

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

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

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: August 5, 2010 (B of T) Date: August 19, 2010

TITLE: ZBA 10-08: 322 E. Elm Street

SUBMITTED BY: Department of Community Development *MJD*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1. 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.
 2. 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 ZBA recommended approval of this petition with conditions.
- Please place this item on the August 19, 2010 Board of Trustees consent agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

David A. Hulseberg

Date

Date

Date

08-05-10

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: David A. Hulseberg, Village Manager

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

DATE: August 19, 2010

SUBJECT: ZBA 10-08: 322 E. Elm Street

Please find the following items for Village Board consideration as part of the August 19, 2010 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 10-08;
3. An Ordinance granting approval of the requested corner side yard setback for a second story addition and approval of the corner side yard setback relief for the porch enclosure; and,
3. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials.

Chairperson DeFalso then requested the staff report. Michael Toth, Planner I, stated that the property contains a one-story single family residence built approximately 17.7 feet from the side property line along Stewart Avenue. The 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 sideyard setback, a variation is required for both proposals. All other setback requirements relating to the principal structure are presently conforming.

The petitioner had already received prior approval of both of the aforementioned variations in 2008, per Ordinance 6159. However, construction had not commenced on the subject property within one year of approval. As such, Ordinance 6159 subsequently expired March 20, 2009.

As part of ZBA 08-01, staff originally recommended denial of the corner side yard porch enclosure, due to a lack of hardship. However, the Zoning Board of Appeals overturned staff's recommendation and recommended approval. Subsequently, the Village Board approved the variation. Staff believes that precedence has been established that the porch enclosure in the corner side yard is appropriate for the subject property. As such, staff is now recommending approval of the porch enclosure. Also, staff still supports the variation for the second-story addition.

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

Mr. Bartels asked the Zoning Board of Appeals what was the hardship associated with the porch enclosure. He stated that he was not on the ZBA during the first petition and was just curious. Mr. Bedard stated that the hardship was associated with the lack of space provided to get into the home (at that entrance). He added that the enclosure is only a small platform, but due to the configuration of the internal staircases, it allows the family enough space to get into the home safely.

Mr. Tap added that the enclosure is not usable space. He added that there isn't enough room there to place any furniture.

Larry Coveny confirmed that the enclosure area is only four (4) feet by five (5) feet.

Mr. Tap asked the petitioner if the plans were to remain the same as they were in 2008.

Mr. Coveny replied, yes.

On a motion by Mr. Bedard and a second by Mr. Tap, the Zoning Board of Appeals recommended that the Village Board approve both variations by a roll call vote of 7 to 0, subject to the following conditions:

1) The subject property shall be developed in substantial conformance with the building elevations and site plan prepared by M.A.R.S. Design and Construction, dated June 16, 2010.

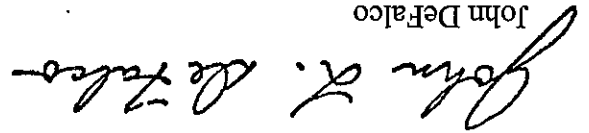
2) The petitioner shall apply for and receive a building permit for the proposed plans.

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.

4) In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required corner side yard setback.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco

Chairperson

Zoning Board of Appeals

Village of Lombard
Department of Community Development
255 E. Wilson Avenue
Lombard, IL 60148

Return To:

ORDINANCE 6159
APPROVING A VARIATION OF THE LOMBARD ZONING
ORDINANCE TITLE 15, CHAPTER 155 OF THE CODE OF
LOMBARD, ILLINOIS
Address: 322 E. Elm Street, Lombard, IL
PIN's: 06-08-115-012

5

FRED BUCHOLZ
DUPAGE COUNTY RECORDER
APR. 09, 2008 3:36 PM
OTHER 06-08-115-012
087 PAGES R2008-058266



ORDINANCE NO. 6159

**AN ORDINANCE APPROVING A VARIATION
OF THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 08-01: 322 E. Elm Street)

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

WHEREAS, the subject property is zoned R2 Single Family Residence District;

and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, 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; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, 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; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on February 27, 2008 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendations to the Board of Trustees with a recommendation of approval of the requested corner side yard setback for a second story addition and recommendation of approval of the corner side yard setback relief for the porch enclosure; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; 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 lot width variation only.

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 Title 15, Chapter 155, 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; and,

SECTION 2: That a variation is hereby granted from the provisions of Title 15, Chapter 155, 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.

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

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

SECTION 4: This ordinance is limited and restricted to the property generally located at 322 E. Elm Street, Lombard, Illinois, and legally described as follows:

LOT 12 IN BLOCK 3 IN CAMBRIDGE MANOR, BEING A SUBDIVISION IN THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 8 TOWNSHIP 39 NORTH RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT 178816, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-08-115-012

SECTION 5: 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 6th day of March, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

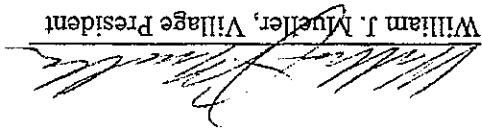
Passed on second reading this 20th day of March, 2008.

AYES: Trustees: Cron Tross, O'Brien, Moreau, Fitzpatrick and Soderstrom

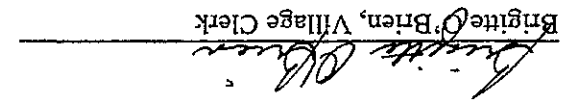
NAYS: None

ABSENT: None

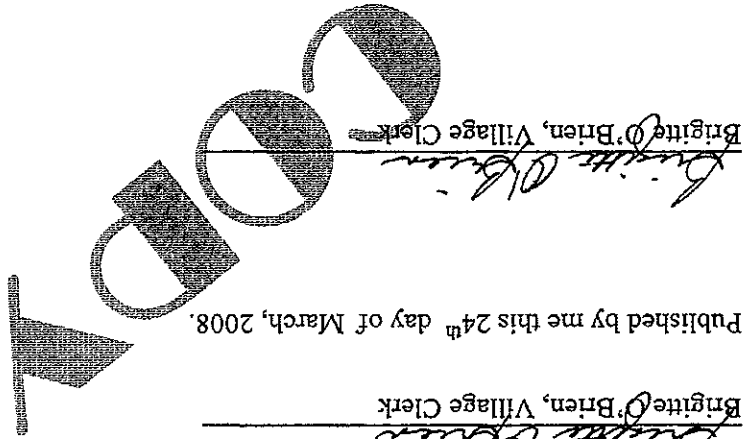
APPROVED by me this 20th day of March, 2008


William J. Mueller, Village President

ATTEST:


Brigitte O'Brien, Village Clerk

Published by me this 24th day of March, 2008.


Brigitte O'Brien, Village Clerk



I, Barbara A. Johnson, hereby certify that I am the duly qualified Deputy Village Clerk of the Village of Lombard, DuPage County, Illinois, as authorized by Statute and provided by local Ordinance, and as such Deputy Village Clerk, I maintain and am safekeeper of the records and files of the President and Board of Trustees of said Village.

I further certify that attached hereto is a copy of ORDINANCE 6159

APPROVING A VARIATION OF THE LOMBARD ZONING ORDINANCE TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS

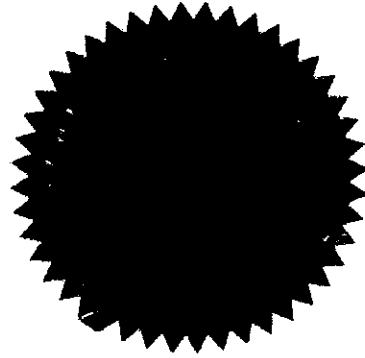
PN: 06-08-115-012

ADDRESS: 322 B. ELM STREET, LOMBARD, IL

of the said Village as it appears from the official records of said Village duly approved this 20th day of March, 2008.

In Witness Whereof, I have hereunto affixed my official signature and the Corporate Seal of said Village of Lombard, DuPage County, Illinois this 31st day of March, 2008.

Barbara A. Johnson
 Deputy Village Clerk
 Village of Lombard
 DuPage County, Illinois



**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Michael S. Toth
Planner I

HEARING DATE: August 4, 2010

TITLE

ZBA 10-08; 322 E. Elm Street: The petitioner requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1) 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.

2) 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.

GENERAL INFORMATION

Petitioner/Property Owner: Larry and Jodi Coveny
322 E. Elm Street
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single-Family Residence District
Existing Land Use: Single-Family Residence
Size of Property: Approximately 10,000 square feet

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District; Single-Family Residences

South: R2 Single Family Residence District; Single Family Residences
East: R2 Single-Family Residence District; Single-Family Residences
West: R2 Single-Family Residence District; Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on July 14, 2010.

1. Petition for Public Hearing.
2. Petitioner's Response to Standards to Variations
3. Plat of Survey, prepared by Lambert & Associates, dated January 23, 2008.
4. Building elevations and site plan prepared by M.A.R.S. Design and Construction, dated June 16, 2010.

DESCRIPTION

The property contains a one-story single family residence built approximately 17.7 feet from the side property line along Stewart Avenue. The 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 sideyard setback, a variation is required for both proposals. All other setback requirements relating to the principal structure are presently conforming.

The petitioner had already received prior approval of both of the aforementioned variations in 2008, per Ordinance 6159. However, construction had not commenced on the subject property within one year of approval. As such, Ordinance 6159 subsequently expired March 20, 2009.

INTER-DEPARTMENTAL REVIEW COMMENTS

The following IDRC comments reflect the comments from the original case, ZBA 08-01:

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no comments regarding the request.

Public Works Engineering

The Engineering Division of Public Works has no concerns regarding the petitioner's request.

FIRE AND BUILDING

The Bureau of Inspectional Services has no comments regarding the request at this time.

PLANNING

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. As shown below, the unique character and configuration of the existing house has resulted in several variation requests that have been approved.

Past Approvals for Subject Property

Case No.	Request Type	Approval Date
ZBA 01-17	Corner Setback variation for roofed-over side porch.	1/22/02
ZBA 05-02	Fence Height variation for corner side yard.	4/21/05
ZBA 08-01	Corner Setback variation for second-story addition and porch enclosure	3/20/08

Second-Story Addition

There are several ZBA cases that provide precedence for the requested variation where the addition holds the setback of the existing residence and does not further encroach into the requisite yard. Examples of these variations include:

- 1) 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') (ZBA 05-03).

- 2) 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 (ZBA 03-26).

3) The property at 117 S. Stewart (ZBA 06-26) received a corner side yard reduction to construct an addition that would maintain a 14'8" corner sideyard setback.

These examples of at-grade additions within the required twenty (20') foot corner side yard. The proposed addition would be a second-story addition and would not increase the lot area coverage.

Porch Enclosure

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 (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.

As part of ZBA 08-01, staff originally recommended denial of the corner side yard porch enclosure, due to a lack of hardship. However, the Zoning Board of Appeals overturned staff's recommendation and recommended approval. Subsequently, the Village Board approved the variation. Staff believes that precedence has been established that the porch enclosure in the corner side yard is appropriate for the subject property. As such, staff is now recommending approval of the porch enclosure. Also, staff still supports the variation for the second-story addition.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has affirms the Standards for Variations for the requested setback variations. 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 proposed second-story addition and setback variation relative to the proposed porch enclosure:

Based on the submitted petition and the testimony presented, the requested setback variation pertaining to the second-story addition and setback variation relative to the proposed porch enclosure comply with the Standards by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals accept the findings of the Inter-departmental Review Report as the finding of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of the second-story addition and porch enclosure associated with ZBA 10-08, subject to the following conditions:

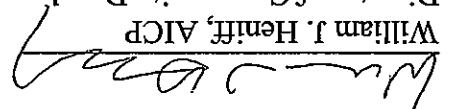
1) The subject property shall be developed in substantial conformance with the building elevations and site plan prepared by M.A.R.S. Design and Construction, dated June 16, 2010.

2) The petitioner shall apply for and receive a building permit for the proposed plans.

