



Village of Lombard

Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org

Minutes

Zoning Board of Appeals

*John DeFalco, Chairperson
Mary Newman, Raymond Bartels,
Greg Young, Keith Tap,
Ed Bedard and Val Corrado
Staff Liaison: Michael Toth*

Wednesday, October 26, 2011

7:30 PM

Village Hall Board Room

Call to Order

Chairperson DeFalco called the meeting to order at 7:30 p.m.

Pledge of Allegiance

Chairperson DeFalco led the Pledge of Allegiance.

Roll Call of Members

Present 5 - Trustee John DeFalco, Mary Newman, Raymond Bartels, Ed Bedard, and Val Corrado
Absent 2 - Greg Young, and Keith Tap

Also present: Michael Toth, Planner I.

Public Hearings

[110644](#)

ZBA 11-06: 661 N. Charlotte Street

Requests a variation from Section 155.407(F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback to fifteen feet (15'), where thirty feet (30') is required to allow for the construction of a screened porch addition in the R2 Single-Family Residence District. (DISTRICT #4)

Chairperson DeFalco opened the meeting for public comment.

The property owner, Matt Berberich, 661 N. Charlotte St., Glen Ellyn, presented the petition. Mr. Berberich stated that he understands why he is before the Zoning Board of Appeals. He then stated that he is a longtime resident of Lombard with three kids. He stated that he is requesting a variation to allow for a screened porch addition because his son has required medical attention twice for mosquito bite allergies. He added that his son also has to miss outdoor activities because of his mosquito allergies. Mr. Berberich then explained that there is a fence that is located six (6) to seven (7) feet inside of his rear property line, which results in a lack of space in his

rear yard. He then added that the rear yard drops off to the back of the property. Mr. Berberich then asked the members of the Zoning Board of Appeals if they visited the site.

Chairperson DeFalco and Mr. Bartels responded by stating that they had visited the site.

Mr. Berberich stated that the original deck (that the screen porch addition was built upon) was built with a permit in 2002. He then stated that the screen porch addition is located fifteen (15) feet from the side property line, where only six (6) feet is required. He added that the difference in setback equates to eight-hundred (800) square feet of lot area. Mr. Berberich then referred to the neighbor petition that has been provided to each ZBA member. He stated that none of the neighbors he approached to sign the petition were against his screen porch addition. He then stated that all of his neighbors signed the petition, with the exception of a couple neighbors whose homes were actually being rented out. Mr. Berberich then mentioned that he submitted a doctor's note regarding his son's mosquito allergy and also a picture of his son after a mosquito bite.

Chairperson DeFalco asked if there was anyone present to speak in favor or against the petition.

Ron Schulze, 656 N. Charlotte St., stated that the petitioners did a nice job with the screen porch addition. He then stated that he also understands the need for zoning laws. Mr. Schulze stated that the laws need to take medical issues into consideration. He added that if this were a handicap ramp that this wouldn't be an issue. He stated that medical conditions should always be taken seriously.

Jennifer Jendras, 664 N. Charlotte St., stated that she is also a longtime resident of Lombard. She stated that she is on the Environmental Concerns Committee and is also on a board for Glen Westlake School so she also understands the need for zoning laws. She stated that setbacks provide privacy and also reduce noise impacts on surrounding properties. She stated that the lot that abuts the rear yard of the subject property has a rear yard setback of seventy-five (75) feet and there is a fence and group of trees so the screen porch is invisible to the property to the rear of the subject property. She then mentioned some of the other setbacks in the surrounding area and stated that she has no issues with the screen porch addition.

Joseph Batka, 669 N. Charlotte St., stated that he lives a couple homes down from the petitioner and is in favor of the variation. He stated that he also understands the rules, but sometimes the rules are meant to address a large group and that the screen porch addition should be an exception to the rules.

Chairperson DeFalco then requested the staff report.

Mr. Toth stated that staff is entering the IDRC Report into the public record in its entirety. The petitioner is requesting a variation to reduce the rear yard setback to fifteen (15) feet to allow for an existing three-hundred (300) square foot (15'x20') screened porch addition. The screened porch was built on top of an existing deck and extends fifteen (15) feet into the thirty (30) foot rear yard setback. The structure is considered to be a building addition, which are not listed as permitted encroachments in the rear yard. As such, a variation is required.

The same property owner petitioned for a variation in 2002 (ZBA 02-21) to allow for a three-hundred (300) square foot (15'x20') screened porch addition fifteen (15) feet into the rear yard. The proposed screened porch addition is the exact size and

location that was previously petitioned and was recently constructed over an existing deck. The screened porch addition variation was ultimately denied by the Village Board. The petitioner did receive a permit for the deck in 2002; however, the property owner was recently cited for constructing the screened porch addition over the existing deck without a building permit.

Decks which are open and not over three feet above the average level of the adjoining ground are permitted within the rear yard, provided that a minimum two-foot side yard setback is provided. As the subject screened porch is roofed over and enclosed, it is considered to be an addition to the principal structure. Therefore, the structure must observe the rear yard setback provision required of a principal structure, unless a variation is granted.

The subject property is located in the Providence Glen subdivision. The Providence Glen subdivision received approval to provide for thirty (30) foot rear yards on each of the 32 residential lots within that subdivision, which is five (5) feet less than the thirty-five (35) foot rear yard required on other lots within the R2 Single-Family Residence District.

The principal structure on the subject property is located thirty (30) feet from the eastern (rear) property line. The addition maintains the existing building line of the home and extends fifteen (15) feet to the east, placing it fifteen (15) feet from the rear property line and directly outside of the fifteen (15) foot public utility and drainage easement located in the rear of the property. The principal structure is also located fifteen (15) feet from the northern (interior side) property line, where only six (6) feet is required. As the addition holds the same building line as the north elevation, the principal structure and subject addition are located more than double the distance to the adjacent side property line than what is required by Code.

A comprehensive review of all residential properties within the Providence Glen planned development revealed no cases in which zoning relief has been granted for a building addition, including screened porches. The petitioner states that the small lot size precludes him from utilizing his back yard. Staff recognizes that the lot depth is somewhat less than that of the majority of lots in the R2 District; however, that is why the rear yard setback has already been reduced from 35 feet to 30 feet. Each of the lots in the Providence Glen planned development has a 30-foot rear yard, granting the property owners an additional 5 feet of building space that they would not be permitted to build upon on other R2 lots.

To be granted a variation the petitioner must show that they have affirmed each of the "Standards for Variation". Staff has reviewed the petitioner's responses and offers the following comments:

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.

The rectangular shape of the petitioner's property is standard for all residential lots within the Village, and there are no topographical conditions that affect the variation request. The petitioner's property is 7,840 square feet and 70 feet wide, which exceeds the R2 District minimum lot sizes of 7,500 square feet and 60 feet wide. As such, the petitioner has not demonstrated any hardship.

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.

The conditions are not unique to the subject property as each of the 32 lots within the Providence Glen planned development has a 30-foot rear yard.

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 as the rear yard setback provision does not prevent the petitioner from utilizing his backyard.

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 increases bulk on the property and contributes to loss of suburban character of the neighborhood.

5. The granting of the variation will not alter the essential character of the neighborhood.

There is currently a 30' rear building setback line that extends unbroken from Goebel Drive to North Avenue that is preserved by the Providence Glen property covenants prohibit the construction of any outbuildings such as sheds. Even if there were no such property covenants, granting this variation would create an obstruction within that open space that is larger than any of the accessory structures that would otherwise be permitted by the Zoning Ordinance. Also, granting this variation would set a precedent to allow each of the other properties within Providence Glen to be granted similar variations.

Mr. Toth stated that staff is recommending denial of ZBA 11-06.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Ray Bartels asked if open space is an issue on the subject property.

Mr. Toth explained that the screen porch addition was built on top of an existing deck, which was built with a permit. He stated that past policy has dictated that building a structure over an existing structure does not affect open space, therefore open space is not being considered at this time.

Chairperson DeFalco asked if the homeowner's association has any issues with the screen porch addition.

Mr. Berberich stated that two members of the audience are on the association board. He then stated that there aren't any conflicting association rules that they are aware of.

Chairperson DeFalco stated that all of the homes in this subdivision were approved to be built at thirty (30) feet where thirty-five (35) feet is typically required.

Mr. Berberich stated that there have been other variations granted for additions in the rear yard. He then cited some examples. He then added again that there are no association rules that conflict with his project.

Chairperson DeFalco stated that all variations need to meet the required standards. He stated that the case before the ZBA involves a home that has a rear setback of thirty (30) feet where thirty-five (35) feet is typically required so they already have limited space. He added that the addition now consumes fifteen (15) feet of the thirty (30) foot rear yard.

Mr. Bartels asked the petitioner when the screen porch addition was built.

Mr. Berberich replied, July.

Mr. Bedard asked when in July.

Mr. Berberich replied, around the fourth of July. He then added that the addition is not finished.

Mr. Bedard asked if someone complained about the addition.

Mr. Toth replied, yes.

Dr. Corrado asked what would happen if the variation was denied.

Mr. Toth explained that the Building Division has an open property maintenance case on the matter. He then stated that because the petitioner is going through the variation, any such enforcement is deferred pending the outcome of the variation. If the variation was to be denied then the property maintenance case would be revisiting. He stated that he is unaware of what the next step would be, but it may involve fines or having to remove the structure.

Chairperson DeFalco then discussed the Standards to Variations that were mentioned in the staff report as not being met. He stated that there are no uncommon features on the property that warrant a variation. He stated that the addition was built outside of the Village Ordinances. He stated that the topographic features are not uncommon. He added that the rear has already been reduced and the whole neighborhood is the same way. He stated that it may set a bad precedence to approve this petition. He also stated that it isn't permissible to construct an addition in a typical thirty-five (35) foot rear yard. He then restated Jendras' statement about the location of the house to the rear and the fact that the fence blocks the addition from the house to the rear. He then stated everyone has a deck, but the addition would constitute a loss of space and that the loss of space would alter the suburban characteristics of the neighborhood.

Mr. Bedard stated that petition was originally denied in 2002. He then asked the age of the petitioner's son with the mosquito allergies.

Mr. Berberich replied, four.

Mr. Bedard stated that he believes that the screen porch addition encroaches too far into the rear yard.

It was moved by Bedard, seconded by Bartels, that this matter be recommended to the Corporate Authorities for denial. The motion carried by the following vote:

Aye: 4 - John DeFalco, Mary Newman, Raymond Bartels, and Ed Bedard

Nay: 1 - Val Corrado

Absent: 2 - Greg Young, and Keith Tap

Business Meeting

Approval of Minutes

On a motion by Corrado and seconded by Newman the minutes from the August 24, 2011 meeting were unanimously approved by the members present.

Planner's Report

New Business

Unfinished Business

Adjournment

The meeting adjourned at 8:30 p.m.

*John DeFalco, Chairperson
Zoning Board of Appeals*

*Michael Toth, Planner I
Zoning Board of Appeals*