

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)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Huliseberg, Village Manager

DATE: June 10, 2008 (B of T) Date: June 19, 2008

TITLE: ZBA 08-06: 210 W. Ash Street

SUBMITTED BY: Department of Community Development *WHD*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation to Section 155.407 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty-five (35) feet to eleven feet (11) feet in the R2 Single-Family Residence District. (DISTRICT #1)

The ZBA recommended approval of this petition with one condition.

Staff is requesting a waiver of first reading due to the Board of Trustees summer schedule.

Please place this item on the June 19, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X *David A. Huliseberg*

Date _____
Date _____
Date *6/19/08*

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 *WJH*
Acting Director of Community Development

DATE: June 19, 2008

SUBJECT: ZBA 08-06; 210 W. Ash Street

Please find the following items for Village Board consideration as part of the June 19, 2008 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 08-06;
3. An Ordinance granting approval of a rear yard setback variation; and
4. Plans associated with the petition.

Staff is requesting a waiver of first reading due to the Board of Trustees summer schedule.

Please contact me if you have any questions regarding the aforementioned materials. The Zoning Board of Appeals recommended approval of the zoning actions associated with the petition.



Village President
William J. Mueller

Village Clerk
Briette O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Dana L. Moreau, Dist. 4
Laura A. Fitzpatrick, Dist. 5
Rick Soderstrom, Dist. 6

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

Subject: ZBA 08-06; 210 W. Ash Street

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 155.407 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty-five (35) feet to eleven feet (11) feet in the R2 Single-Family Residence District.

Village Manager
David A. Hulseberg

"Our shared vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Chairperson DeFalso then opened the meeting for public comment. No one was present to speak for or against the petition.

Chairperson DeFalso then requested the staff report. Jennifer Backensto, Planner II, stated that, in the R2 District, the Zoning Ordinance requires a rear yard setback of thirty-five (35) feet. No variations have been previously granted for this property; therefore, the existing 11-foot setback is legal nonconforming. The petitioner is requesting the variation only to legally establish the existing rear setback. There are no plans to increase the degree of nonconformity by means of expanding upon the existing detached single family residence.

The petitioner's house was built on the subject property in 1952. A detached single family residence once stood on the property to the east of the subject property, which was known as the east half of Lot 5. The petitioner's property is unusually shaped in that the lot is wider than it is deep. There are unique physical limitations on the property whereas there is no practical way for the petitioners to meet the requirements of the Zoning Ordinance. Without the requested relief, the

property owner would not be able to rebuild the current home in the event it were destroyed or damaged more than 50% of its value. The relief associated with this petition only pertains to the current situation of the property; therefore, the neighborhood characteristics would not be altered in any way.

The northwest corner of the house is located approximately 14 feet from the north property line while the northeast corner of the house is located 15 feet from the north property line. A covered entry-way was constructed on the northern portion of the house and is located 11 feet from the rear property line. As the covered entry-way is considered to be part of the house, the rear setback is measured from the entry-way to the north property line at eleven (11) feet.

Under certain conditions posed by the physical characteristics of the property, staff has made favorable recommendations of rear yard setback relief in the past. This petition is nearly identical to relief granted in ZBA 04-02. As the lot depth creates a clear physical constraint, staff can support the variation to memorialize the existing setback so the house would no longer be considered non-conforming.

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

Mr. Young asked how this house and the lot came to be. Ms. Backensto stated that she did not know when the subdivision occurred, but it was at least several decades ago.

Mr. Bedard asked if it was related to the 2005 St. John's school development. Ms. Backensto stated that the subdivision predated any of the St. John's plans.

Mr. Tap asked if there was any problem with granting the relief in perpetuity. Chairperson Defalco stated that the relief would be tied to the building footprint, so anything new would need to appear back before the ZBA for relief.

Mr. Tap asked if the property was on the market. The petitioner stated that it had been for sale since August, but three sales have fallen through due to the legal nonconforming issue.

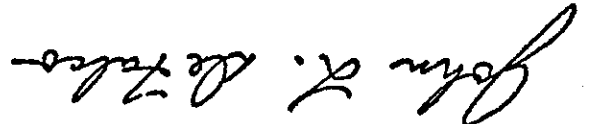
On a motion by Mr. Young and a second by Mr. Tap, the Zoning Board of Appeals recommended approval of the requested variation associated with ZBA 08-06 by a roll call vote of 7 to 0, subject to the following condition:

1. The requested relief shall only apply to the current rear yard setback dimensions. In the event that an addition or any other expansion be proposed to the rear of the property, separate relief would be required.

Re: ZBA 08-06
June 19, 2008
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Respectfully,

VILLAGE OF LOMBARD



John Defalco

Chairperson

Zoning Board of Appeals

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

TO: Lombard Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Michael S. Toth
Planner I
HEARING DATE: May 28, 2008

TITLE

ZBA 08-06; 210 W. Ash Street: The petitioner requests a variation to Section 155.407 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty-five (35) feet to eleven feet (11) feet in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Property Owner: Robert and Wendy Meek

210 W. Ash Street
Lombard, IL 60148

PROPERTY INFORMATION

Existing Land Use: Single-family Residence

Size of Property: 7,501 sq. ft.

Comprehensive Plan: Recommends Low Density Residential

Existing Zoning: R2 Single-Family Residence District

Surrounding Zoning and Land Use:

North: R2PD Single-Family Residence District Planned Development – developed as St. John's Lutheran School

South: R2 Single-Family Residence District – developed as single-family homes

East: R2PD Single-Family Residence District Planned Development – developed as St. John's Lutheran School

West: R2 Single-Family Residence District – developed as single-family homes

ANALYSIS

SUBMITTALS

This report is based on the following documents filed on April 21, 2008 with the Department of Community Development:

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Plat of Survey, prepared by Professionals Associated Survey, Inc., dated February 26, 1979.

DESCRIPTION

In the R2 District, the Zoning Ordinance requires a rear yard setback of thirty-five (35) feet. No variations have been previously granted for this property; therefore, the existing eleven (11) foot setback would be legal nonconforming. The petitioner is requesting the variation only to legally establish the eleven (11) foot rear setback, which would essentially tie an approval to the land allowing them to rebuild to the same building line in the event that the structure were to be damaged or destroyed beyond 50% of the value of the structure. There are no plans to increase the degree of nonconformity by means of expanding upon the existing detached single family residence.

INTER-DEPARTMENTAL REVIEW COMMENTS

Public Works

Public Works Engineering has no comments or changes.

Private Engineering Services

From an engineering or construction perspective, PFS has no comments.

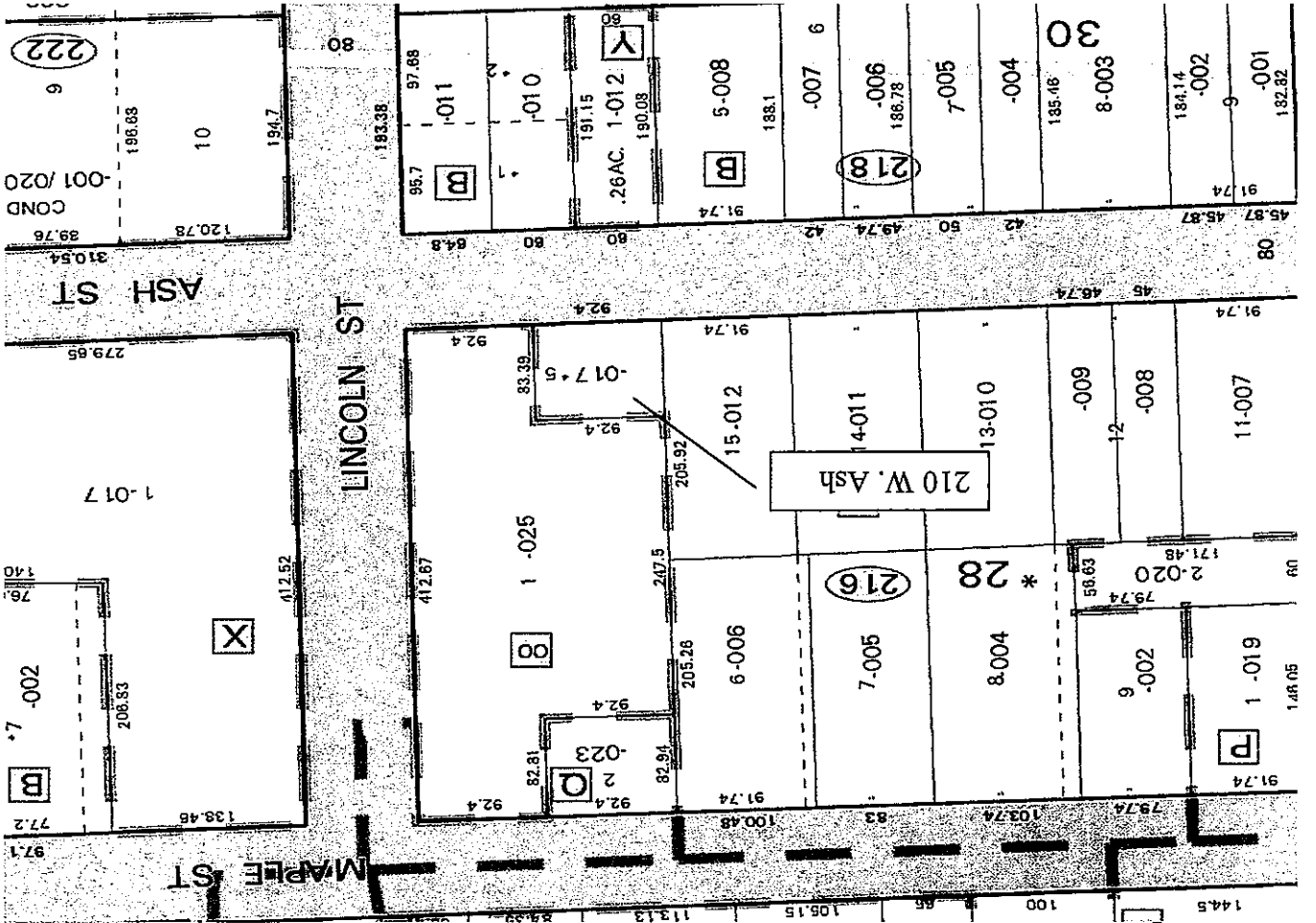
Building and Fire

The Fire Department/Bureau of Inspectional Services has no comments.

Planning

The petitioner's house was built on the subject property in 1952. A detached single family residence once stood on the property to the east of the subject property, which was known as the east half of Lot 5. That property would be later subdivided out and demolished to accommodate the St. John's Lutheran Elementary School. The St. John's Elementary School, which was approved in 2005 (PC 05-06), now abuts the northern and eastern portion of the subject property.

Parcel Map



The petitioner's property is unusually shaped in that the lot is wider than it is deep (92.4 feet wide, 81.18 feet deep). There are unique physical limitations on the property whereas there is no practical way for the petitioners to meet the requirements of the Zoning Ordinance. Without the requested relief, the property owner would not be able to rebuild the current home in the event it were destroyed or damaged more than 50% of its value. The relief associated with this petition only pertains to the current situation of the property; therefore, the neighborhood characteristics would not be altered in any way.

The northwest corner of the house is located approximately fourteen (14) feet from the north property line while the northeast corner of the house is located fifteen (15) feet from the north property line. A covered entry-way was constructed on the northern portion of the house and is located eleven (11) feet from the rear property line. As the covered entry-way is considered to be part of the house, the rear setback is measured from the entry-way to the north property line at eleven (11) feet.



Rear yard area taken from the east.



Rear yard area taken from the west.

Past Rear Setback Approvals

Case	Address	Requested Relief	Staff Recommendation	ZBA Recommendation	BOT Action
ZBA 02-05	208 S. Martha	13'	Approval	Approval	Approval
ZBA 03-02	105 W. Washington	12'	Approval	No Recommendation	Approval
ZBA 04-02	211 W. Maple	13'	Approval	Approval	Approval
ZBA 07-08	1144 Woodrow Ave	27'	Approval	Approval	Approval

Under certain conditions posed by the physical characteristics of the property, staff has made favorable recommendations of rear yard setback relief in the past. As an example, this petition is nearly identical to relief granted in ZBA 04-02 (illustrated above). As the subject property has a clearly identified physical constraint (lot depth), staff can support the variation to memorialize the existing setback so the house would no longer be considered non-conforming.

FINDINGS AND RECOMMENDATIONS

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 request to reduce the minimum required rear yard setback to eleven (11) feet:

Based on the information and testimony presented, the rear setback variation complies with the standards required 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 findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of the zoning relief associated with ZBA 08-06, subject to the following condition:

1. The requested relief shall only apply to the current rear yard setback dimensions. In the event that an addition or any other expansion be proposed to the rear of the property, separate relief would be required.

Inter-Departmental Review Report Group Approved By:



David A. Hulseberg, AICP

Assistant Village Manager/Director of Community Development

DAH:MT:jfd

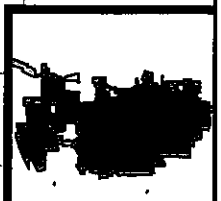
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ILLINOIS PRAIRIE PATH

ILLINOIS PRAIRIE PATH

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21



ZBA 08-06: 210 W. Ash

1 in. = 131.4 feet



Description of Request

The Petitioners seek approval of the current set-back from the rear lot line of their property as depicted on a survey prepared by Glen D. Kirsch and dated February 26, 1979.

Notwithstanding VI of the Guide, Validity of Variations, the Petitioners ask that the Board of Trustees waive any one-year of limitation on the approval. The Petitioners would reiterate that their request does not entail any application for building permit or further construction of the property in question. The Petitioners request deals only with the improvements as presently depicted on the survey submitted with this Petition and request that effective with the approval date, all of the conditions of the variation approved by the Board of Trustees run with the land and not expire.

**Standards for Variation -
Petitioners Response to Standards for Variation**

The Petition for Robert D. and Wendy L. Meek of 210 West Ash Street, Lombard, Illinois.

1) Because the lot in question owned by the Petitioners is only 81.18 feet in depth, and because the improvements as this time are less than 15 feet from the rear lot line, should the property be damaged to an extent greater than 50%, the residence would have to be moved to comply with the current 35 foot set-back. After the application of the front yard set-back, the lot in question would only accommodate a house of 16 feet in depth.

2) The conditions upon which this application for variation are based are unique to the property in question because of its limited depth. The property in question is slightly in access of 7,500 square feet. The limited depth of this lot was not as apparent as it is now after the construction of St. Johns School. This lot has apparently always been its present depth. When the Petitioners bought this lot, because it butted another residential property, the issue of the depth of the lot never came into question in their minds.

3) The purpose of this request for variation is not based primarily upon a desire to increase financial gain but rather simply to preserve and protect the present investment of the Petitioners. The Petitioners at this time have had the property on the market in excess of 180 days and have had two prospective buyers refuse to proceed to purchase given those buyers' concerns about the non-conforming status of this property.

4) The difficulty or hardship which is the subject of this Petition was not created by the Petitioners as the improvements on this property have been in place for decades and for many years prior to the Petitioners coming into title.

5) The granting of this variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood as the Petitioners seek simply a ratification of the existing condition in order that the property not be deemed to be non-conforming. More importantly, the granting of the Petition would give future owners the assurance that should the property be destroyed to an extent greater than 50%, the then owners would be able to rebuild the residence in its present location without seeking relief from the Village.

6) Same answer as five above.

7) Same answer as five above.

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

(ZBA 08-06: 210 W. Ash 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) (4) to reduce the rear yard setback on the subject property to eleven (11) where a minimum setback of thirty-five (35) feet is required;

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on May 28, 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 setback variation; 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 variation.

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) (4) to reduce the required rear yard setback from thirty-five (35) feet to eleven (11) feet.

SECTION 2: This ordinance is limited and restricted to the property generally located at 210 W. Ash Street, Lombard, Illinois, and legally described as follows:

THE WEST HALF OF LOT 5 IN BLOCK 28 IN THE ORIGINAL TOWN OF LOMBARD, BEING A SUBDIVISION IN THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-07-216-017

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

1. The requested relief shall only apply to the current rear yard setback dimensions. In the event that an addition or any other expansion be proposed to the rear of the property, separate relief would be required.

SECTION 4: 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 _____, 2008.

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

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller, Village President

Ordinance No. _____
Re: ZBA 08-06

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ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2008.

Brigitte O'Brien, Village Clerk

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