

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: June 6, 2006 (B of T) Date: June 15, 2006

TITLE: ZBA 06-07: 429 S. Craig Place

SUBMITTED BY: Department of Community Development *WTF*

BACKGROUND/POLICY IMPLICATIONS:

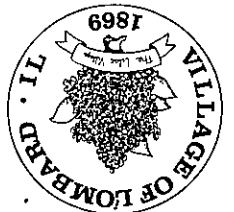
The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 44.5 percent where a minimum of 50 percent open space is required, to allow for the construction of a detached garage and driveway within the R2 Single Family Residential District. (DISTRICT #5)

The Zoning Board of Appeals recommended denial of this petition.

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: William T. Lichter, Village Manager

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

DATE: June 15, 2006

SUBJECT: ZBA 06-07: 429 S. Craig Place

Attached please find the following items for Village Board consideration as part of the June 15, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-07; and
3. Plans associated with the petition.

The Zoning Board of Appeals recommended denial of the request.

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

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VILLAGE OF LOMBARD
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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

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 44.5 percent where a minimum of 50 percent open space is required, to allow for the construction of a detached garage and driveway within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on April 17, 2006. Adriene Mahal, 429 S. Craig Place, introduced Juan Chapa of 430 S. Craig Place to present the petition. Mr. Chapa stated that they were requesting a variation for a 8-foot by 8-foot by four-foot dry well with a capacity of 243 cubic feet to be placed on the low spot of the property.

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 although the petitioner is installing a dry well to fulfill the drainage and flooding mitigation requirements generated by the increase in impervious surface area, the dry well is unrelated to the requested open space variation. Ms. Backensto then presented the staff report. The petitioner is requesting a variation to decrease the required open space from 50 percent of the lot area to 44.5 percent of the lot area. The property currently meets code with 64 percent open space. The petitioner wishes to exceed the maximum allowable lot coverage by 440 square feet to accommodate a driveway extension and a new 720-square foot detached garage.

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

"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."

Ms. Backensto stated that the 50 percent open space requirement does not preclude the petitioner from constructing a detached garage on the subject property. The petitioner could meet code by reducing the size of the proposed garage, shifting the garage location toward the house, and/or removing the 227 square feet of paving in front of the house.

Furthermore, the Standards for Variations 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 not unusually small. The lot is 8,000 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 Single Family Residential lot in the Village of Lombard. The hardship has not been caused by the ordinance and has instead been created by the extent of the existing and proposed improvements to the property, and granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

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

Mr. Young asked for a brief explanation of dry wells. William Heniff, Senior Planner, stated that dry wells are a form of engineering mitigation. The well is formed by digging a pit, filling it with stone, and covering it with topsoil. The gaps between the stones can incorporate storm runoff. Dry wells are a way for single-family homeowners to address stormwater without needing to construct a detention pond.

Mr. Chapa stated that the deck is more like a patio in that it is low to the ground.

Mr. Bedard asked why the proposed garage is so large. Mr. Chapa stated that it would accommodate two cars and a camper. Mrs. Mahal added that the garage would hold the camper and a workshop to free up the basement for family functions.

Mr. Polley asked if they had ever had a topographic survey done because the property appears to be higher than the neighboring properties. The petitioner stated that they did not have a topographic survey. Mr. Chapa stated that the dry well would collect all of the additional runoff. Mr. Bedard noted that the comments from Private Engineering indicated that the soil quality is not conducive to a dry well. Ms. Backensto stated that because of the soil's high clay content, a dry well in this location may not perform as well as it could in ideal soil.

Chairperson DeFalco asked when the previous variation had been granted on this property. Ms. Backensto stated that had been granted in 2001.

Mr. Young noted that a deck is not impervious. Mr. Heniff referred to the definition of open space. The construction of a deck transforms an area that was used passively into an active use area. Open space regulations look at the appearance of bulk. If one only considered whether or not a structure was impervious, a property owner could theoretically cover the entire backyard with a pervious deck.

Chairperson Defalco asked when the deck was built. Mrs. Mahal stated that she did not know. Chairperson Defalco asked if there was currently a garage on the property. Mrs. Mahal stated that they did not have a garage.

Chairperson Defalco noted that a two-car garage could be constructed without any zoning relief. Mr. Young added that they would also need to remove some pavement.

Chairperson Defalco asked why the pavement extended all the way to the front stairs and if the existing asphalt would be replaced as part of the proposed improvements. Mr. Chapa stated that the area was used for parking because there was no garage and that the asphalt would be replaced.

Chairperson Defalco stated that they could add more green space with the planned pavement removal. Mrs. Mahal stated that the pavement in question is now a basketball court. Mr. Young asked for clarification on the proposed dimensions and location of the garage. Ms. Backensto stated that the submitted plans show a 24-foot by 30-foot garage that would be three feet from the property lines.

Mr. Polley asked if the neighbors were for or against the proposal. Mrs. Mahal stated that they get along with their neighbors and have had no complaints.

Chairperson Defalco asked if notice had been given to the neighboring property owners. Ms. Backensto stated that a notice of public hearing had been sent to all properties within 250 feet of the Mahal's property. Mr. Chapa confirmed that he had personally received a notice.

Mr. Bedard stated that the variation requests do not have much to do with the neighbors as they do with the question of hardship. He added that in the past the Zoning Board of Appeals has been careful to recognize that neighbors frequently change and one neighbor's opinion might be different from the next.

Mr. Chapa stated that all the neighbors have two-car garages and he believes the intent of the ordinance has been satisfied.

Mr. Bedard stated that they were not concerned with drainage but with open space. He has debated the request but cannot support anything less than 50 percent open space.

Mr. Chapa asked if the removal of the pavement in front of the house would be enough to bring the property into compliance with code. Ms. Backensto stated that it would not as the proposed plans exceed the 50 percent requirement by 419 feet. Chairperson Defalco observed that there was only approximately 230 square feet of pavement in front of the house so they would still need an additional 200 square feet.

Mr. Chapa stated that he would be concerned about the ability to maneuver vehicles. Moving the garage forward by three feet would create an alley behind the garage that would receive no sun and where no grass would even be able to grow. Mrs. Mahal noted that one of the neighboring garages was pushed forward and the area behind it is filled with weeds and not utilized.

Chairperson Defalco asked why the 30-foot depth was needed. Mr. Chapa stated that it would be to accommodate working tools and work space. Mrs. Mahal stated that they wished to use their basement as living space.

Mr. Young noted that the garage would not be large enough to accommodate two cars and a camper as previously stated. Mr. Chapa stated that one of the cars would be kept in the driveway.

Chairperson Defalco noted that the petitioner would easily get within 100 square feet of the required open space. Mr. Young stated that removing a corner of the existing deck would both enhance maneuverability and contribute additional open space. Mr. Chapa stated that he would need to speak with Mr. Mahal about reducing the length of the garage.

Mr. Young asked if the public hearing fee would be refunded if the petition were withdrawn. Mr. Heniff stated that it would not as the public hearing had already been conducted.

Mr. Young stated that it appears the petitioners can accomplish what they're looking for without the need for a variation. Mr. Bedard asked if they would be willing to come back before the Zoning Board of Appeals to request less of a variation. Mr. Chapa and Mrs. Mahal indicated that they would.

Chairperson Defalco noted that if the proposed variation were denied, the petitioners could not request another similar variation for one year. Mr. Young stated that they should table the discussion until the next meeting to allow the petitioners an opportunity to revise their plans.

On a motion by Mr. Polley and a second by Mr. Bedard, the Zoning Board of Appeals recommended, by a roll call vote of 4 to 0, a continuance to May 24, 2006 of the requested open space variation associated with ZBA 06-07.

May 24, 2006

Chairperson Defalco re-opened the petition. Prior to the start of the testimony period, Dr. Corrado and Mrs. Newman confirmed that although they were not present at the last Zoning Board of Appeals meeting, they had sufficiently familiarized themselves with the specifics of the case so that they would be comfortable voting on the petition.

The petitioner, Daniel Mahal, passed out a revised site plan. The proposed garage was reduced from 24 feet wide to 22 feet wide, and was pushed one foot closer to the front of the property. The driveway width was reduced by six inches to pick up an additional 53 square feet of open space, but it could not be reduced further due to its narrow width. The deck was originally shown at 464 square feet, but the actual size is 440 square feet.

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 staff's position remains unchanged from that explained in the staff report and the staff recommendation of denial still stands.

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

Chairperson Defalco summarized the changes to the site plan and asked about the driveway in front of the house. The petitioner stated that the apron is shifted three feet from the driveway and they do not line up. Chairperson Defalco noted that this paved area is almost the size of the requested variation.

The petitioner stated that he has lived in this home for 11 years and has put a lot into the house. He wants to make it workable for both now and for the future.

Chairperson Defalco explained what is meant by a hardship and gave several examples. The petitioner stated that the garage was pushed as far forward as is workable.

Mr. Polley asked about the degree of the variation. Chairperson Defalco stated that the petitioner exceeded code by 240 square feet.

Dr. Corrado asked if the petitioner would be willing to remove the pavement in front of the house. The petitioner stated that he would prefer to keep it as-is.

Mr. Polley asked about the use of paver blocks. Chairperson Defalco stated that they are similar to a deck in that a small amount of water can drain through, but they do not create a significant amount of open space.

Mr. Polley asked if the paved area in front of the house was used for parking. Chairperson Defalco stated that it was used more as a basketball court.

Dr. Corrado asked how many variations have been granted for open space. Ms. Backensto stated that she did not know the number offhand.

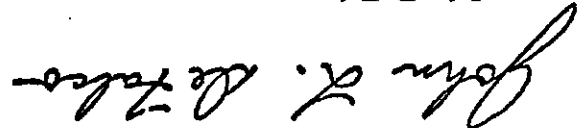
Chairperson Defalco gave an example of a recent case on Central Avenue. He noted that in the present case, the petitioner was able make small modifications to reduce the requested amount of the variation by almost half. He stated that there were other potential options to increase open space on the property.

Mr. Bedard stated that he sympathizes with the petitioner, but the Zoning Board of Appeals needs to focus on the presented hardship. He stated that they can't reasonably justify a basketball court as a hardship.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 5-0, submits this petition to the Corporate Authorities with a recommendation of denial for the requested variation.

Respectfully,

VILLAGE OF LOMBARD

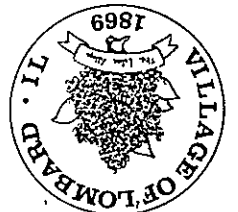


John Defalco

Chairperson

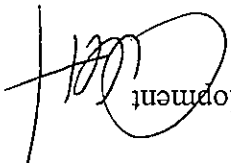
Zoning Board of Appeals

att-



MEMORANDUM

TO: John DeFalso, Chairperson, and
Zoning Board of Appeals Members

FROM: David A. Huliseberg, AICP, Director of Community Development


DATE: May 24, 2006

SUBJECT: ZBA 06-07: 429 S. Craig Place

At the April 26, 2006 meeting, the Zoning Board of Appeals recommended that ZBA 06-07 be continued to allow the petitioner to submit an alternative site plan demonstrating a greater amount of open space. Staff met with the petitioner to discuss the ZBA's recommendation and provided the petitioner a summary of the meeting discussion.

To date, staff has not received any revised drawings and is therefore unable to offer analysis of any revisions that may be presented during the meeting. However, staff's initial recommendation of denial was based upon the petition not meeting the Standards for Variations, not the amount of lot coverage requested. The degree of the variation does not affect staff's findings noted in the staff report for ZBA 06-07.

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**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Jennifer Backensto, AICP Planner II
HEARING DATE: April 26, 2006

TITLE

ZBA 06-07; 429 S. Craig Place: The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 44.5 percent where a minimum of 50 percent open space is required, to allow for the construction of a detached garage and driveway within the R2 Single Family Residential District.

GENERAL INFORMATION

Petitioner/Property Owner: Daniel Mahal
429 S. Craig Place
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District
Existing Land Use: Single Family Residential
Size of Property: Approximately 8,000 Square Feet

Surrounding Zoning and Land Use

North: R2 Single Family Residential District; developed as Single Family Residences
South: R2 Single Family Residential District; developed as Single Family Residences
East: R2 Single Family Residential District; developed as Single Family Residences
West: R2 Single Family Residential District; developed as Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on February 28, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by Lambert and Associates, dated February 28, 1995.
4. Site Plan showing existing and proposed improvements.

DESCRIPTION

The petitioner is requesting a variation to decrease the required open space from 50 percent of the lot area to 44.5 percent of the lot area. The property currently meets code with 64 percent open space. The petitioner wishes to exceed the maximum allowable lot coverage by 440 square feet to accommodate a driveway extension and a new 720-square foot detached garage.

INTER-DEPARTMENTAL REVIEW COMMENTS

Fire and Building

Fire and Building have no comments on this petition.

Public Works Engineering

Public Works has no comments on this petition.

Private Engineering

The code requirement of 50% open space serves to limit both the density on lots as well as the stormwater runoff from them. The petitioner proposes a dry well to mitigate for the increase in runoff. However, a limitation to dry wells is slow percolation rates in our typical clayey soils. Therefore, dry wells are unable to handle rainfalls in short succession. It is for this reason that dry wells are the last option used to improve drainage. The variation, if approved, would suggest to other property owners that the open space requirement could be overcome as long as the additional runoff is mitigated. This would be an undesirable precedent.

Planning

Background

The subject property currently has approximately 2,992 square feet of lot coverage, leaving 63 percent open space. Although the Plat of Survey shows approximately 70 percent open space, the petitioner has made improvements since purchasing the property. In 2001, a permit was

issued for a 174-square foot front porch, and there is also a 464-square foot deck that is not shown on the plat. The existing shed would be removed upon construction of the garage.

