

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: William T. Lichter, Village Manager

DATE: April 7, 2004 (B of T) Date: April 15, 2004

TITLE: ZBA 04-03: 310 W. Morris

SUBMITTED BY: Department of Community Development *DGH*

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 155.406 (F)(2) of the Zoning Ordinance to reduce the corner side yard setback from twenty (20) feet to sixteen (16) feet to allow for the construction of an unenclosed, roofed over front porch. (DISTRICT #2)

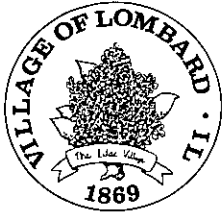
The Zoning Board of Appeals recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. Lichter* _____ Date *4/7/04*

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development *DGH*

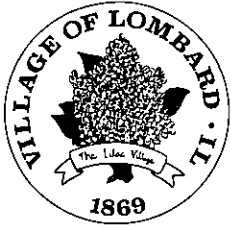
DATE: April 15, 2004

SUBJECT: ZBA 04-03: 310 West Morris Avenue

Attached please find the following items for Village Board consideration as part of the April 15, 2004 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 04-03;
3. An Ordinance granting approval of the requested variation to the corner side yard for a roofed-over porch; and
4. Companion site plans associated with the petitioner's request.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148
630/620-5700 FAX: 630/620-8222
TDD: 630/620-5812
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April 15, 2004

Village President
William J. Mueller

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

Trustees

Joan DeStephano, Dist. 1
Richard J. Tross, Dist. 2
Karen S. Koenig, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: ZBA 04-03; 310 W. Morris Avenue

Dear President and Trustees:

Village Manager
William T. Lichter

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.406 (F)(2) of the Zoning Ordinance to reduce the corner side yard setback from twenty (20) feet to sixteen (16) feet to allow for the construction of an unenclosed, roofed over front porch.

The Zoning Board of Appeals conducted a public hearing on March 24, 2004. The petitioner, Adolf Munoz, of Apex Homes, stated that they are proposing to demolish the existing home and construct a new home on the premises as shown on the plans. He said that they have been working with the Building staff to address code issues. Once issue that remains is the proposed roofed-over porch which will be attached to the front and side of the house.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

He then described the proposed porch layout. He noted that the reason he is proposing the porch and stairs to be located as depicted on the plans is to address the existing evergreen tree currently in the front yard. He then submitted photographs of the subject property. If the porch and stairs were angled toward the front yard, it would require the removal of the tree. He said that neighboring residents like the tree so he was trying to save it.

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

He then discussed the requested relief, noting that the proposed encroachment into the corner side yard is much smaller than described in the public hearing request. The house itself will meet all setback requirements. He also noted that the existing lot is 52 feet wide which does not provide for a great deal of flexibility in constructing a home – particularly when the 20 foot corner side yard setback provisions are also applied to the property.

Chairperson DeFalco then opened the meeting for public comment. No one spoke in favor or opposed to the petition. He then requested the staff report.

William Heniff, Senior Planner, presented the staff report. He noted the petitioner plans to demolish the existing residence and construct a new house on the subject property. The petitioner presented the proposed building plans which includes a roofed over, wraparound porch which would encroach approximately four feet (4') into the corner side yard.

Referencing the IDRC comments, Private Engineering Services noted that the new house and drive will exceed the 500 square foot threshold for new impervious surface. This may require that some sort of drainage improvements be installed with the new house. This aspect will be fully reviewed by PES once the permit application is submitted.

Mr. Heniff then discussed the zoning aspects of the petition. Roofed over, unenclosed porches are allowed to encroach five feet (5') into front yards assuming that the porch projects no more than seven feet (7') from the front wall of the house. He noted that this provisions was approved as part of a 2002 amendment to the Zoning Ordinance. In consideration of the Ordinance change, he noted that the corner side yard already has relaxed standards as compared to the front yard setback requirements.

Staff finds that the proposed porch can be constructed according to code by modifying the proposed roof pitch and removing its encroachment into the corner side yard. Referencing the standards for variations, staff finds that there are no physical or topographical conditions effecting the subject lot that prevent the proposed home and porch from meeting code. While the lot is fifty-two feet (52') wide, the home and accompanying porch can be constructed to code on the subject lot. Staff finds that the porch can meet code by shifting the orientation of the stairs and landing toward Morris Avenue. The petitioner could also modify the building footprint as well. Staff finds that the subject lot is comparable to the area found in other corner lots in the R2 Single Family Zoning District. All corner lots are subject to the same requirements as those imposed on the subject lot. Staff finds that the hardship has not been caused by the ordinance, but rather the petitioner's choice of placement of the stairs and accompanying porch. Staff believes that the granting of the requested relief will set an undesirable precedent.

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

Mr. Bedard asked for a clarification of the relief being requested. Mr. Heniff noted that the variation is for the corner side yard to allow for a roofed-over porch. Referencing the IDRC report, it is the triangular area between the proposed foundation of the residence to the proposed staircase. The encroachment to the front yard is already permitted by code.

Chairperson DeFalco then asked about the proposed distance between the porch and the property line. The petitioner stated that it was about three feet into the yard, but then after discussion, it was figured to be between three and four feet into the corner side yard.

Questions then were raised and discussion ensued by the ZBA members about the proposed stairs. Mr. Heniff noted that stairs for the entrance into the home could be up to four feet in height. The petitioner noted that the stairs and porch are proposed to be about 42 inches above grade where the relief is requested.

Chairperson DeFalco then asked about the ownership of the property. The petitioner said that he intends to build the home and then sell it. The intent of the variation is to create a home that will be attractive and will allow for the evergreen tree to remain on the property. He noted that relief needs to be considered on a case by case basis – he believes that the evergreen tree gives value to the property.

Mr. Bedard inquired as to whether the petitioner considered alternate plans, such as having the walk out toward Elizabeth? The petitioner said he looked at that option but that option would not be compatible with the proposed gable roof. Moreover it would also require a column at the doorway that would interfere with access and would not work well.

Mr. Young noted that corner side yards are troubling, particularly when they are applied to very narrow lots even by Village standards. Mr. DeFalco then noted that the existing house on the property is 5.8 feet from the corner side yard. The petitioner's plan would provide a greater setback than what is found now on the property.

The ZBA members talked about the conditions of approval that should be added if a motion to approve is made. Lengthy discussion then ensued about the overall square footage amount that actually encroaches into the corner side yard. The petitioner then shared his proposed building plans with the ZBA members so that they could determine the amount of encroachment into the front yard was being proposed.

After due consideration of the petition and testimony presented, found that the proposed variation complied with the Standards of the Zoning Ordinance. Therefore, the Zoning Board of Appeals by a roll call vote of 5 to 0 recommended approval of ZBA 04-03, subject to the following conditions:

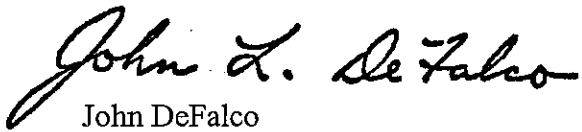
1. That the property shall be developed in accordance with the proposed building elevations and floor plans prepared by Jakl Brandeis Architects Ltd., dated January 23, 2004, and submitted as part of the petition.

Re: ZBA 04-03
April 15, 2004
Page 4

2. That the roofed-over porch shall not be enclosed.
3. That the total square footage of the roofed-over porch into the corner side yard shall not exceed sixteen (16) square feet in overall size.

Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink that reads "John L. DeFalco". The signature is written in a cursive style with a large initial "J".

John DeFalco
Chairperson
Zoning Board of Appeals

att-

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ANALYSIS

SUBMITTALS

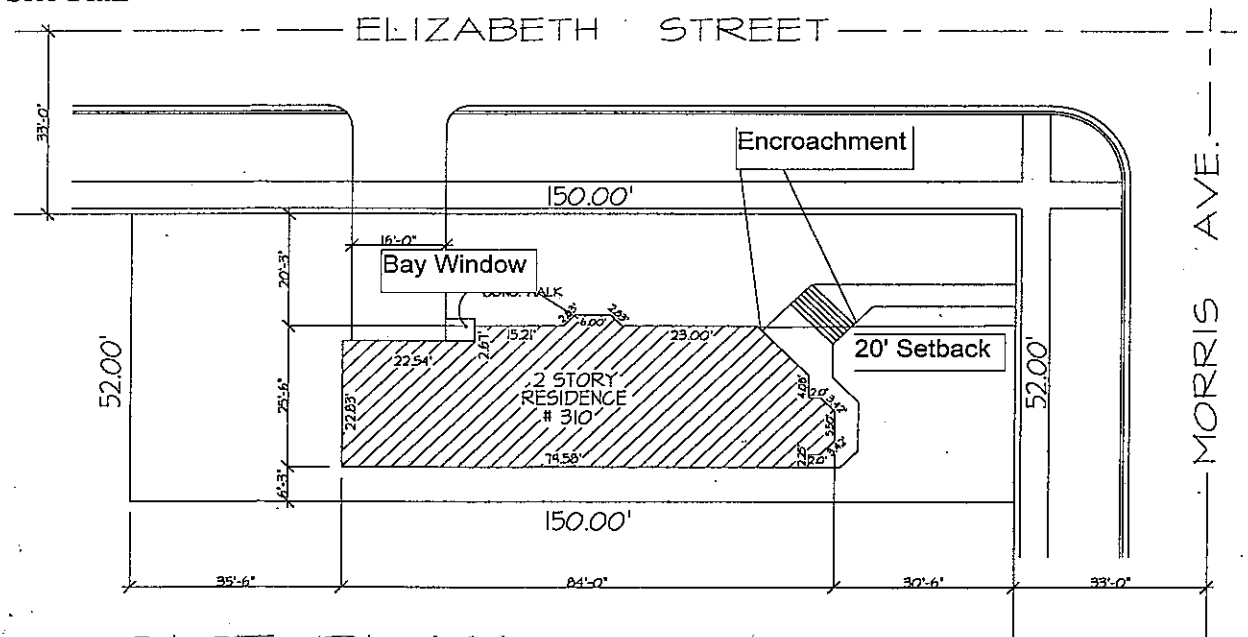
This report is based on the following documents, which were filed with the Department of Community Development on February 23, 2004.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated December 6, 2003, prepared by Nekola Signature Survey
4. Building Elevations and Site Plan, dated January 23, 2004, prepared by Jakl Brandeis Architects Ltd.

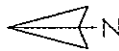
DESCRIPTION

The petitioner plans to demolish the existing residence and construct a new house on the subject property. The petitioner presented the proposed building plans to staff for review. Staff informed the petitioner that the proposed roofed over, wraparound porch would not be considered a permitted encroachment on the Elizabeth Street frontage, which is considered the corner side yard. The petitioner revised the plans to reflect the current elevations. The revised elevations show a portion of the porch and stairs encroaching approximately four feet (4') into the corner side yard.

Site Plan



SITE PLAN
SCALE 1" = 20'-0"



ENGINEERING

Private Engineering Services

From an engineering or construction perspective, PES has no comments. However, it appears that the new house and drive will exceed the 500 square foot threshold for new impervious surface. This may require that some sort of drainage improvements be installed with the new house. This aspect will be fully reviewed by PES once the permit application is submitted.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments.

PLANNING

Roofed over, unenclosed porches are allowed to encroach five feet (5') into front yards assuming that the porch projects no more than seven feet from the front wall of the house. Roofed-over porches are not permitted to encroach into corner side yards given that the corner side yard setback is twenty feet (20') whereas the front yard setback is thirty feet (30'). Permitting the five foot (5') encroachment within the corner side yard in essence reduces the side yard setback to fifteen feet (15'), placing structures much closer to the street than if they were in the front yard. Staff finds that the proposed porch can be constructed according to code by modifying the proposed roof pitch and removing its encroachment into the corner side yard. Therefore, staff is not supportive of the requested variation. Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation". Staff finds that the following standards have not been affirmed:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.* Staff finds that there are no physical or topographical conditions effecting the subject lot that prevent the proposed home and porch from meeting code. While the lot is fifty-two feet (52') wide, the home and accompanying porch can be constructed to code on the subject lot. Staff finds that the porch can meet code by shifting the orientation of the stairs and landing toward Morris Avenue.
2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.* Staff finds that the subject lot is comparable to the area found in other corner lots in the R2 Single Family Zoning District. All corner lots are subject to the same requirements as those imposed on the subject lot. The petitioner identifies several examples of permitted encroachments for

considering the requested relief in the written response to the Standards for Variations. Staff offers the following response:

Arbors and trellises – Arbors and trellises are defined by the Lombard Zoning Ordinance as vertical or diagonal lattice structures, more than fifty percent open, attached to a building for the purpose of growing vines. The roofed over, unenclosed front porch as depicted in the submitted building elevations does not appear to be a lattice structure erected for the purpose of growing vines. Therefore, the porch cannot be considered an arbor or trellis.

Decks and terraces – Section 155.212 of the Lombard Zoning Ordinance states the following: “Decks and terraces which are open and not over three feet (3’) above the average level of the adjoining ground (**not including permanently roofed-over terrace or porch**) may be placed in any yard, provided that a minimum two foot (2’) setback is required in the side yard. As permanently roofed-over porches and terraces are excluded from this allowance, the proposed porch must meet the designated setbacks per Code.

Eaves and gutters projecting three feet or less – Webster’s New Collegiate Dictionary defines an eave as the lower border of a roof that overhangs a wall. A gutter is defined as a trough fixed under or along the eaves for draining rainwater from a roof. If those were the only portions of the roofed over, unenclosed porch that encroached the corner side yard that would be permissible. However, since an entire section of the porch is within the corner side yard this exception does not apply.

Steps four feet or less above grade which are necessary for access to a permitted building – The steps are a permitted encroachment, however the roofed-over porch is not.

3. *The alleged difficulty or hardship is caused by the ordinance and has not been created by any person presently having an interest in the property.* Staff finds that the hardship has not been caused by the ordinance, but rather the petitioner’s choice of placement of the stairs and accompanying porch.
4. *The granting of the variation will not alter the essential character of the neighborhood.* Staff believes that the granting of the requested relief will set an undesirable precedent.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations for the requested corner side yard setback variation for

Zoning Board of Appeals

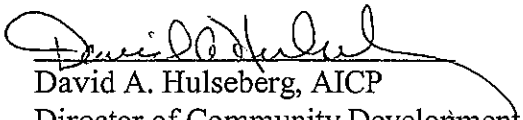
Re: ZBA 04-03

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the construction of an unenclosed front porch. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion:

Based on the submitted petition and the testimony presented, the requested corner side yard setback variation **does not comply** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals recommend to the Corporate Authorities **denial** of ZBA 04-03.

Inter-Departmental Review Group Report Approved By:


David A. Hulseberg, AICP
Director of Community Development

DAH:AC

att-

c: Petitioner

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Location Map

ZBA 04-03: 310 W. Morris Street





P.O. Box 397 • Itasca, IL 60143
Phone: 630-787-1200 • Fax: 630-787-1210

March 1, 2004

As per section 155.103.C.7 of the Lombard Zoning Ordinance, please find below the responses to the seven standards, which affirms the need for a variation.

Item 1. The property at 310 W Morris being a corner lot is 52' wide and 150' deep. This small size of a lot has a great deal of difficulty and hardship in the construction and design of a new home being built in order to abide by the regulations, size and building requirements enforced and demanded today by both village and public standards. The allowable building area is quite small and has been met on our plans with exception to encroachments of stairs with a landing in which due diligence has been put forth in working to a compromise with your planning dept.