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.

4) In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required corner side yard setback.

Inter-Departmental Review Report Approved By:


William J. Heniff, AICP

Director of Community Development

WJH:MT:jd

at-
c: Petitioner

PETITION TO VILLAGE OF LOMBARD ZONING BOARD OF APPEALS

FOR 322 E. ELM STREET (Corner of Stewart and Elm)

DESCRIPTION OF REQUEST:

Variance to required twenty (20) foot side yard setback (east side of lot on Stewart Avenue), allowing the existing side entrance to be enclosed.

RESPONSE TO STANDARDS FOR VARIATION:

1. The existing home was built in 1924 with a corner side yard of 17.67'. Current required side yard is 20', resulting in a non-conforming existing home at the corner side yard. Currently the home has an entrance on the east side with a 6.6' wide x 4' deep cement stoop. The entrance was covered by a wooden roof structure built under permit #01-2047 after the homeowners were granted a request for variation (first reading October 24, 2001, agenda item 010754 ZBA 01-17: 322 E. Elm Street). Because the detached garage is at the rear of the property facing the alley, this side entrance is regularly used by the family to access the home, as well as by neighbors and visitors.

The proposed design is to enclose the stoop area to create a larger and safer entrance to the home. Currently, the landing inside the door is 3' by 3' with 3 steps on the left up to the existing main floor and a staircase directly ahead descending to the basement. The proposed design would move the exterior door to the outer edge of the stoop, incorporating the stoop into a more suitably sized, safer entryway. The hardship exists due to the location of the existing interior staircase and its proximity to the entry. The staircase will have to be relocated, creating major reconstruction of the first floor and finished basement.

2. The application is unique to this property because of the original placement of the house on the lot and the positioning of the east entrance between the first floor level of the home and at the head of the stairway, creating an awkward access to living space.

3. The purpose of the variation is to allow the owner to take advantage of the existing exterior stoop, incorporating it with the existing interior area to create a larger contiguous space and ensuring individuals a safer entry into the home. The proposed design does not increase the building's footprint and maintains the architectural integrity of the home.

4. The hardship was created because the zoning code that was changed or created after the home was built would be applied to the existing structure.

5. The requested variation does not increase the building's footprint, therefore, drainage and storm water runoff to adjacent properties will not change. The proposed design will not affect traffic site line at the corner of East Elm Street and South Stewart Avenue.

6. Granting the variation will not alter the essential character of the neighborhood because the entrance already exists and the proposed enclosure is in keeping with the existing home's architecture.

7. The variance will not impair the supply of light and air to neighboring properties because the request is for the east side of the property which is a corner side yard, the footprint will not change, and the current setback will be unchanged.

**AN ORDINANCE APPROVING VARIATIONS
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 10-08: 322 E. Elm Street)

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

WHEREAS, the subject property is zoned R2 Single Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, 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; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, 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; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 4, 2010 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendations to the Board of Trustees with a recommendation of approval of the requested corner side yard setback for a second story addition and recommendation of approval of the corner side yard setback relief for the porch enclosure; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; and

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 Title 15, Chapter 155, 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; and,

SECTION 2: That a variation is hereby granted from the provisions of Title 15, Chapter 155, 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.

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1) The subject property shall be developed in substantial conformance with the building elevations and site plan prepared by M.A.R.S. Design and Construction, dated June 16, 2010.

2) The petitioner shall apply for and receive a building permit for the proposed plans.

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.

4) In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required corner side yard setback.

SECTION 4: This ordinance is limited and restricted to the property generally located at 322 E. Elm Street, Lombard, Illinois, and legally described as follows:

LOT 12 IN BLOCK 3 IN CAMBRIDGE MANOR, BEING A SUBDIVISION IN THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 8, TOWNSHIP 39NORTH RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT 178816, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-08-115-012

SECTION 5: 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 _____, 2010.

First reading waived by action of the Board of Trustees this _____ day of _____, 2010.

Passed on second reading this _____ day of _____, 2010.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2010.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2010.

Brigitte O'Brien, Village Clerk