

August 26, 1999

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

Subject: ZBA 99-20: 581 South Edgewood Avenue

Dear President and Trustees:

Your Zoning Board of Appeals transmits for your consideration its recommendation on the above-referenced petition. The petitioner requests a variation to the Lombard Zoning Ordinance to reduce the side yard (east) setback for a deck less than thirty-six inches (36") in height to 0, where two feet (2') is required.

Louis Santelli, the petitioner, first thanked the Zoning Board of Appeals for hearing his petition. He stated that he would like to erect this deck, because it would not only enhance his yard, but also be functional. He proceeded to give the ZBA members photos (Exhibits A through E) of his property, and explained each one. Exhibit A, he stated, shows the stairway coming out of the kitchen door on the east side of the property. He explained that these stairs will be eliminated when the deck is built. He then stated that Exhibit B shows two (2) concrete retaining walls on the sides of a stairwell leading to the basement. He explained that he and his family have had to step over these walls, which protrude above grade about six inches (6"), since they have lived there. He stated that if the deck is built to be four feet (4') in width, as the Zoning Ordinance requires, then the stairs coming off of the deck would run into this retaining wall. He continued by explaining Exhibit D, which is a photo of the air conditioning unit on the property. He stated that this unit will be moved on top of the deck when the deck is built. Finally, he stated that Exhibit E is a photo of his large Weber grill, that he will also be placing on the deck. He explained that if the deck is only permitted to be four feet (4') in width, then the grill will take up the majority of the space on the deck, and there will be no space to walk around it. He concluded by stating that all of these exhibits show hardships, and that a four foot (4') wide deck will cause further hardships. He then thanked the Zoning Board members for their time and patience.

There was no one to speak for or against the petition.

Amy Willson, Planner I, presented the staff report. She began by explaining that, according to the Zoning Ordinance, a deck that is thirty-six inches (36") or less in height is permitted to encroach into a required yard. She continued by stating that a deck would be permitted to encroach into the required side yard, but must have a minimum side yard setback of two feet (2'). She explained that the petitioner's property has a required side yard setback of six feet (6'), and the existing house is setback approximately six feet (6') from the side property line. Therefore, the proposed deck would be permitted to be four feet (4') in width in order to maintain the two foot (2') side yard setback requirement.

Ms. Willson then stated that the neighbor to the east currently has a side yard setback of approximately twelve feet (12') from the shared property line. She stated that this property owner can rightfully put an addition on to the house and have a minimum side yard setback of six feet (6'). She explained that if the petitioner is permitted to have a zero setback in order to build a deck, and the neighbor to the east built an addition to the existing house, there would only be a six foot (6') separation between the deck and the neighbor's house. She concluded by stating that staff is recommending denial of this petition, based on the fact that no hardship has been presented by the petitioner. The issues that the petitioner has brought to the attention of the Zoning Board of Appeals are not truly hardships as defined by the Zoning Ordinance, as a deck could be built in another location on the property, or not at all.

Chairperson DeFalco asked for clarification if the four foot (4') separation applied to two (2) primary structures, or does it only pertain to accessory structures. Ms. Willson explained that the four foot (4') separation requirement pertains to any structures, principal or accessory. Mr. DeFalco then asked if the neighbor ever wanted to put an addition on to the house, would there be a problem if the proposed deck on the petitioner's property had a zero setback. Ms. Willson explained that when a property owner applies for a building permit, the neighboring properties are not taken into consideration. She stated that when an inspector went out to the site, he may notice the distance between structures on the neighboring property, but it would not prevent the applicant from continuing to build.

Mrs. Newman asked for clarification on where the air conditioning unit is currently located in relation to the back door. Mr. Santelli stated that it is located

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south of the door. He stated that he will have to move the unit on top of the deck, and that is a hardship.

Ms. Willson asked the petitioner if he has spoken with Building Inspectional Services regarding moving this air conditioning unit, and if they had any problems with moving it on top of a deck. Mr. Santelli stated that he has not; he was working more on the design of the deck.

Mr. Santelli explained again that if the deck is reduced to four feet (4') in width, the stairs coming off of the deck will have to shift back as well, and they will run right into the retaining wall of the stairwell that leads to the basement. Mr. DeFalco asked the petitioner to show him where the retaining wall is on the Plat of Survey, because it is not shown. The petitioner showed the ZBA members, and stated that the retaining walls come out from the house approximately five feet (5') towards the neighboring lot. He stated that the children could never use the back door, because the retaining wall made it too hazardous.

Mr. DeFalco asked what the room to the far south of the house is. Mr. Santelli stated that it is the kitchen.

Mr. Young clarified that when the phrase "back door" is being used, it is referring to the door leading to the basement, and not the door leading to the kitchen. The petitioner said yes. Mr. Young asked if the petitioner was planning on covering the back door with the deck. The petitioner said no.

Mr. DeFalco stated that he does not think a deck needs to be built, and that there are other options. He agreed that the proposal was a nice design, but the setbacks can be met if the deck is situated in a different location on the property.

Mr. Santelli argued that hardships have been proven, and does not understand why the petition should be denied. He stated that he agrees there are other locations for the deck, but he wants to put it on the east side of the house. Therefore, a hardship is being created.

Mr. Young stated that there is obviously a disagreement between staff and the petitioner in terms of what is meant by hardship. Ms. Willson explained that there are alternative locations for this deck, and the proposed location is not the only location. She explained that part of the application process is to reply to the Standards for a Variation. The responses that the petitioner has given do not represent a hardship, as defined by the Zoning Ordinance.

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Mr. Santelli explained again that the hardship is created by building the deck. He asked what the difference is in having a deck built up to the property line, and a six foot (6') fence on the property line.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals submits this petition to the Corporate Authorities with a recommendation for denial. The roll call vote was 4 to 0 to deny ZBA 99-20.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

JD:ACW:jd
att-