Item 2. As indicated this is a corner lot in a R2 Zoning district, being a corner lot it is subject to more scrutiny than any other R2 lot. Subjected to side yard set backs which total 38 percent with additionally 12 percent inside yard setback totals 50 percent. Fifty percent is a huge amount of lost lot width being unable to build or encroach into.

Additionally the ordinance on permitted obstructions indicates many items and or interpretations, which the requested variance could possibly pertain or resemble to.

Examples are:

*Arbor and trellises are allowed in front and corner side yards.

*Decks and Terraces, footnote A: Open Terraces and decks not over three (3) above the average level of the adjoining ground, provided that a minimum two(2) foot side setback is maintained.

*Eaves and Gutters projecting three feet or less.

*Steps four feet or less above grade which are necessary for access to a permitted building..

Item 3. There is no financial gain or merit to this request of variance, the primary purpose is to be able to construct an aesthetic and functional home that flows with the neighborhood and is safe. The requests to have the landing of the stairs and front entrance to the home a safe entrance. The ordinance states that a roofline or eve may encroach 3' or less and that stairs may also encroach. The encroachment of the stairs is at an angle, which the required landing is necessary to encroach per drawings. The amount of coverage has been designed to a minimum. A reduction of the landing or approach to the

front door may create a unsafe landing. The necessary column to support the handrails and eve and or Gable roof line is outside of the building line.

Item 4. The ownership of this property and or possible future owners unknown at this time have not created and or fabricated this hardship, it exist in the preexisting lot size and location.

Item 5. The variance will not be of any detriment or negatively threaten anyone or any property adjacent, neighboring or near where the property is located.

Item 6. Granting of this variation will in fact improve the appearance and value of the neighborhood by which many villages see the aesthetics of colonial and country style entrances more appealing to the existing streetscape.

Item 7. This is an open entrance, which does not impair or negatively effect any items stated in this question. In fact as stated in item six it is possibly the most desirable appearance the present residents prefer and or desire which dramatically improves the quality and appearance of Lombard which is paramount.

In closing I choose to build a home which fits into the community as well as it fits the desires of a new resident. The design and plans have been extensively worked on in order to fit into this small lot including the limitations of the side yard set back. The request of a variation is of little or no impact on the community therefore we respectfully request a review of our request of variance.

Sincerely,



Adolf C. Munoz
President

ORDINANCE NO. _____

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

(ZBA 04-03: 310 W. Morris)

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 Title 15, Chapter 155, Section 155.406(F)(2) of said Zoning Ordinance, to reduce the corner side yard setback in the R2 Single-Family Residence District from twenty feet to sixteen feet to allow for the construction of an unenclosed, roofed over front porch; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on March 24, 2004 pursuant to appropriate and legal notice; and,

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

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; 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 subject to conditions.

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 155.406(F)(2) of the Lombard Zoning Ordinance for the property described in Section 2 below, so as to reduce the required corner side yard setback from twenty feet (20') to sixteen feet (16'), subject to the conditions noted in Section 3 below.

SECTION 2: This ordinance is limited and restricted to the property generally located at 310 W. Morris, Lombard, Illinois, and legally described as follows:

LOT NUMBER 28 IN BLOCK 10, IN ROOSEVELT CREST, A SUBDIVISION OF THE SOUTH HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) (EXCEPT THE EAST 769 FEET THEREOF) OF SECTION EIGHTEEN (18), TOWNSHIP THIRTY-NINE (39) NORTH, RANGE ELEVEN (11) EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-08-411-030

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. That the property shall be developed in accordance with the proposed building elevations and floor plans prepared by Jakl Brandeis Architects Ltd., dated January 23, 2004, and submitted as part of the petition.
2. That the roofed-over porch shall not be enclosed.
3. That the total square footage of the roofed-over porch into the corner side yard shall not exceed sixteen (16) square feet in overall size.

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 _____, 2004.

First reading waived by action of the Board of Trustees this _____ day of _____, 2004.

Passed on second reading this _____ day of _____, 2004.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2004.

Ordinance No. _____
Re: ZBA 04-03
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William J. Mueller, Village President

ATTEST:

Barbara A. Johnson, Deputy Village Clerk

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