

March 2, 2006

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

Subject: ZBA 06-02; 44 S. Columbine Ave.

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation to Section 155.415(F)(4) to reduce the rear yard setback from thirty-five feet (35') to five feet (5') to allow for the construction of a deck over three feet (3') above average grade in the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on February 22, 2006. William Soldwisch, owner of the subject property, presented the petition. He stated that last January his home suffered a fire. He noted that the original back deck was protected by grandfather provisions, but after the deck was removed, the deck was not protected anymore. He mentioned that with the improvements to the house as part of the fire restoration, he would also like to rebuild a deck that was slightly larger than the original deck.

Chairperson DeFalco opened the meeting for public comment. No one spoke for or against the petition. He then requested the staff report.

Michelle Kulikowski, Planner I, presented the staff report. She noted that the subject property is a triangular shaped lot that abuts Route 53 to the east and Interstate 355 to the south and west. She stated that the property is currently improved with two structures, and the structure to the south is the principal structure where the petitioner resides. She mentioned that in January 2005, the residence was damaged from a fire, and prior to the fire, there was an attached deck in the rear which was setback three feet ten inches (3'10") from the rear property line. She stated that the deck on the subject property was more than three feet (3') above grade and was considered legal nonconforming. Ms. Kulikowski noted that decks are only a permitted encroachment in the rear yard if they are less than three feet (3') above average grade, and decks over three feet (3') must meet

the thirty-five foot (35') rear yard setback. She mentioned that the deck remained intact after the fire, but in order to work on the foundation, the deck had to be removed. She noted that once the deck was removed, any legal non-conforming rights associated with the deck were lost. She stated that the petitioner is proposing to reconstruct a similar deck with an additional expansion to the south of the residence, but because the proposed deck will be more than three feet (3') above grade and setback only five feet four inches (5'4") from the rear property line, a variation is needed.

Ms. Kulikowski stated that the subject property consists of a triangular portion of Lot 17. She noted that Lot 17 was originally platted as a more rectangular shape, but the southwestern portion of the lot was acquired for the construction of Interstate 355. She mentioned that the two structures on the property were constructed prior to the construction of the tollway. She stated that the acquisition of the southwestern portion of the lot for the tollway created nonconformities relative to the rear yard setback for the structure to the south. Ms. Kulikowski noted that both structures were originally constructed as residences, and the petitioner lives in the structure to the south and uses the structure to the north as an accessory structure for storage. She mentioned that the Zoning Ordinance only permits one principal structure, or residence, on a lot. She stated that since more than a year has passed since the structure to the north was used as a residence, there are no longer any legal nonconforming rights to allow two residences on the property. She noted that the property would have to be subdivided in order to use both structures as separate residences.

Ms. Kulikowski also noted that the petitioner is also replacing the stairs to the front entrance, which do not include a roof over the landing, and therefore are not considered a front porch. She stated that a front porch on the subject property would require a variation because the provisions for front porch encroachments would not be met. She noted that stairs are a permitted encroachment in the front yard, and therefore, no variation is necessary.

Ms. Kulikowski stated that the staff finds that the standards for variations have been affirmed. She stated that there are several factors that present a hardship unique to the subject property. She noted that the nonconforming rear yard is a result of the acquisition of the southwestern portion of the lot for Interstate 355. She also noted that the proposed deck would be a permitted encroachment if it were less than three feet (3') above grade, but because the property slopes substantially towards the rear of the property, the deck must be built at a height greater than three feet (3') above grade. She also mentioned that the triangular shape of the lot presents a unique condition for a property within the R2 District. Ms. Kulikowski stated that the proposed deck within the rear yard will not impact any properties to the rear as the property abuts Interstate 355, and there is also a sound wall between the tollway and the subject property. She noted that the only adjacent property is to the north, and the residence on the subject property is more than one hundred feet (100') from the shared property line. She mentioned that the two story accessory structure will also obstruct the view of the deck from the adjacent property. She stated that the proposed deck will not alter the essential character of the neighborhood, as there was already a

similar deck on the subject property prior to the fire. She noted that the proposed deck will decrease the degree of nonconformity as it will be setback five feet four inches (5'4") from the rear property and the previous deck was setback three feet ten inches (3'10") from the rear property line.

Ms. Kulikowski stated that staff requested variation does comply with the standards for variations, and recommends approval of the petition. She also noted the two conditions of approval outlined in the IDRC report.

Chairperson DeFalco opened the meeting for discussion among the members.

Mr. Bedard noted that staff did a wonderful job with the research for this petition.

Chairperson DeFalco read the two conditions of approval outlined in the staff report.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals submits this petition to the Corporate Authorities with a recommendation of approval of ZBA 06-02 by a roll call vote of 5-0, subject to the following conditions:

1. That the petitioner shall apply for and receive a building permit for the deck.
2. That the variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, then any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals