

JUNE 24, 2015

Title

ZBA 15-07

Petitioner & Property Owner

Madeline McAfee
720 E. Prairie Avenue
Lombard, IL 60148

Property Location

720 E. Prairie Avenue
(06-05-419-012)
Trustee District #4

Zoning

R2 Single Family Residence
(LaVere's Pleasant Avenue
Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

Variation to reduce the minimum required interior side yard setback from six feet (6') to four feet (4') to allow for an existing emergency generator.

Prepared By

Matt Panfil, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

Late in 2014, the Code Administration Division was notified that an emergency generator was installed on the subject property. Upon further investigation, it was deemed that the emergency generator was installed without a permit. When the petitioner subsequently applied for a building permit, staff found that the emergency generator was located within the required interior side yard setback on the eastern portion of the subject property. The petitioner is therefore requesting a variation to allow for the existing emergency generator to remain in its current location.

APPROVALS REQUIRED

Per Section 155.212 of the Village of Lombard Zoning Ordinance, emergency generators are not permitted obstructions in required side yards. In order for the emergency generator to remain in its current location, a variation from Section 155.407 (F)(3) to allow for a reduction in the minimum side yard setback from six feet (6') to four feet (4') is required.

EXISTING CONDITIONS

In addition to the existing emergency generator, the property is improved with a two-story brick and frame single family residence with an attached garage. An approximately 360 square foot deck is located off of the rear of the home. In order to help place the request in its proper context, planning staff offers the following:

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size: 11,185 sq. ft.

Lot Coverage: 25%

Reqd. Setbacks & Proposed Dimensions (in parens.)

Front (south) 30' (33.76')

Side (east) 6' (4')

Side (west) 6' (5.5')

Rear (north) 35' (110.6')

Submittals

1. Petition for Public Hearing;
2. Response to Standards for a Variation;
3. Exhibit Depicting Location of Home, Generator, and Property Line; and
4. Plat of Survey, prepared by Land Surveying Consultants of Illinois P.C., dated December 9, 1988 and submitted May 7, 2015.

Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	CR	Vista Pond
South	Prairie Ave. / R2	Single Family Home
East	R2	Single Family Home
West	R2	Single Family Home

The adjacent properties to the east are platted in such a manner that the emergency generator is located nearest to the neighboring rear yards, thus minimizing any negative visual impact on the surrounding properties.

In their application, the petitioner also notes that Vista Pond to the immediate north has previously flooded to such an extent that water has covered their entire rear yard up to the deck. If the petitioner were to relocate their generator to the rear yard, there is serious concern about the combination of heavy rains causing both the electricity to fail, thus requiring the use of the generator, but also flooding that could submerge the generator.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has the following comments regarding the project:

1. The current location is acceptable provided it meets the manufacturer's requirements in regards to the minimum distance from the combustible house wall, windows, etc.;
2. If not already, the wooden platform would need to be constructed of pressure treated lumber or cedar; and
3. If not already, the wooden platform would need to be anchored to the ground to ensure it remains in place during flood events, especially because it is connected to the house with electric and natural gas lines.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:

Private Engineering Services (PES) notes that the location of the emergency generator does not appear to be located in the regulatory floodplain or within a drainage swale.

Public Works:

The Department of Public Works has no issues or concerns regarding the project.

Planning Services Division:

In order to be granted a variation each of the Standards for a Variation (responses attached) must be affirmed. Staff finds that all standards have been affirmed.

1. *Because of the particular physical surroundings, 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.*

Staff finds that the subject property's proximity to Vista Pond, and the resulting flood-prone topography, results in a unique physical hardship that provides for no reasonable alternative for the placement of an emergency generator.

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 unique physical surrounding and topography identified in Standard One are not generally applicable to other properties with the R2 Single-Family Residence district.

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

Staff finds that this standard is affirmed.

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.*

Staff finds that this standard is affirmed. The Lombard Zoning Ordinance does allow for emergency generators to encroach into the required rear yard setback; however, it does not anticipate for such unique physical surroundings and topography that may inundate the rear yard with floodwater.

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;*

Staff finds that this standard is affirmed. Although the emergency generator is located within the side yard setback, the nearest adjacent structure is a detached garage located in the rear yard of the neighbor to the east, and approximately fifty feet (50') from the emergency generator.

6. *The granting of the variation will not alter the essential character of the neighborhood; and*

Staff finds that this standard is affirmed in that the emergency generator will not substantially increase the visual bulk on the subject property.

7. *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.*

Staff finds that this standard is affirmed. Provided that the petitioner addresses the specific comments provided by the Building Division, the emergency generator should not increase the danger of fire or endanger the public safety.

In consideration of precedent, staff has identified two (2) similar cases that appeared before the Zoning Board of Appeals. Each case involves an emergency generator located within the minimum required six foot (6') interior side yard setback for the R2 Single-Family Residence district.

In ZBA 09-06, staff recommended that the Zoning Board of Appeals recommend denial of the requested variation to allow for an emergency generator to encroach one and one-half feet (1.5') into the required interior side yard based on there being reasonable alternative locations for the emergency generator that would comply with Village Code.

