

February 28, 2008

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

Subject: ZBA 08-01; 322 E. Elm Street

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 a variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (17.68) feet where 20 feet is required to allow for a second story addition. The petitioner also requests approval of a variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (13.69) feet where 20 feet is required to allow for the enclosure of an existing roofed-over porch, which was granted per Ordinance 5033.

The Zoning Board of Appeals conducted a public hearing on February 27, 2008. Mr. Keith Tap was introduced as a new member of the Zoning Board of Appeals. Jennifer Backensto read the oath, pausing for Mr. Tap to repeat the words. Mr. Tap was congratulated by the board members.

Chairperson DeFalco then opened the meeting for public comment. The petitioners, Larry and Jodi Coveny, were present. Mr. Coveny asked the board if they had received the elevations and other materials he had submitted.

Chairperson DeFalco said that they had. Mr. Coveny approached the board with photographs of 322 E. Elm Street which were passed among the board members. Mr. Coveny also mentioned that they had submitted a letter from one of their neighbors requesting that the variances be approved. He began describing the house, stating that it was built in 1924 and that due to the current conditions the side entrance had to be used as the primary entrance.

Mrs. Coveny stated that she believed that the small landing outside of the side entrance, a small step due to the configuration of the stairs, and the stairs leading to the basement were all safety issues. She said that this was especially true for

guests that would not be familiar with the entrance. She stated that the additional space they were requesting to be built would be constructed in such a way as to maintain the original architecture form of the home. She indicated that the same rooflines and other architectural features would be consistent with the neighborhood. She further stated that the second story addition would allow them to go up rather than adding bulk to the footprint.

Chairperson DeFalco asked if anyone was present to speak for or against the petition.

Gregory Parks, a neighbor living on Stewart Ave., stated that he and his family were good friends with the petitioners. He stated that he supports the petition because the Coveny family has been good neighbors and property owners. He stated that they had made improvements to 322 E. Elm Street and that he was happy they were willing to further improve their property. Mr. Parks said that these variations would allow the Covenys to remain in their current home which would promote stability in the neighborhood.

Chairperson DeFalco then requested the staff report. Jennifer Backensto, Planner II, stated petitioner's request has been separated into two separate approvals as each poses its own unique land use issues. The first action requiring relief is to erect a second story addition above the existing structure that will hold the same setback that the house currently maintains. The second action is to enclose an existing covered side stoop/porch, also located within the required corner side yard. As the house is legal non-conforming due to the insufficient corner side yard setback, a variation is required for both proposals. All other setback requirements relating to the principal structure are presently conforming.

Ms. Backensto stated that setbacks are required to control bulk on property. Without such requirements structures could be built without adequate space for health and safety. Setbacks also preserve the suburban character of the area, help prevent over intensified use and help ensure that lots do not have the appearance of being overbuilt. For these reasons staff usually does not support setback variations unless a hardship can be shown that pertains to the physical attributes of the property.

Ms. Backensto stated that there were two related past approvals for the subject property. The first, ZBA 01-17, allowed a corner setback variation for roofed-over side porch. The second, ZBA 05-02, allowed a fence height variation for corner side yard.

Ms. Backensto also indicated that there were three prior cases that provided precedence for the variation in which a second story addition would be in the required corner side yard but holds the current setback of the residence:

- 1) ZBA 05-03. The property at 1051 S. Stewart Avenue received approval of a variation to reduce the required corner side yard setback from twenty feet (20') to eighteen feet (18').

- 2) ZBA 03-26. The property at 101 S. Chase received a variation to reduce the required corner side yard setback from twenty feet (20') to ten feet (10') for a residential addition.
- 3) ZBA 06-26. The property at 117 S. Stewart received a corner side yard reduction to construct an addition that would maintain a 14'8" corner side yard setback.

As related to the variation for an enclosed porch, Ms. Backensto stated the property also contains a concrete stoop and steps to a side entrance on the east side of the property off Stewart Avenue. The side stoop is approximately four feet wide, seven feet long and less than 36 inches in height. The Zoning Ordinance requires a 20-foot side yard setback. As the porch was built with the house in 1924 it is also legal non-conforming. The property owner received Board approval in 2001 in ZBA 01-17 to cover the aforementioned porch with a roof. Approval to enclose the porch was never granted through ZBA 01-17. The petitioners wish to enclose the porch, which is not allowed by code, as the porch intrudes in the corner side yard setback. Based on the standards to variations, the petitioner noted that the enclosed porch would essentially be used as an extension to a staircase landing, which is currently only nine (9) square feet.

Ms. Backensto continued by stating that in June of 2002, PC 02-23 introduced text amendments, which changed the Code to allow covered porches to encroach into the front yard setback so long as a twenty-five (25) foot setback was maintained and the porch did not extend out more than seven (7) feet from the principal structure. Those parameters were established so that the size of a front porch would be wide enough so that it is a useful space but not wide enough that it can be readily converted into a room addition, thus resulting in excessive visual bulk. Although the subject porch is not located within the front yard setback, the same principal exists as the porch fronts public right of way, Stewart Avenue.

Ms. Backensto said that staff is not supportive of the porch enclosure because enclosing the porch would increase the visual bulk on the east side of the property. Also, the hardship presented is of a personal nature not one based on the physical attributes of the property. The lot is similar to many R2 single family lots in Lombard. The petitioners desire to enclose the porch is a convenience, rather than a hardship associated with the property. Most of the lots on both sides of the street are 50 feet in width, 10 feet narrower than the minimum width in the R2 district. This means that the area is more likely to have an appearance of overcrowding.

Ms. Backensto read the following findings from the staff report:

To be granted a variation the petitioner 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.

- 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 many R2 Single Family Residential lots in the Village. Although somewhat unique in its non-conformity the property itself is not.

- 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 ordinance has not caused the hardship.

- 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 it contributes to loss of suburban character of the neighborhood and is not consistent with the overall characteristics of the area. Staff finds that increasing the non-conformity will change the characteristics of the area, as it would present the visual appearance as a house addition.

- 5. The granting of the variation will alter the essential character of the neighborhood.*

Staff finds that the requested relief would create visual bulk and alter the aesthetic character of the neighborhood.

Ms. Backensto stated that the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the proposed second story addition while recommending **denial** of the setback variation relative to the proposed porch enclosure.

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

Mr. Bedard asked the petitioners how far they intended to extend the stoop. Mr. Coveny stated that the stoop would not be extended.

Mr. Tap asked the petitioners if the enclosed porch would be a pass-through area or if furniture would be kept there. Mr. Coveny stated that at four feet in depth he did not intend to keep furniture in the room.

Chairperson DeFalco stated that when the previous variation was granted the board stipulated that the porch could be roofed over but that there be no enclosure. Staff pointed out at the time that a covered porch would be a code violation. Ms. Warren previously stated that the unenclosed porch would create less visual bulk. Typically, the Zoning Board of Appeals does not allow enclosed porches of this kind. Chairperson DeFalco corrected himself that the stipulation that there be no enclosure was not specifically stated. He also stated that typically the board does allow second story additions over an existing footprint.

Ms. Backensto suggested that if a motion were to be made that the board make the condition that if fifty (50) percent of the home were to be destroyed that the variation would no longer apply.

Chairperson DeFalco agreed and asked if anyone would like to make a motion pertaining to the first variation.

On a motion by Mr. Bedard and a second by Mr. Tap, the Zoning Board of Appeals recommended that the Village Board approve the first variation related to the second story addition by a roll call vote of 5 to 0, subject to the following condition:

1. If fifty (50) percent or more of the home is destroyed, the variation will no longer be applicable to the property.

Chairperson DeFalco suggested that the board now address the second variation.

Mr. Tap indicated that he wanted to raise three points. First, he indicated that there was a similar construction of a porch addition at nearby 117 S. Stewart Ave. Second, he indicated that staff had discussed bulk issues and that 310 and 320 E. Elm Street have similar additions. Third, he indicated that the change would fit in aesthetically with the neighborhood.

Mrs. Coveny stated that on the side of the street of the subject property from Parkside to Elm Street, the petitioners' home, an alley, and another house take up the whole block. There is not a house directly on either side. Additionally, the added bulk would only be a small percentage of the house. Mrs. Coveny continued stating that on the inside that they could not reasonably change the configuration where the steps go down to the basement because of how the door opens. Therefore, they were unable to address the safety issues in that manner.

Chairperson DeFalco asked if there was also a door facing Elm Street that is covered and has a concrete walk in front.

Mrs. Coveny responded that there is no concrete walkway.

Mr. Bedard stated that he would be in favor of the variation because of the small percentage of additional bulk and that the enclosure would not encroach on other houses.

Mr. Tap asked the petitioners if they had intentions of changing their fence.

The petitioners indicated that they had no such intention.

Mr. Tap stated that he believed there would be a visual blend between the structure and the fence.

On a motion by Mr. Bedard and a second by Mr. Tap, the Zoning Board of Appeals recommended that the Village Board approve the second variation related to the roofed over and enclosed porch by a roll call vote of 4 to 1, subject to the following condition:

1. If fifty (50) percent or more of the home is destroyed, the variation will no longer be applicable to the property.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals