

# ZONING BOARD OF APPEALS

## INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

350 W. GROVE STREET

SEPTEMBER 23, 2015

### Title

ZBA 15-11

### Petitioner & Property Owner

Paul Henry  
350 W. Grove Street  
Lombard, IL 60148

### Property Location

350 W. Grove Street  
(06-07-200-010)  
Trustee District #1

### Zoning

R2 Single Family Residence  
(Henry's Resubdivision)

### Existing Land Use

Single Family Home

### Comprehensive Plan

Low Density Residential

### Approval Sought

Variation to reduce the minimum required interior side yard setback from six feet (6') to two feet (2') to allow for an emergency generator.

### Prepared By

Matt Panfil, AICP  
Senior Planner



LOCATION MAP

### PROJECT DESCRIPTION

The petitioner is proposing to install an emergency generator within the western side yard of the subject property, located toward the rear of the existing home. As proposed, the emergency generator encroaches a total of four feet (4') into the required side yard setback and is approximately ten feet (10') away from the nearest neighboring structure.

### APPROVALS REQUIRED

Per Section 155.212 of the Village of Lombard Zoning Ordinance, emergency generators are not permitted obstructions in required side yards. In order for the emergency generator to be located in the proposed location, a variation from Section 155.407 (F)(3) to allow for a reduction in the minimum side yard setback from six feet (6') to two feet (2') is required.

### EXISTING CONDITIONS

The property is improved with a two-story brick single family residence with an attached garage. The width of the existing home extends from the side yard setback on the east to the side yard setback on the west. Therefore, there are not any suitable locations on the sides of the home that would not require zoning relief. There is an existing patio at the rear of the home. The patio area is not suitable for the placement of an emergency generator because of the location of existing windows and air conditioning units.

## PROJECT STATS

### Lot & Bulk (Proposed)

Parcel Size: 10,138 sq. ft.

Lot Coverage: 35%

### Reqd. Setbacks & Proposed Dimensions (in parens.)

Front (south) 30' (37.20')

Side (east) 6' (6.24')

Side (west) 6' (2.0')

Rear (north) 35' (103.0')

### Submittals

1. Petition for Public Hearing;
2. Response to Standards for a Variation;
3. Exhibit Depicting Location of Home, Generator, and Property Line; and
4. Boundary and Topographic Survey, prepared by Schlaf-Sedig & Associates, Inc., dated November 5, 2008 and submitted July 23, 2015.

The section at the rear of the home that is not improved with a patio is located along an area that frequently floods due to a significant grade change. Due to a unique downward sloping driveway, water flows toward the home, which depends on sump pumps to prevent flooding in the home. If the petitioner were to locate the generator in the above referenced rear area, there is concern about the combination of heavy rains causing both the electricity to fail and a high volume of water to flow down the driveway and into the home.

In order to help place the request in its proper context, planning staff offers the following:

### Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2	Vacant
South	Grove Street / R2	Single Family Home
East	R2	Single Family Home
West	R2	Single Family Home

The emergency generator is proposed in a location such that it is only visible from the home to the west. There is a large shrub that will provide sufficient screening from Grove Street and the neighbor to the south. The petitioner has indicated that the property to the west is currently leased, but the property owner does not have any concerns regarding the proposal. The petitioner has also orally notified the current tenants regarding the proposal.

### INTER-DEPARTMENTAL REVIEW

#### Building Division:

The Building Division has no issues or concerns regarding the project.

#### Fire Department:

The Fire Department has no issues or concerns regarding the project.

#### Private Engineering Services:

Private Engineering Services (PES) has no issues or concerns regarding the project.

#### Public Works:

The Department of Public Works has no issues or concerns regarding the project.

**Planning Services Division:**

In order to be granted a variation each of the Standards for a Variation (responses attached) must be affirmed. Staff finds that all standards have 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 the subject property's sloping topography and the location of existing windows and air conditioning units results in a unique physical hardship that provides for no reasonable alternative for the placement of an emergency generator.

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 unique physical surrounding and topography identified in Standard One are not generally applicable to other properties with the R2 Single-Family Residence district.

3. *The purpose of the variation is not based primarily upon a desire to increase financial gain;*

Staff finds that this standard is affirmed. The primary purpose of the variation is to prevent flooding within the existing home.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that this standard is affirmed. The Lombard Zoning Ordinance does allow for emergency generators to encroach into the required rear yard setback; however, it does not anticipate for the unique physical surroundings and topography identified in Standard One.

5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;*

Staff finds that this standard is affirmed. Although the emergency generator is located within the side yard setback, the nearest adjacent structure is a detached garage located in the rear yard of the neighbor to the west, and approximately ten feet (10') from the emergency generator. The emergency generator is not generally visible from any other adjacent property.

6. *The granting of the variation will not alter the essential character of the neighborhood; and*

Staff finds that this standard is affirmed in that the emergency generator will not substantially increase the visual bulk on the subject property.

7. *The proposed 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 on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

Staff finds that this standard is affirmed. Provided that the emergency generator is installed properly and according to all other aspects of Village Code it should not substantially increase the danger of fire, impair natural drainage, endanger the public safety, or diminish property values within the neighborhood.

In consideration of precedent, staff has identified three (3) similar cases that appeared before the Zoning Board of Appeals. Each case involves an emergency generator located within the minimum required six foot (6') interior side yard setback for the R2 Single-Family Residence district.

In ZBA 09-06, staff recommended that the Zoning Board of Appeals recommend denial of the requested variation to allow for an emergency generator to encroach one and one-half feet (1.5') into the required interior side yard based on there being reasonable alternative locations for the emergency generator that would comply with Village Code.

In ZBA 12-04, staff recommended that the Zoning Board of Appeals recommend approval of the requested variation to allow for an emergency generator to encroach one foot (1') into the required interior side yard due to the very unusual amount and placement of windows, basement window wells, and air conditioning unit that made it, "difficult if not impossible to meet the zoning code along with the requirements of the building code." The adjacent neighbor most impacted by the placement of the emergency generator also provided a letter of support for the petition.

In ZBA 15-07, staff recommended that the Zoning Board of Appeals recommend approval of the requested variation to allow for an emergency generator to encroach two feet (2') into the required interior side yard based on there being no reasonable alternative locations for the emergency generator that would comply with Village Code and not be subject to frequent flooding and the generator being located in such a manner that there was minimal visual impact to adjacent properties.

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 09-06	8/20/2009	736 S. Hammerschmidt Ave.	Emergency generator encroaching 1.5' into the required 6' interior side yard setback.	No recommendation	Approval, 5-0
ZBA 12-04	12/20/2012	151 N. Charlotte St.	Emergency generator encroaching 1' into the required 6' interior side yard setback.	Approval, 4-0	Approval, 6-0
ZBA 15-07	6/24/2015	720 E. Prairie Ave.	Emergency generator encroaching 2' into the required 6' interior side yard setback.	Approval, 6-0	Approval, 5-0

In conclusion, staff can support the requested variation based on, but not limited to, the following:

1. All Standards for a Variation have been affirmed; and

2. There is precedence for a variation to allow for an emergency generator to be located within the required side yard setback when there are no reasonable alternatives that would comply with Village Code.

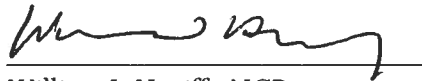
### **FINDINGS & RECOMMENDATIONS**

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations, in their entirety, 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 aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variation to reduce the interior side yard setback **does comply** with the Standards for a Variation required by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 15-11, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed emergency generator; and
2. Such approval shall become null and void unless work thereon is substantially under way within twelve (12) months of the date of issuance, unless extended by the Board of Trustees prior to the expiration date of the ordinance granting the variation.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner



## **EXHIBIT A: PETITIONER'S RESPONSES TO STANDARDS FOR VARIATIONS**

**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.**

**Response:** The property is improved with a house that spans from the minimum setback line on the east to the minimum setback line on the west. Consequently, no generator can be placed in either side yard alongside the house without first seeking a variation. In the rear of the house, the western 2/3rds of the yard adjacent to the house is improved with a patio. Because this is also the location of the two air conditioning condenser units servicing the house, and because there are two operable windows that look out onto the patio, should the patio area be used as the generator site, in order to comply with the zoning code the generator would have to be located in the middle of the patio, effectively rendering it useless as a gathering spot, which is its primary purpose.

