

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


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

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : September 10, 2020      (BOT) Date: September 17, 2020

SUBJECT: ZBA 20-04, 730 E. Sunset Avenue

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.212 of the Lombard Code of Ordinances to provide for an emergency generator to be located in the required side yard setback in the R2 Single-Family Residence District.

The Zoning Board of Appeals made the recommendation of approval by a 5-0 vote. Please place this petition on the September 17, 2020 Board of Trustees agenda with a waiver of first reading.

**Fiscal Impact/Funding Source:**

Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ 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:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development *WJH*

**MEETING DATE:** September 17, 2020

**SUBJECT:** **ZBA 20-04, 730 E. Sunset Avenue**

Please find the following items for Village Board consideration as part of the September 17, 2020 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 20-04; and
3. An Ordinance granting approval of the requested variation.

The Zoning Board of Appeals made the recommendation of approval by a 5-0 vote. Please place this petition on the September 17, 2020 Board of Trustees agenda with a waiver of first reading.



## VILLAGE OF LOMBARD

255 E. Wilson Ave.  
Lombard, Illinois 60148-3926  
(630) 620-5700 Fax (630) 620-8222  
www.villageoflombard.org

September 17, 2020

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

### Trustees

Dan Whittington, Dist. 1  
Anthony Puccio, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Andrew Honig, Dist. 4  
Daniel Militello, Dist. 5  
William "Bill" Ware, Dist. 6

**Village Manager**  
Scott R. Niehaus

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

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

Mr. Keith Giagnorio  
Village President, and  
Board of Trustees  
Village of Lombard

**Subject: ZBA 20-04 – 730 E. Sunset Avenue**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.212 of the Lombard Code of Ordinances to provide for an emergency generator to be located in the required side yard setback in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on August 26, 2020. Pursuant to Governor Pritzker's Executive Order No. 2020-07 which suspends the requirement of the Illinois Open Meetings Act requiring in-person attendance by members of a public body during the duration of the Gubernatorial Disaster Proclamation, multiple members of the Zoning Board of Appeals participated in the meeting through a virtual meeting platform.

Ms. Helen Bartuch, petitioner, and staff were sworn in by Chairperson DeFalco to offer testimony.

Ms. Bartuch said she was requesting a variance to allow a generator in the side yard setback. She stated that there was no other feasible location on the property for the generator.

Chairperson DeFalco asked if anyone from the public wanted to address the petitioner.

Chairperson DeFalco asked for the staff report.

Anna Papke, Senior Planner, presented the staff report, which was entered into the record in its entirety. The subject property is developed with a single-family home with a detached garage.

The property owner installed an emergency generator on the property prior to obtaining a building permit. During permit review, staff determined that the generator had been installed in the side yard setback, which is prohibited by Village Code. The petitioner is seeking a variance in order for the generator to remain in its present location.

Though Village Code prohibits emergency generators from encroaching into the side yard setback, they are permitted to encroach into the rear yard setback. Ordinarily staff would recommend the generator be installed to the rear of the house. However, during permit review, the petitioner indicated that the installer was unable to place the generator to the rear of the house due to the presence of windows and doors along the rear façade of the house. The Building Commissioner inspected the subject property and agreed that the number of openings in the rear elevation of the house would pose a challenge to placing the generator behind the house. Staff also notes that the adjacent property opposite the side lot line from the generator is a through-lot with the rear yard adjacent to the front yard of the subject property. As a result of this lot layout, the generator on the subject property is farther away from the adjacent residence than it would be if installed in the rear yard, which limits noise impacts to the adjacent property.

Staff recognizes these conditions as circumstances unique to the subject property, and recommends approval of the request.

Chairperson DeFalco opened the meeting up for discussion among the ZBA members.

Mr. Tap said he was in support of the requested variance with the conditions as noted in the staff report.

Mr. DeFalco summarized the petition and asked for a motion from the Board.

On a motion by Mr. Tap, and a second by Mr. Bedard, the Zoning Board of Appeals voted 5-0 that the Village Board approve the petition associated with ZBA 20-04, subject to the following three (3) conditions:

1. The emergency generator shall be installed in accordance with the submitted plans and elevations prepared by the petitioner, and made a part of the petition;
2. The petitioner shall apply for and receive a building permit for the emergency generator; and
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

ZBA 20-04  
September 17, 2020  
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Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson  
Zoning Board of Appeals

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August 26, 2020

**Title**

ZBA 20-04

**Petitioner**

Helen (Sue) Bartuch  
730 E. Sunset Avenue  
Lombard, IL 60148

**Property Owner**

Helen (Sue) Bartuch  
730 E. Sunset Avenue  
Lombard, IL 60148

**Property Location**

730 E. Sunset Avenue

**Zoning**

R2 Residential Single Family

**Existing Land Use**

Residential Single Family

**Comprehensive Plan**

Low Density Residential

**Approval Sought**

A variation to allow for an emergency generator to be located in the required side yard setback. The generator encroaches approximately three feet into the required yard.

**Prepared By**

Anna Papke, AICP  
Senior Planner



LOCATION MAP

**PROJECT DESCRIPTION**

The subject property is located in the R2 Residential Single Family District. The subject property is developed with a single-family home and a detached garage. The property owner installed an emergency generator on the property prior to obtaining a building permit. During permit review, staff determined that the generator had been installed in the side yard setback. Section 155.212 of Village Code prohibits generators from encroaching into the side yard setback. The petitioner is seeking a variance in order for the generator to remain in its present location.

**APPROVAL(S) REQUIRED**

The petitioner requests that the Village grant a variation from Section 155.212 of the Lombard Code of Ordinances to provide for an emergency generator to be located in the required side yard setback in the R2 Single-Family Residence District.

**EXISTING CONDITIONS**

The property contains a two-story frame single family residence. The property also has a detached garage and associated driveway.

## PROJECT STATS

### Lot & Bulk

Parcel size: 9,246 sq. ft.

Required side yard setback: 6 feet

Side yard setback of existing house: 6.9 feet

### Surrounding Zoning & Land Use Compatibility

North, east, south and west:  
R-2, Single Family Residential

### Submittals

1. Petition for public hearing;
2. Response to standards for variation;
3. Petitioner's narrative; and
4. Plat of survey/site plan.

## INTER-DEPARTMENTAL REVIEW

### Building Division:

The Building Division has no comments on the subject petition. Additional comments may be forthcoming during permit review.

### Fire Department:

The Fire Department has no comments on the subject petition. Additional comments may be forthcoming during permit review.

### Public Works/Private Engineering Services:

The Department of Public Works has no comments on the subject petition. Additional comments may be forthcoming during permit review.

### Planning Services Division:

The subject property is located in the R2 Residential Single-Family District. The subject property is developed with a two-story wood frame house and a detached garage at the rear of the property.

Village Code Section 155.212, Permitted obstructions in required yards, prohibits emergency generators from encroaching into side yards. Emergency generators are permitted to encroach into rear yards. In the case of a property where there is not sufficient space to install a generator to the side of the house without encroachment into the side yard setback, staff advises property owners to install generators to the rear of the house.

During permit review, the applicant indicated that the installer was unable to place the generator to the rear of the house due to the number of openings (windows and doors) in that side of the house. Building codes and emergency generator specifications require that generators be installed at minimum of 18 inches from the wall of a structure, and a minimum distance of five feet from any opening in the structure. See Figure 1.

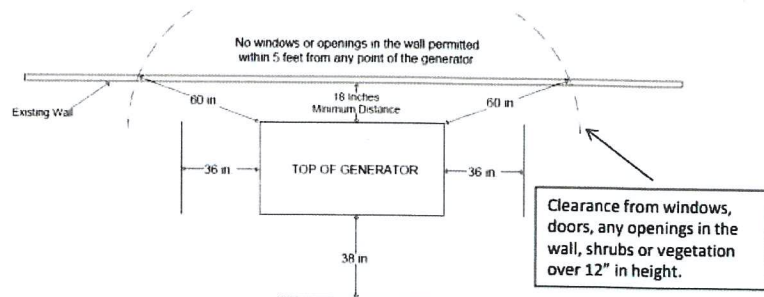


Figure 1. Separation requirements for generators.

The Building Commissioner inspected the subject property and agreed that the number of openings in the rear elevation of the house would pose a challenge to placing the generator behind the house. The Building Commissioner further noted that installing the generator more than 18 inches perpendicularly away from the house in order to achieve a five-foot separation from windows and doors would reduce the efficiency of the generator. The side elevation of the house along which the generator was installed has only one opening, providing the ability to place the generator closer to the house while maintaining separation from openings. See Figures 2 and 3.



Figure 2. Rear (north) elevation of subject property.



Figure 3. Side (west) elevation.

Further, the layout of the subject property with respect to neighboring properties is unusual. The subject property fronts Sunset Avenue. The property immediately to the west of the subject property (727 E. Kaplan Court) is a through lot, with the front yard located along Kaplan Court and the rear yard along Sunset Avenue. The rear yard of the subject property also directly abuts the front yard of the property at 611 N. Kramer Avenue (Figure 3).

As a result of this unusual lot layout, the emergency generator at 730 E. Sunset Avenue is farther away from the residences on the two neighboring properties than it would be if it were installed to the rear of the house. The location on the side of the house may limit the impact of the generator on neighboring properties.

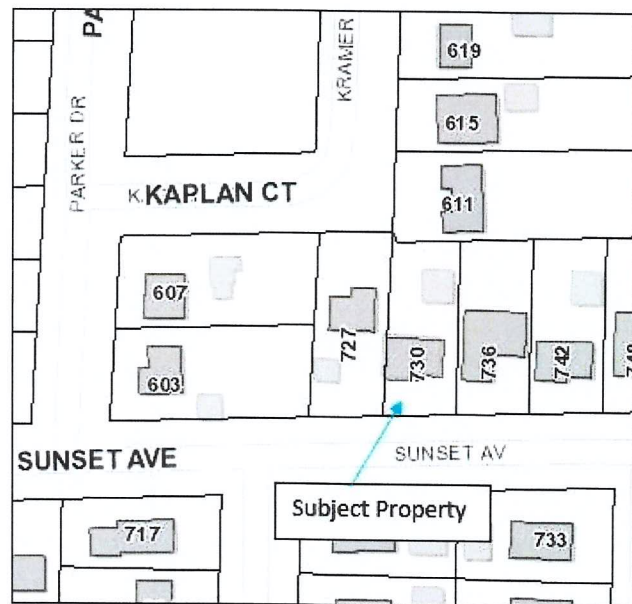


Figure 3. Subject property and surrounding neighborhood.



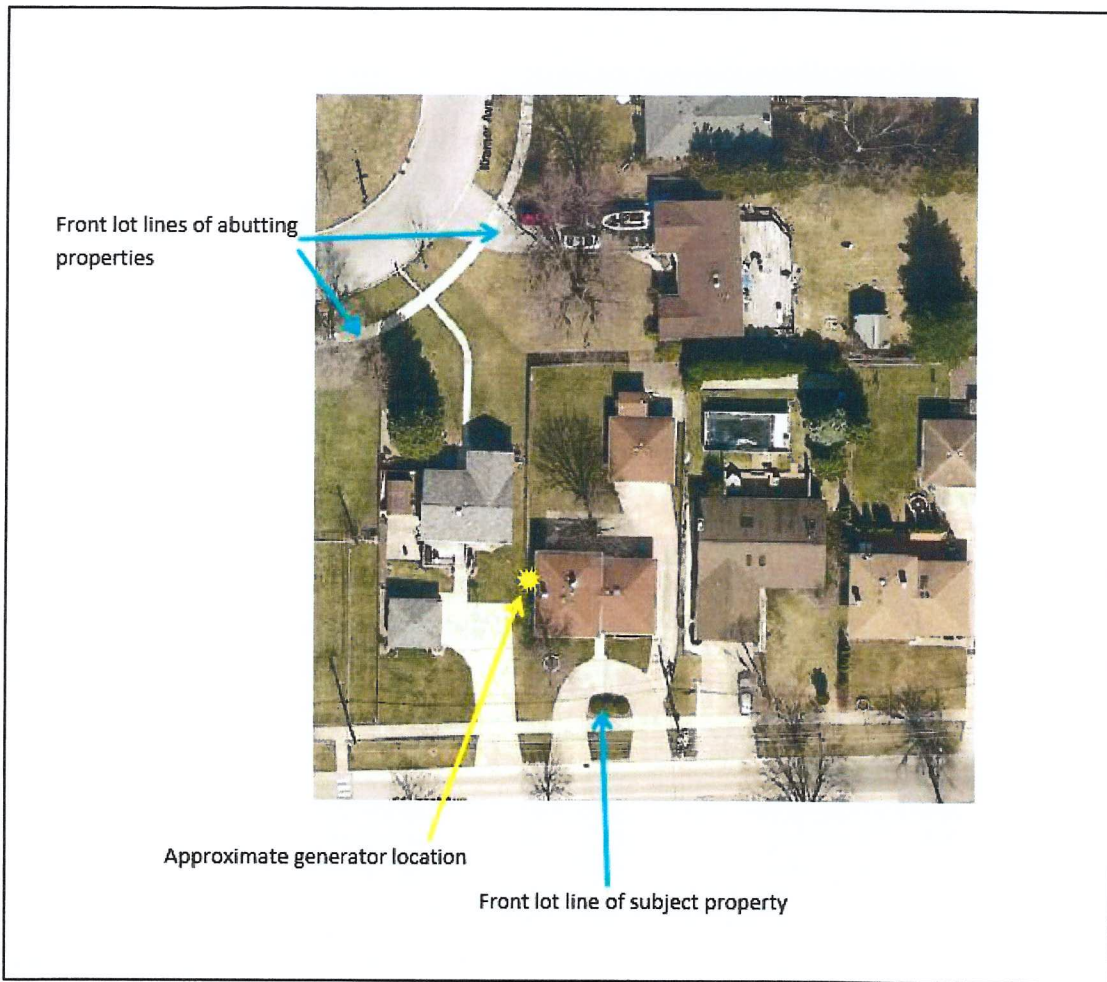


Figure 4. Subject property and adjacent properties.

Staff recognizes that it would be challenging for the petitioner to meet the requirements of the Zoning Ordinance as well as the Building Code if the generator were placed to the rear of the home. Staff considers this circumstance as sufficient hardship to justify a variance.

To be granted a variation, petitioners must show that they have affirmed each of the standards for variations outlined in Section 155.103(C)(7). Staff offers the following commentary on these standards with respect to this petition:

- a. *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.*

This standard is affirmed. Existing development on the site along with separation requirements result in limited options for placement of the generator.

- b. *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.*

This standard is affirmed. Characteristics of existing development on the subject property, including window placement on the rear façade of the house, limit the petitioner's ability to place the generator in the rear yard, as would typically be required. This circumstance is specific to the subject property.

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

This standard is affirmed.

d. *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.*

This standard is affirmed.

e. *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.*

This standard is affirmed. Staff finds that granting the request would not be injurious to neighboring properties. In fact, allowing the generator to remain in the side yard setback will increase separation between the generator and development on adjacent properties.

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

This standard is affirmed. Staff finds the generator will be of minimal visual and auditory impact to surrounding properties due to lot layout, as discussed above. The generator is also located near an existing air conditioning unit.

g. *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*

This standard is affirmed.

