

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO:	Zoning Board of Appeals	HEARING DATE:	May 24, 2006
FROM:	Department of Community Development	PREPARED BY:	Michelle Kulikowski Planner I

TITLE

ZBA 06-08; 512 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 47.1 percent where a minimum of 50 percent open space is required, to allow for the construction of a deck within the R2 Single Family Residential District.

GENERAL INFORMATION

Petitioner/Property Owner:	Kevin and Michelle Wesling 512 S. Craig Place Lombard, IL 60148
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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 April 7, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by LSCI Land Surveyors, dated November 14, 1995.
4. Drawings of the proposed deck.

DESCRIPTION

The subject property is currently maintains 47.1% open space and is considered legal non-conforming with respect to open space. The petitioners proposed to remove an existing deck and replace it with a deck of approximately the same size and dimensions but also with a roof structure. Once the existing deck is removed, any legal non-conforming rights associated with the deck are lost. Also, the removal of the deck would bring the property in compliance with the 50% minimum open space requirement. Therefore, the petitioners request a variation to re-establish the legal non-conformity relative to open space, so that the deck can be replaced.

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 Private Engineering Services Division has the following comment on the subject petition:

The Code requirement of 50% open space serves both to limit the density on lots as well as the volume of stormwater runoff. Decks are typically pervious since rainfall passes between the planks. However, the proposed roof over the deck would make the lot more than 50% impervious. Therefore, the Private Engineering Services Division recommends that the proposed roof be denied.

Planning

Background

The original residence located at 512 S. Craig Place was built on Lot 44 with a small portion of the garage on Lot 45. In 1992, a previous property owner received a building permit to demolish the attached garage and construct a new detached garage on Lot 44. Lot 45 no longer had any structures (or portion thereof), and the property owner was able to sell Lot 45 as a buildable lot. In 1993, a single family residence was constructed on Lot 45, which is now known as 508 S. Craig Place.

When the building permit was issued for the detached garage in 1992, the zoning lot for the subject property consisted of all of Lot 44 and the Lot 45. The total area of the property (known as 512 S. Craig Place) and was used to calculate the open space requirement. At that time, the property far exceeded the minimum open space requirement. However, the sale of Lot 45 reduced the area of the property known as 512 S. Craig Place from 16,0000 square feet to 8,000 square feet, and the property no longer met the 50% minimum open space requirement.

The previous property owner was able to sell Lot 45 for development as a matter of right because it a platted lot of record. The Village does not have any authority over the private sale of land and cannot deny a property from being developed on the basis of a non-conformity on an adjacent lot. At the time, the Village did not have any regulations to prevent this situation from occurring. The current Zoning Ordinance regulates that certain construction activity can only occur on a single lot of record. Homes built on two lots would be required to consolidate the lots in order to build an addition or large accessory structure.

Standards for Variations

Staff typically has only recommended approval for open space variations when there is an existing legal nonconforming situation and the proposed improvements will not increase the degree of non-conformity. The proposed deck includes a roof structure covering the deck. Staff finds that the roof structure would increase the degree of non-conformity. Even though the calculated percent of open space would essentially remain the same, staff finds that the roof structure increases the visual impact of the structure. The intent of the 50% minimum open space requirement is to limit bulk and density as well as the volume of stormwater runoff. The roof structure would be completely impervious, whereas the deck would allow some stormwater to reach the ground through the spaces between the wood planks covering the deck.

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 subject property (Lot 45) is

8,000 square feet in size, 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. While the sale of the Lot 44 portion of the property created the nonconformity, staff finds that there is nothing inherently unique about the subject property that warrants the open space relief.
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. It was the actions of previous property owners that created the existing nonconformity. The ordinance has been consistently applied throughout the Village.
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.

Additional Considerations

If the Zoning Board of Appeals finds that the existing deck, but not the proposed roof-over deck would meet the standards for variations, the ZBA could grant approval of a variation from the open space requirements in order to allow the deck to remain on the property as a legal conforming structure. This action would allow the petitioner to replace the existing deck with a new deck of the same size if desired. Staff would not object with this request.

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 denial 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 06-08.

Zoning Board of Appeals
Re: ZBA 06-08
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Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

DAH:MK

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c: Petitioner

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