

November 15, 2007

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

Subject: ZBA 07-14; 731 E. St. Charles Place

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on September 26, 2007. The petitioner, Daniel Schmitt, stated that he has met with staff extensively to see how green space could be added to the property. He is willing to sod the area behind the garage and renovate both the front and back porches. This will not result in full compliance with the open space regulations, but they are doing what they can. They expect to keep the swimming pool for about 20 years. Also, they informed their abutting neighbors about the variation request and those neighbors signed a petition in support of the relief.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Jennifer Backensto, Planner II, stated that the subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool. The Private Engineering Services Division notes that the Code requirement of 50% open space serves to limit both the density on lots and the volume of stormwater runoff. The back yard of this lot contributes to a known depressional area on the block. Since the proposed pool would make the lot more than 50% impervious, the Private Engineering Services Division recommends denial.

In addition, the petitioner previously permitted for, and constructed, a new garage and driveway. As part of the permit requirements, a drainage system was installed to direct runoff from the new impervious areas towards the right-of-way of St. Charles Place. This system shall not be altered in any way. The exposed gravel in the drainage system is, by design, pervious and thus if sod was placed over the gravel the water would drain through the grass, through the gravel, into the pipe and drain away towards the right-of-way. Thus the grass would not survive.

Ms. Backensto stated that the property as it exists today has 46.6% open space, which is defined as “that portion of a lot or property maintained as lawn, garden, field, woods, wetland, or other natural landscape area and is free of buildings, structures and impervious surfaces.” In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4,452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench behind the garage and along the entire western property line. Since gravel areas are not included within the definition of open space, the 394 square feet of gravel and curbing brought the property below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool. Although the proposed swimming pool is only 257.1 square feet, when combined with the required 2002 drainage improvements the property would be left with only 43.4% open space.

The petitioner stated that they would be willing to create additional open space on the property. They suggested adding sod over the gravel areas behind the garage and along the western property line, which would add 351 square feet of green space and compensate for the nonconformity created by the required drainage improvements. However, the Private Engineering Services Division concluded that it is not feasible for sod to be installed over the required drainage improvements.

Ms. Backensto stated that the petitioner is also considering reducing the size of the existing deck and porch to create additional open space. While this could bring the property closer into compliance with the 50% open space requirement, the deck and porch combined are not large enough so that their removal would bring the property into full compliance.

She noted that the Zoning Board of Appeals could make one of three recommendations:

1. Recommend denial of the petition in its entirety;
2. Recommend approval of a variation to 48.7% open space to recognize the required drainage improvements and denial of the additional relief for the swimming pool; or
3. Recommend approval of a variation to 46.5% open space, with a condition tying the requested relief to the submitted site plan.

Staff believes that the drainage improvements required by the Village create unique circumstances that warrant a variation. The drainage improvements are required due to the stormwater drainage characteristics of the subject property and the surrounding lots and are not generally applicable to other properties within the R2 District. Since it is a Village requirement designed to address drainage problem that pushed the property below the minimum open space, staff can support a variation to reduce the required open space to 48.7%.

However, staff does not believe there is a hardship for the proposed swimming pool. The property is subject to the same lot coverage requirements as other properties, which property owners were made aware of at the time of their 2002 building permit submittal. Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation." Staff finds that all of the standards have not been affirmed. The petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The lot is over 9,000 square feet, which exceeds the minimum lot size of 7,500 square feet in the R2 District. The conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 zoned lot in the Village. The hardship has not been caused by the ordinance and has instead been created by the extent of the proposed improvements. Granting the request could be injurious to neighboring properties because overbuilding of single-family lots contributes to a loss of the neighborhood's suburban character.

As such, staff recommends that the ZBA approve the petition with a condition limiting the requested relief to 48.7% open space. This will recognize the existing conditions on the property and acknowledge that the unique circumstances regarding the drainage improvements are appropriate in this case. The petitioner would be able to add the desired swimming pool or other accessory structures provided that an equal amount of open space is created elsewhere on the lot, but the property would be required to comply with code in the event it is ever fully redeveloped.

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

The Zoning Board of Appeals members discussed raised several questions regarding the stated open space percentages. They requested that staff prepare a new staff report incorporating the revised open space percentages that resulted from staff's on-site meeting with the petitioner.

On a motion by Mr. Young and a second by Mrs. Newman, the Zoning Board of Appeals continued ZBA 07-14 to the October 24, 2007 Zoning Board of Appeals meeting by a roll call vote of 6 to 0.

The Zoning Board of Appeals reopened the meeting on October 24, 2007.

The petitioner, Daniel Schmitt, summarized the petition. He stated that the drainage improvements function very well and slope toward the front of the property. He met with staff to figure out how to add open space to the property by removing gravel and reducing the porch size.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Jennifer Backensto, Planner II, stated that the subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool. In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4,452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench along the western property line. Since gravel areas are not included within the definition of open space, the 202 square feet of gravel and curbing brought the property to 48.7% open space, which is below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool.

After the 2002 permit was issued, the petitioner chose to cover 192 square feet of the property with gravel that was left over from the construction process. This further reduced open space on the property to 46.6%. Now, the petitioner wishes to install a 257-square foot swimming pool on the property. This would reduce open space on the property to only 43.7%. To mitigate this, the petitioner has stated that they would be willing to create 250 square feet of additional open space by removing the 192-square foot gravel area, reducing the size of their rear porch by 26 square feet, and reducing the size of their front porch by 32 square feet. This reduces their open space variation request to 46.5%.

She then reiterated the comments presented in the initial IDRC staff report and stated that staff recommends approval of the open space lot area relief for the existing drainage improvements but not the relief for the proposed swimming pool.

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

Mr. Bedard asked about the square footage of the drainage improvements. Ms. Backensto stated that she did not know their exact size, but they were designed to compensate for the size of the addition, garage, and driveway that were constructed in 2002.

Chairperson DeFalco noted that if the drainage is not considered an encumbrance, the property has 48.7% open space. The drainage improvements facilitate water runoff and do not create bulk. A swimming pool would impact runoff.

Mr. Young stated that was why staff recommended approval of a variation to 48.7%.

Mr. Bedard stated that the property was at 46.6% and were proposing 46.5%.

Mr. Young stated that the excess gravel further reduced the open space on the property, and the gravel would need to be removed to bring the property back up to 48.7%.

Chairperson DeFalco asked if the drainage improvements benefit the neighborhood. The petitioner stated that he was told that the purpose of the drainage improvements was to benefit the neighbors. They do not want to negatively impact their neighbors in any way, and they would like to re-grade their property to further improve the drainage situation.

Mr. Young stated that the Village needs to look at the issue of how drainage improvements are considered with regard to open space calculations.

The petitioner added that the Village was pleased with how their drainage improvements turned out and used them as an example for other properties.

On a motion by Mr. Young and a second by Mr. Bedard, the Zoning Board of Appeals recommended that the Village Board approve the requested open space variation by a roll call vote of 5 to 1, subject to the following conditions:

1. The petitioner shall comply with a minimum required open space percentage of 46.5% by removing the 192-square foot gravel area in the rear of the property, reducing the size of the rear porch by 26 square feet, and reducing the size of the front porch by 32 square feet.
2. In the event that the proposed swimming pool is removed from the subject property, the required minimum open space shall be 48.7%.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals