

September 3, 2009

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

Subject: DuPage County ZBA Case Z09-037 - Shah

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced case under review by DuPage County. Michael Toth, Planner I, presented the petition. Mr. Toth stated that DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

Mr. Toth stated that staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.

While DuPage County has officially classified the subject variation as a variation to reduce the side yard setback for an existing shed, Mr. Toth stated that Village staff believes that the case may have additional variations associated with the proposed project. These additional elements may have a greater impact on the surrounding neighborhood than a setback variation for a shed. The submitted plat of survey from October 10, 1994 depicts the 'frame shed' connected to the house during the time of the survey. As the structure the County refers to as a 'shed' is connected to the house, tied to the foundation of the house and constructed from the same materials as the house, the shed should be considered an addition to the principal structure. Therefore,

the side yard setback for the principal structure would now be recognized at 0.38 feet. Mr. Toth stated that while on a site visit to the subject property, Village staff discovered that there was also a deck constructed on top of the subject addition. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as the Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:

1. A setback variation for the principal structure; and,
2. Setback variation for the deck located above the addition.

Mr. Toth then made reference to the setback variation. According to discussions with the County representatives, the addition on the property does not achieve code compliance concerning County and Village Codes.

Mr. Toth then made reference to the deck variation. As the deck is located directly on top of the addition, the deck also encroaches into the required side yard; therefore, relief would be required to allow the deck to remain at its present location. Staff notes that neither the County nor Village Code recognizes the deck (as constructed) as a permitted encroachment in the interior side yard.

Mr. Toth stated that staff finds that both the building addition and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

Lastly, Mr. Toth stated that based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard. Therefore, staff recommends that the Plan Commission adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

Vice Chairperson Flint then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh agreed with staff. If something like this was approved it could set a precedent. The shed could have been placed in a different location and to make matters worse, they put a deck on top of the shed. This petition does not meet the standards for a variation.

Commissioner Sweetser questioned the practical result of adopting a Resolution of Objection. Mr. Toth answered that since the property could ultimately become part of the Village, we will

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forward our objection to the County, once approved by the Village Board. By doing so, our objection will be noted disputing the case and become part of the County's public hearing process which is similar to what happens here.

Commissioner Sweetser asked if the petitioner would have to take these things down should they become part of the Village. Mr. Toth answered yes. Mr. Stilling stated that when the County votes on the issue it will require a $\frac{3}{4}$ majority of the voting members in order to approve the petition.

After due consideration, the Plan Commission recommended by a roll call vote of 6 to 0, that the Board of Trustees adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

Respectfully,

VILLAGE OF LOMBARD

Stephen Flint
Vice Chairperson
Lombard Plan Commission

attachment

c. Lombard Plan Commission