure.

Mr. Bedard agreed with Ms. Grandsard that a precedent had already been set and believed the petition should be approved.

Mr. Young stated that the ZBA recommends approval based on specific situations. He stated that recommending approval on a precedent is a stretch.

Mr. Bedard stated that the petitioner is asking for the same thing.

Dr. Corrado stated that there are no sight issues.

Mrs. Newman stated that the ZBA must justify or deny the petition on its own merits.

Ms. Grandsard stated that they have an existing patio. She stated that her sight is inhibited by the structure on the neighboring property. She stated that she took exception to the information provided by staff as there were other structures in rear yards.

Chairperson DeFalco stated that the petitioner should keep in mind that staff noted at the previous meeting that they cannot enter private property. He stated that the petitioner would not want to live in a Village where staff was allowed to enter private property. He stated that Mrs. Newman was correct in her statement that the petition must be judged on its own merit. He agreed that there was an allowance for 1500 Acorn Court. He stated that four members voted for the petition while the ZBA is a seven member board.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals submits this petition to the Corporate Authorities with no recommendation for the requested variation.

The roll call vote was 3 to 3 to recommend approval of ZBA 05-05. The vote was as follows:

<u>Ayes</u>	<u>Nays</u>
Bedard	Newman
Polley	Young
Corrado	DeFalco

Since a majority consensus was not reached a reverse vote was taken for denial. The roll call vote was 3 to 3 to recommend denial of ZBA 05-05. The vote was as follows:

<u>Ayes</u>	<u>Nays</u>
Newman	Bedard
Young	Polley
DeFalco	Corrado

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Respectfully,

**VILLAGE OF LOMBARD**

John DeFalco  
Chairperson  
Zoning Board of Appeals

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