The eastern 1/3rd of the rear yard alongside the house sits in close proximity to an area that, despite the presence of a storm drain, becomes a collection point for stormwater from adjacent properties in extremely heavy rains. The possibility exists that a generator located in that area within the 10' setback area currently allowed for generators, would either become submerged in part or would impede the flow of water.

**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.**

**Response:** The property has a unique topography for Lombard, in that it is a predominantly sloping lot, not flat as is the case for most of Lombard. The rear yard and the adjacent yard are the low spots for rainwater washing down from the slopes of several properties in close proximity, with the collection area being the area near the permitted generator installation site in the back yard.

**3. The purpose of the variation is not based primarily upon a desire to increase financial gain.**

**Response:** The property is improved with a house that has a double-wide driveway sloping down toward the house. In heavy rain, water runs down the width of the driveway toward the house. The house depends on functioning sump pumps to clear the rainwater. Any disruption in power will cause the pumps to fail and the house to flood quickly. The purpose of the variation is to allow for the installation of an alternative source of power to prevent flooding, not to increase financial gain.

**4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person having an interest in the property.**

**Response:** The hardship is a function of the sloping shape of the lot and its tendency to serve as a collection area for rainwater from surrounding properties. This "bathtub" effect results in water collecting near what would otherwise be a viable site for the generator.

**5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

**Response:** The installation of a generator next to the house will not impede the natural drainage of rainwater, nor add materially to noise in the area (operating only during power outages and during weekly 20-30 minute "exercise" periods, which can be scheduled for a time of least inconvenience).

**6. The granting of the variation will not alter the essential character of the neighborhood.**

**Response:** The generator site is currently screened in part from the street by an existing hedge, and is not apparent except to parties looking for it. It is also consistent with other homes in the neighborhood, which also have standby generators sited in the side yard.

**7. The proposed 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 on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

**Response:** The generator is expected to be located at the minimum distance from the house required by the manufacturer (18"), thereby not creating a fire hazard. It is also expected to be located outside of any water drainage or water collection area, and would not become the source of any water drainage problems.

## 8



# BOUNDARY AND TOPOGRAPHY CURVE



**EXHIBIT D: E-MAIL CORRESPONDENCE BETWEEN PETITIONER & PROPERTY  
OWNER TO THE WEST**

**From:** [redacted] [mailto:[redacted]]  
**Sent:** Thursday, August 13, 2015 1:32 PM  
**To:** Henry, Paul  
**Subject:** Re: 360 W Grove Lombard

Paul

Thanks for the information. Doesn't appear to be a problem from my standpoint. If you need anything from me let me know.

**Dan Hennessey**  
2844 Melrose Ln.  
Naperville, IL 60564

-----Original Message-----

**From:** Henry, Paul <[redacted]>  
**To:** Dan Hennessey [mailto:[redacted]]  
**Sent:** Thu, Aug 13, 2015 10:47 am  
**Subject:** RE: 360 W Grove Lombard

Dan,

I'm seeking a variance to put a standby generator alongside the rear 10' of my house. Given the sloping topography of the yard and the tendency for water to accumulate on the east side of the yard during a storm, the west side was the best location. The unit would encroach up to 4' into the side yard setback line, probably a little less. The Village Planning team thought the tenant's input would be valuable.

I've attached the spec sheet for the unit.

Paul

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**From:** Dan Hennessey [mailto:[redacted]]  
**Sent:** Thursday, August 13, 2015 8:44 AM  
**To:** Henry, Paul  
**Subject:** Re: 360 W Grove Lombard

Paul

I talked to a Village rep about your proposal on Tuesday. Give me more info. My renters shouldn't be involved.

Thanks

Dan

Sent from my iPhone