Standards for Variations

The standards of the Zoning Ordinance are set for the provision of open space, to preserve green space, and maintain the aesthetics of a suburban setting. The Village's Comprehensive Plan states "the existing visual and environmental character of Lombard's various residential neighborhoods should be preserved and enhanced." The open space standards within the R2 District help to achieve that goal by ensuring that lots do not have the appearance of being overbuilt and that a more intensive use of the property is prevented.

Staff typically has not recommended approval for open space variations unless there is an existing legal nonconforming situation and the amount of open space is not being decreased. Staff finds that the requested relief to reduce the open space to 44.5 percent is substantial.

The 50 percent open space requirement does not in any way preclude the petitioner from constructing a detached garage on the subject property. Options that would allow the construction of a detached garage while still meeting code include: reducing the size of the garage, shifting the garage location toward the house, and/or removing the 227 square feet of paving in front of the house. For example, removing the paving in front of the house and reducing the garage to a standard two-car size (22 feet by 24 feet) would leave this property with 50 percent open space. If a larger garage is desired, its location could be changed or additional pavement could be removed.

Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation". The following standards have not been affirmed:

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that the petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The lot is not unusually small. The lot is 8,000 square feet, which exceeds the minimum lot size of 7,500 square feet in the R2 District.

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 conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 Single Family Residential lot in the Village of Lombard.

3. *The alleged difficulty or hardship is shown to be caused by this 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 and has instead been created by the extent of the existing and proposed improvements to the property.

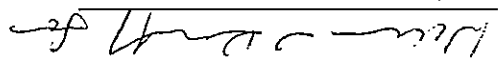
4. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.* Staff finds that granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations 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 variation:

Based on the submitted petition and the testimony presented, the requested 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 accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 06-07.

Inter-Departmental Review Group Report Approved By:


David A. Hulseberg, AICP

Director of Community Development

DAH:JB

att-

c: Petitioner

Location Map

ZBA 06-07



February 25th 2006

Village of Lombard
Zoning Board of Appeals

Subject: Variation

1. Because of the particular physical surrounding, 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: We have no garage on our property. Because of the existing structures on our property, the recent change in Village Codes has made it impossible to build without a variance.

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 majority of our neighbors have pre-existing garages or had them built prior to the Village Code change, therefore the conditions are not generally applicable to other surrounding property.

3. The purpose of the variation is not based primarily upon a desire to increase financial gain.
Response: Our decision is not based on financial gain; it is based on the needs of our family.

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.
Response: No one has interest in the property, because we are not willing to sell.

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: Granting of the variation will be beneficial to the neighborhood and not injurious to any property owner.

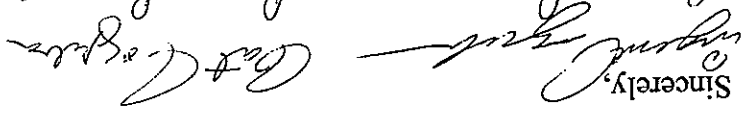
6. The granting of the variation will not alter the essential character of the neighborhood; and,
Response: Granting the variation will not alter the character of the neighborhood; many of our neighbors have similar garages.

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,


Pat Foghera
GENE FOGHERA & PAT FOGHERA

Name and Address

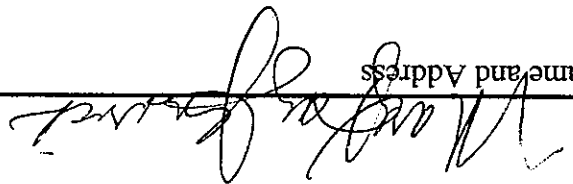
514 S. CRAIG PL
LOMBARD, IL 60148

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,


Name and Address
511 S. Craig Place

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,

Don + Bill Dwyer

Name and Address

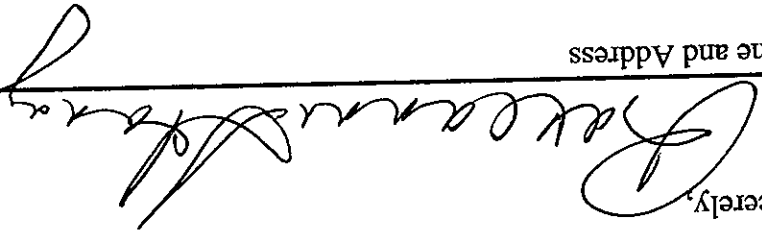
508 S. Craig Pl.
Lombard

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,



Name and Address

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,

MR. THOMAS TOM KATZ
Name and Address

Letter of Support

To: Village of Lombard Zoning Board of Appeals

We are neighbors of 512 S. Craig Place. This letter is to express our support of this property being granted a variance and subsequent building permit so that the owners may replace their backyard deck.

Sincerely,

Name and Address

Charles J. Kim, 219 E Washington Blvd.