

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: December 12, 2012 (B of T) Date: December 20, 2012

TITLE: ZBA 03-27: 25 E. North Avenue, Time Extension Request

SUBMITTED BY: William J. Heniff, Community Development Director *WJH*

BACKGROUND/POLICY IMPLICATIONS:

Please find attached, an Ordinance requesting further time extension of Ordinances 5423, 5605, 5809, 5995, 6147, 6303, 6443 & 6584. (DISTRICT #4)

Staff recommends denial of this request.

Please place this item on the agenda for the December 20, 2012 Board of Trustees meeting.

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 J. Heniff, AICP, Director of Community Development *WA*

DATE: December 20, 2012

SUBJECT: **ZBA 03-27: 25 E. North Avenue**
Further Time Extension of Ordinances 5423, 5605, 5809, 5995, 6147,
6303, 6443 & 6584

On February 5, 2004, the Village Board adopted Ordinance 5423, which granted approval of a variation to reduce the requisite transitional landscape yard from thirty feet (30') to fifteen feet (15') on the subject property. Pursuant to the Zoning Ordinance, variations are null and void if construction is not substantially underway within one year from the date of granting thereof, unless a time extension is granted by the Village Board.

Seven time extensions were granted after the adoption of Ordinance 5423 -- February 3, 2005 (Ordinance 5605), February 2, 2006 (Ordinance 5809), March 1, 2007 (Ordinance 5995), February 21, 2008 (Ordinance 6147), February 19, 2009 (Ordinance 6303), February 18, 2010 (Ordinance 6443) and March 3, 2011 (Ordinance 6584). The extension deadline associated with Ordinance 6584 was established to coincide with the expiration of a December 31, 2012 DuPage County stormwater permit. To date, the Village has yet to receive the required permit application submittals needed in order to commence construction.

Staff has reached out to the petitioner on several occasions advising of the impending timeline and informing him that staff would not be supportive of any further time extensions. The petitioner has submitted the attached request seeking additional consideration in the form of an eighth extension of the variation approval, stating that he hopes to proceed with the project in 2013. Staff believes that it is in the best interest of the surrounding area and Village to not extend the relief. If such relief were to expire, the petitioner would still have the opportunity to apply for zoning approvals in the future.

Should the Village Board desire to approve a further Ordinance extension, staff has attached a draft ordinance for an additional one-year period, thus expiring December 31, 2013. While staff does not support the eighth extension, this would be a Village Board discretionary item.

RECOMMENDATION:

Please place this on the December 20, 2012 Village Board agenda. Staff recommends that the Village Board deny an Ordinance further extending the time period for the previously approved variation.

Friday, December 07, 2012

VILLAGE OF LOMBARD

REFERENCE: NORTH AND MAIN PLAZA

ATTN: STILLING

PROJECT: PROPOSED NORTH & MAIN PLAZA

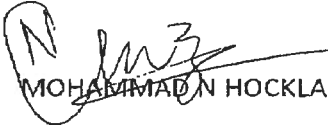
25 EAST NORTH AVE

NORTH & MAIN PLAZA, LLC . REQUESTING THE EXTENSION OF #ZBA 0327

SITE VARIANCE FOR THE ABOVE -MENTIONED PROJECT.

THE OWNER IS STILL SEKING TO COMPLETE THE PROJECT IN THE YEAR OF 2013.

HE IS ALMOST READY NOW.


MOHAMMAD N HOCKLA

ORDINANCE NO. _____

**AN ORDINANCE GRANTING
A FURTHER TIME EXTENSION OF ORDINANCES 5423, 5605, 5809, 5995, 6147,
6303, 6443 AND 6584**

(ZBA 03-27: 25 E. North Avenue)

WHEREAS, on February 5, 2004, the President and Board of Trustees of the Village of Lombard adopted Ordinance 5423, which granted approval of a variation from Section 155.414 (K) of the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois, to reduce the requisite transitional landscape yard from thirty feet (30') to fifteen feet (15') the B3 Community Shopping District, located at 25 E. North Avenue (the "Subject Property"); and

WHEREAS, the President and Board of Trustees adopted Ordinance 5605 on February 3, 2005, granting an amendment to Ordinance 5423 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period; and

WHEREAS, the President and Board of Trustees adopted Ordinance 5809 on February 2, 2006, granting an amendment to Ordinance 5423 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period, but subject to additional conditions of approval; and

WHEREAS, the President and Board of Trustees adopted Ordinance 5995 on March 1, 2007, granting an amendment to Ordinance 5423 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period, but subject to additional conditions of approval; and

WHEREAS, the President and Board of Trustees adopted Ordinance 6147 on February 21, 2008, granting an amendment to Ordinance 5423 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period, but subject to additional conditions of approval; and

WHEREAS, the President and Board of Trustees adopted Ordinance 6303 on February 19, 2009, granting an amendment to Ordinance 5423 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period, but subject to additional conditions of approval; and

WHEREAS, the President and Board of Trustees adopted Ordinance 6443 on February 18, 2010, granting an amendment to Ordinance 6303 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one-year period, but subject to additional conditions of approval; and

WHEREAS, the President and Board of Trustees adopted Ordinance 6584 on March 3, 2011, granting an amendment to Ordinance 6303 which extended the period in which the petitioner shall obtain a building permit and start the associated project for a one and a half year period, but subject to additional conditions of approval; and

WHEREAS, pursuant to Section 155.103 (C)(10) of the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois, variations are null and void if construction is not substantially underway within one year from the date of granting thereof, unless further action is taken by the Village Board; and,

WHEREAS, construction has not commenced and no building permit has been issued for the development granted by Ordinance 5423, 5605, 5809, 5995 6147, 6303, 6443, and 6584; and,

WHEREAS, the property owner has submitted a building permit application and building and engineering plans to the Village, DuPage County and the Illinois Department of Transportation for review and approval for the subject property and the property owner seeks to develop the site consistent with the initial plans submitted for approval and subject to the conditions of approval established by the Village; and,

WHEREAS, the Village has received a letter requesting an additional extension of the aforementioned Ordinances; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interests of the Village of Lombard to grant said extension.

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: Ordinances 5423, 5605, 5809, 5995, 6147, 6303, 6443 and 6584 are hereby amended and extended and shall be null and void unless a building permit is obtained and the project is substantially underway by December 31, 2013.

SECTION 2: In consideration of the subsequent time extensions of approval, the property owner/petitioner shall bury any electrical service lines required to serve the subject property as required in Ordinances 5809, 5995, 6147 6303, 6443 and 6584.

SECTION 3: This ordinance is limited and restricted to the property generally located at 25 E. North Avenue, Lombard, Illinois, and legally described as follows:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER AND RUNNING THENCE SOUTH 3 DEGREES 25 MINUTES 23 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION, 103.5 FEET TO THE SOUTH LINE OF THE RIGHT OF WAY OF STATE HIGHWAY ROUTE 64 (ALSO KNOWN AS NORTH AVENUE); THENCE SOUTH 89 DEGREES 29 MINUTES 06 SECONDS EAST, ALONG SAID SOUTH LINE, 314.48 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 29 MINUTES 06 SECONDS EAST, ALONG SAID SOUTH LINE OF NORTH AVENUE, 166.16 FEET TO A LINE THAT IS PARALLEL WITH AND 400 FEET EAST (MEASURED AT RIGHT ANGLES) FROM THE EAST LINE OF MAIN STREET BY DOCUMENT RECORDED SEPTEMBER 11, 1928 AS NO. 265516; THENCE SOUTH 03 DEGREES 25 MINUTES 23 SECONDS WEST, ALONG SAID PARALLEL LINE, 195.25 FEET; THENCE NORTH 89 DEGREES 29 MINUTES 06 SECONDS WEST, PARALLEL WITH THE SOUTH LINE OF NORTH AVENUE, 166.16 FEET; THENCE NORTH 03 DEGREES 25 MINUTES 23 SECONDS EAST PARALLEL WITH THE EAST LINE OF MAIN STREET, 195.25 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY ILLINOIS.

Parcel No: 06-05-100-054

SECTION 4: All other provisions associated with Ordinances 5423, 5605, 5809, 5995, 6147 6303, 6443 and 6584, not amended by this Ordinance, shall remain in full force and effect.

SECTION 5: 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 _____, 2012.

Ordinance No. _____
Re: ZBA 03-27 – 8th Extension
Page 4

First reading waived by action of the Board of Trustees this _____ day of _____, 2011.

Passed on second reading this _____ day of _____, 2012.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____, day of _____, 2012.

Peter Breen
Acting Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this _____ day of _____, 2012.

Brigitte O'Brien
Village Clerk