In ZBA 12-04, staff recommended that the Zoning Board of Appeals recommend approval of the requested variation to allow for an emergency generator to encroach one foot (1') into the required interior side yard due to the very unusual amount and placement of windows, basement window wells, and air conditioning unit that made it, "difficult if not impossible to meet the zoning code along with the requirements of the building code." The adjacent neighbor most impacted by the placement of the emergency generator also provided a letter of support for the petition.

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

In conclusion, staff can support the requested variation based on, but not limited to, the following:

1. All Standards for a Variation have been affirmed;
2. There is precedence for a variation to allow for an emergency generator to be located within the required side yard setback when there are no reasonable alternatives that would comply with Village Code.
3. The emergency generator is located in such a manner that the visual impact to adjacent properties is minimal.

FINDINGS & RECOMMENDATIONS

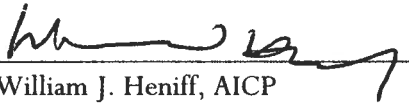
The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations, in their entirety, for the requested variation. Based on the above

considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variation to reduce the interior side yard setback **does comply** with the Standards for a Variation required by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 15-07, subject to the following conditions:

1. All comments in the Inter-Departmental Review Committee Report shall be satisfactorily addressed; and
2. If the comments in the Inter-Departmental Review Committee Report shall necessitate changes to the previously submitted Building Permit No. 2015-00000093, the petitioner shall apply for and receive a new building permit for the emergency generator; and
3. If the comments in the Inter-Departmental Review Committee Report shall necessitate physical changes to the emergency generator and/or the platform on which it is located, the variation shall become null and void unless work thereon is substantially under way within twelve (12) months of the 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

EXHIBIT A: PETITIONER'S RESPONSES TO STANDARDS FOR VARIATIONS

1. *Because of the particular physical surroundings, 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;*

1. The generator is currently installed in an optimum location considering all factors involved. In its current location on the side of the house, it is not obtrusive in any way to the closest neighbors, it is close to the electrical and gas supply lines to the house and it is farther away from potential flood waters than if located at the rear of the house.

If the generator were to be re-located to the rear of the house in order to comply with the side yard setback requirement, several hardships would be incurred:

a.) The rear side of the house has a window and electrical meter which would require, by regulations, that the generator be located at least 5 feet from the wall of the house. Moving the generator to a location that meets this regulation would make it much more visible to neighbors and would block the normal use of the deck and gate on that side of back yard. Photo below shows current generator location and back yard. This is a very high traffic area of the back yard with stairs off the deck, the fence gate, the water spigot for garden hose, and garden.



b.) Moving the generator to the back yard in order to be compliant with regulations would require significant extension of both the electrical and gas supply lines which could potentially be a safety issue. We do not want our grandchildren or the children of future owners of this home to be exposed to the generator and utility connections in such an active area of the back yard.

c.) Moving the generator to the rear yard makes it more susceptible to the high flood waters that have been experienced numerous times at our home. Periods of high rains/storms are the most likely times for the normal electrical power to fail. The same periods of high rains also have the highest probability

for flooding. During these times it is critical that the generator can continue to function and not be underwater. The photo below shows that during the April 2013 flood, the water in the back yard (in the area where the generator would have to be moved to) reached the top of the chain link fence. It also reached to the level of the top of deck. A generator at ground level would have been completely submerged in this situation and useless to keep the house and sump pumps powered with electricity. Elevating the generator to avoid flood waters would require the generator to be built onto a high platform making it even more obtrusive to the neighbors and neighborhood. Elevation of the generator would further expose the electrical and gas connections & piping increasing the potential safety concerns.



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;*

2. The conditions upon which this application is based are unique to this property.

a.) The generator in the current side yard location is not near to any of the neighbors' homes and thus does not have any detrimental impact to our neighbors. See overhead view showing the current generator location (in red circle) in relation to neighboring homes.



b.) This property is prone to severe flooding making it necessary to locate the generator as far from the source of the floodwaters (Vista Pond) as is reasonable. Floods in 2008, 2010 and 2013 completely surrounded our home with water.

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

3. There is no financial gain to the property owners or anyone else by granting this variance.

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;*

4. The hardship caused by this ordinance has not been created by any person with an interest in the property. The hardship is a result of the property layout and the history of flooding of the property.

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;*

5. Granting of this variation to allow the generator to remain in the side yard is the best scenario for public welfare and the neighborhood. In its current location, it is nearly invisible from both the street and the Vista Pond path at the rear of our property. Moving it to the back yard would make it much more visible and obtrusive to our closest neighbors and to passersby walking on the Vista Pond path. Moving it to a location in the backyard could potentially adversely affect property values.

6. *The granting of the variation will not alter the essential character of the neighborhood; and*

6. Granting of this variation will allow the essential character of the neighborhood to remain unchanged. Failure to grant this variation would force a move of the generator to the backyard where it would have a much more obtrusive presence to the neighborhood.

7. *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.*

7. The proposed variation will not impair the supply of light, air, create any safety issues or diminish property values. The generator has been in its current location since 2011 and has not created any issues.

EXHIBIT B: PLAT OF SURVEY

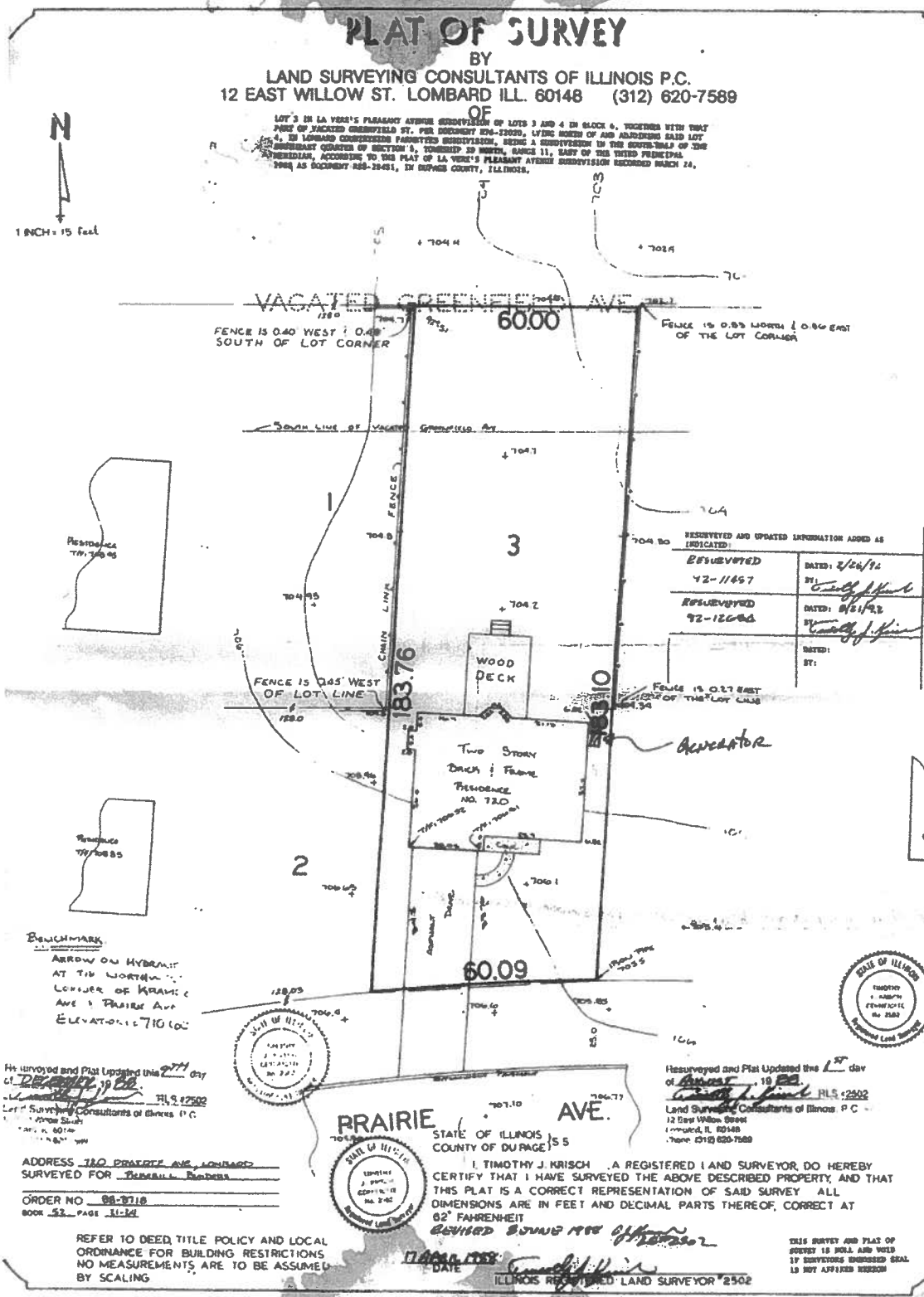
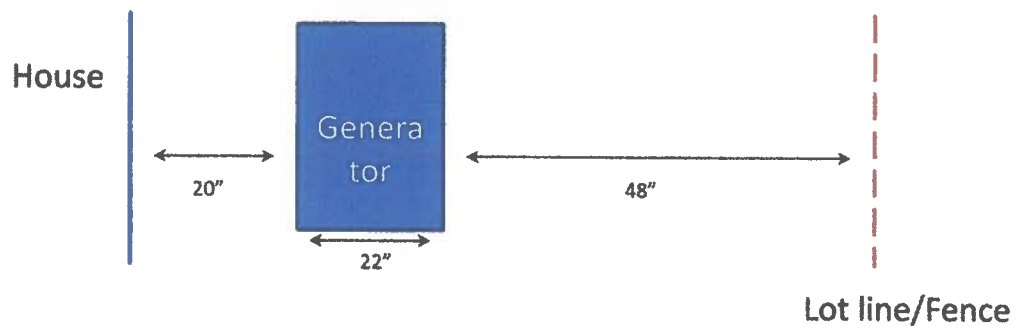


EXHIBIT C: GENERATOR DIAGRAM



720 E. Prairie Ave Lombard
Madeleine McAfee