#### *Past Precedent*

In recent years there have been three other ZBA petitions requesting relief to permit generators to encroach into the interior side yard setback. The three variances were ultimately granted. The circumstances surrounding ZBA 12-04 were similar to the circumstances on the subject property in that options for placement of the generator were limited by the number of openings in the rear elevation of the home.

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

## FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented has 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 to allow an emergency generator in the side yard setback:

Based on the submitted petition and the testimony presented, the requested variation **does comply** with the Standards required for a variation by the Lombard Village Code; and, therefore, I move that the Zoning Board of Appeals adopt the findings included as part of the Inter-departmental Review Report as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 20-04, subject to the following conditions:

1. The emergency generator shall be installed in accordance with the submitted plans and elevations prepared by the petitioner, and made a part of the petition;
2. The petitioner shall apply for and receive a building permit for the emergency generator; and
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

Inter-Departmental Review Committee Report approved by:

\_\_\_\_\_  
 William J. Heniff, AICP  
 Director of Community Development

c. Petitioner

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.212 OF THE LOMBARD VILLAGE CODE TO PROVIDE FOR AN EMERGENCY GENERATOR TO BE LOCATED IN THE REQUIRED SIDE YARD SETBACK IN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT**

**(ZBA 20-04; 730 E. Sunset Avenue)**

WHEREAS, the President and Board of Trustees (the “Village Board”) of the Village of Lombard (the “Village”) have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Lombard Village Code (the “Village Code”); and,

WHEREAS, the property, as described in Section 4 below (the “Subject Property”), is zoned R2 Single-Family Residence Zoning District; and,

WHEREAS, an application has been filed with the Village requesting approval of a variation from Section 155. 212 of the Lombard Code of Ordinances to provide for an emergency generator to be located in the required side yard setback in the R2 Single-Family Residence District, and;

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 26, 2020, pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Village Board with a recommendation of approval for the requested variation; 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;

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 Section 155.212 of the Lombard Code of Ordinances to provide for an emergency generator to be located in the required side yard setback in the R2 Single-Family Residence District.

**SECTION 2:** This ordinance shall be granted subject to compliance with the following conditions:

1. The emergency generator shall be installed in accordance with the submitted plans and elevations prepared by the petitioner, and made a part of the petition;
2. The petitioner shall apply for and receive a building permit for the emergency generator; and
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

**SECTION 3:** This Ordinance is limited and restricted to the property located at 730 E. Sunset Avenue, Lombard, Illinois, and legally described as follows:

LOT 4 IN PRIGNANO'S RESUBDIVISION OF LOT 2 IN SCHRAFT'S RESUBDIVISION OF LOT 21 IN BLOCK 3 IN LOMBARD HEIGHTS, ALONG WITH THAT PART OF LOT 20 AND WITH THAT PART OF THE WEST HALF OF VACATED WESTWOOD AVENUE LYING EAST OF AND ADJOINING SAID LOT 20, LYING SOUTH OF AND ADJACENT TO A LINE DRAWN FROM A POINT ON THE EAST LINE OF THE WEST HALF OF VACATED WESTWOOD AVENUE 71.18 FEET SOUTH OF THE NORTH LINE OF LOT 20 PROJECTED EAST TO THE EAST LINE OF SAID WEST HALF OF WESTWOOD AVENUE, AND TO A POINT ON THE LINE BETWEEN SAID LOT 20 AND LOT 21, SAID POINT BEING 10.96 FEET SOUTHEAST OF THE COMMON CORNER OF SAID LOTS 20 AND 21, ALL IN BLOCK 3 IN LOMBARD HEIGHTS, A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID PRIGNANO'S RESUBDIVISION RECORDED OCTOBER 4, 1983, AS DOCUMENT R83-71623, IN DUPAGE COUNTY, ILL.

PIN: 06-05-208-032

**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 \_\_\_\_\_, 2020.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Ordinance No. \_\_\_\_\_

Re: ZBA 20-04

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Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2020, pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Keith Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Sharon Kuderna, Village Clerk