

December 7, 2006

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

Subject: ZBA 06-25; 224 S. Craig Place

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.406 (F) (3) of the Lombard Zoning Ordinance to allow a 4.2-foot high deck to be located 2.3 feet from an interior side property line; and
2. A variation to Section 155.406 (F) (3) of the Lombard Zoning Ordinance to allow a porte-cochere to be located within the required 9-foot interior side yard setback.

The Zoning Board of Appeals conducted a public hearing on November 29, 2006. Robert Ezerins, petitioner and architect for the project, introduced the property owners, Yvette and Maris Jurevics. He stated that the porte-cochere was the inspiration for the entire project, and Mrs. Jurevics has a disability that will be assisted by the improvements. The first floor bedroom space will allow for accessibility and the ability to age in place.

Mr. Ezerins stated that the porte-cochere will not be adding bulk to the property as it is largely open and relief is only needed for the columns. The setback is no smaller than necessary to protect the new entrance. They had considered an attached garage, but decided it would not be appropriate for the subject property. The proposed deck follows an existing building line and only requires relief due to its height. Although the size of the deck could be reduced, a 7.5-foot wide deck would pose a safety hazard.

Mr. Ezerins concluded by stating that the porte-cochere was designed to accommodate a future ramp. He also explained that the permit plans shown in Appendix A of the staff report had only been submitted to allow them to get a building permit before the variations had been approved and to provide an option in the event the petition is denied.

Chairperson DeFalco then opened the meeting for public comment.

Yvette Jurevics, one of the property owners, stated that they purchased the 1921-built house in 1990 and were only the third owners. She stated that access issues were their primary concern.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property is a 50-foot wide lot that is currently improved with a two-story single-family residence, one-car detached garage, and frame shed. The petitioner is proposing improvements to the property that include a one-story building addition, porte-cochere, two-car detached garage, and deck.

On the northern side of the property the petitioner is proposing a porte-cochere that would leave a 4-foot interior side yard setback where a minimum 9-foot setback is required. The existing home is legal nonconforming with a 2.3-foot interior side yard setback on the southern side of the property. The petitioner is proposing a 4.2-foot high deck maintaining setback that would require additional relief as decks greater than three feet in height are not permitted obstructions within required yards.

In July of this year, the petitioner submitted a building permit application showing the proposed porte-cochere and deck encroachments into the interior side yards. Since that time, revised plans have been submitted that comply with all setback regulations to allow the addition and renovations to proceed in the event that this petition is denied. However, the petitioner would prefer to receive the requested variations to allow them to proceed with their original proposal.

Ms. Backensto stated that staff usually does not support setback variations unless a hardship can be shown that pertains to the physical attributes of the property. In this case, the petitioner has not demonstrated any hardship specific to this property or any conditions that distinguish the subject property from others within the neighborhood and within the R2 District in general. Although it is clear that the property owners have made efforts to create an appropriate addition to their home in keeping with its architectural style, there is nothing in this case that prevents compliance with the setback regulations.

Staff remains consistent in its interpretation for the standards for variations, which in this case have not been affirmed. There is no demonstrated physical hardship, nor are there any unique topographical conditions related to this property that would prevent compliance with the

ordinance. The proposed plans show an 11.5-foot wide deck on the southern side of the property, encroaching into the required 6-foot interior side yard setback by 3.7 feet. The petitioner can meet the interior side yard setback by constructing a 7.5-foot wide deck. Similarly, the existing home is 18.8 feet from the northern property line. As part of the overall renovations and additions, a porte-cochere or other covered entrance could be constructed within the buildable area of the lot without the need for any zoning relief.

There are not any unique differences between the petitioner's lot and others with the R2 Single Family District with respect to the width of the property and the required interior side yard setbacks. Many properties within the older neighborhoods of Lombard and specifically those within the vicinity of the subject property were subdivided as 50-foot wide lots, so the lot width itself cannot be considered justification for a variation. Although the current residence is nonconforming with regard to its setback, this nonconformity in no way prevents the proposed improvements from complying with code.

The hardship has not been created by the ordinance. The interior side yard setbacks for R2 properties have been consistently applied throughout the Village. Since it would be possible to construct the proposed improvements within the buildable area of the lot, the relief is requested solely due to a personal preference for the proposed site plan. The granting of the requested relief will set an undesirable precedent for other zoning relief within this neighborhood.

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

Mr. Bedard asked if the property was currently a Lot of Record. Ms. Backensto stated that both the improved lot and the vacant lot were each a recorded Lot of Record.

Chairperson DeFalco noted that a detached garage is allowed to be three feet from an interior side lot line. Mr. Bedard stated that he was aware of that requirement.

Mr. Young asked if the addition would include a basement. The petitioner stated that it would, and proceeded to explain the proposed deck and retaining walls as shown on the plans.

Mr. Young asked if it would be possible to bring the deck into compliance through a grade alteration. Ms. Backensto stated that it would theoretically be possible to meet the zoning requirements that way, but there may be other engineering issues that could prevent them from doing so. Tom Knapp, architect for ZBA 06-24 (303 W. Harding) stated that was not a good way to solve the problem. The petitioner stated that option was not a realistic alternative due to issues with the existing block foundation.

Mr. Young asked if the porte-cochere was essentially a carport. Mr. Bedard stated that it was a carport and would allow covered access into the house. Mrs. Newman referenced a previous case on Hickory where a covered entry was allowed.

Mr. Bedard noted that the porte-cochere would place pillars within the required setback and not a solid wall.

Chairperson DeFalco asked how a porte-cochere would be constructed on the property within code. Ms. Backensto stated that the currently proposed configuration of the addition would make it difficult to do so, but the plans could be revised with a different layout to incorporate a porte-cochere within the buildable area of the lot.

Dr. Corrado asked if the porte-cochere could be reduced in size. The petitioner stated that it had been designed to be sympathetic to the existing building and also needed to accommodate a nine-foot driveway between the entry staircase and the pillars.

Chairperson DeFalco verified the existing setbacks with the petitioner. The petitioner stated that the columns are 20 inches wide for both aesthetic and structural reasons.

Chairperson DeFalco asked about the required setbacks. Ms. Backensto stated that, because there was a detached garage, the property was required to provide one side yard of at least six feet and one side yard of at least nine feet.

Mr. Young verified the proposed setbacks and roof overhang with the petitioner.

Chairperson DeFalco asked how far the neighboring house was set back off the side lot line. Mrs. Jurevics stated that it was a wide lot. The petitioner stated that the setback was eight to ten feet at a minimum. Mrs. Jurevics stated that her neighbors did not object to the petition.

Chairperson DeFalco asked if any of this could be an ADA issue. Ms. Backensto stated that she did not think the ADA would apply to roofing elements. Mr. Bedard stated that the Fair Housing Act applies to private residences, not ADA, but it would not be relevant to this petition.

Chairperson DeFalco noted that the structure would be very close to the south lot line which could be an issue if the vacant lot were ever sold. The petitioner stated that they don't want to consolidate the lots to ensure future marketability of the properties, but the property owners intent to maintain it as open space.

Mr. Bedard asked if it would be possible for the owners to grant an easement to themselves. Ms. Backensto stated that would be possible as a justification for a variation, but it would not negate the need for a variation. Mrs. Newman stated that an easement would likely also hurt the marketability of the property.

Chairperson DeFalco summarized the petition and suggested that the variations be voted upon separately. He stated that there have been past cases involving covered access to a house and referenced examples.

Mr. Bedard stated that he could support the variation for a porte-cochere on that basis that it would be less of an obstruction than the existing nonconforming garage. Mr. Young stated that the petitioner could construct the new garage regardless of whether or not the porte-cochere variation is approved. The petitioner stated that, to be clear, the ZBA members should be aware that they have a separate permit for the new two-car detached garage that is shown on the plans.

Mrs. Newman made a motion to recommend approval of the setback variation for the porte-cochere, which was seconded by Mr. Bedard.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 6-0, submits this petition to the Corporate Authorities with a recommendation of approval for the requested variation to allow a porte-cochere to be located within the required 9-foot interior side yard setback, subject to the following conditions:

1. The proposed addition shall be developed in compliance with the submitted site plan prepared by the petitioner.
2. In the event that the principal residence on the subject property be damaged or destroyed more than fifty percent of the value of the structure, any new structures shall meet the full provisions of the Zoning Ordinance.

The ZBA then resumed discussion of the requested variation for the deck.

Chairperson DeFalco summarized the requested relief.

Mrs. Newman stated that they could make the deck smaller and the deck as proposed would enlarge the existing nonconformity.

Mr. Young stated that the proposed deck would hold the same setback as the house and noted that the ZBA typically supports variations for building additions that hold the building line of an existing house.

Chairperson DeFalco inquired as to the purpose of setback regulations for decks. Ms. Backensto stated that the height limitation is intended to limit bulk outside of the buildable area of the lot.

Chairperson DeFalco stated that there was a precedent due to a previous, similar case wherein the ZBA recommended denial but the Village Board approved the relief.

Mr. Young stated that the deck height was not really up for discussion, so the question was if the deck would be 11.25 feet wide or 7.5 feet wide. He then confirmed the location of the stairs with the petitioner.

Chairperson DeFalco asked how the house was typically accessed from the detached garage and if the deck was intended as a means of egress to the house. Mr. Jurevics stated that they would typically use the side entrance, but the deck could be used depending on the circumstances.

Mr. Young reiterated that no one would object to this variation if it were for a building addition.

Mrs. Newman suggested that if size were the main concern the deck could be extended further into the backyard. The petitioner stated that they did not wish to make the deck longer because it would be more exposed and less compatible with the house. The petitioner added that the hardship in this case is the height of the existing building foundation.

Mr. Young made a motion to recommend approval of the variation for the deck, which was seconded by Dr. Corrado.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 5-1, submits this petition to the Corporate Authorities with a recommendation of approval for the requested variation to allow a 4.2-foot high deck to be located 2.3 feet from an interior side property line, subject to the following conditions:

1. The proposed addition shall be developed in compliance with the submitted site plan prepared by the petitioner.
2. In the event that the principal residence on the subject property be damaged or destroyed more than fifty percent of the value of the structure, any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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