

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission HEARING DATE: October 16, 2006
FROM: Department of Community PREPARED BY: William J. Heniff, AICP
Development Senior Planner

TITLE

PC 06-29; 230 & 236 East LeMoyne Avenue: The petitioner requests approval of a Minor Plat of Resubdivision in the R2 Single-Family Residence District, along with one of the following zoning actions:

- a. A variation from Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be approximately at right angles or radial to the adjacent street; or in the alternative,
- b. A variation from Section 155.406 (F)(4) of the Zoning Ordinance to allow for a thirty-one foot (31') rear yard setback, where a minimum of thirty-five feet (35') is required.

GENERAL INFORMATION

Petitioner/ Property Owner: Lakeside Management Co. LLC
2555 Caliendo Circle
Montgomery, Illinois 60538

PROPERTY INFORMATION

Existing Land Use: Two Single-Family Residences
Size of Property: Approximately 25,260 square feet
Comprehensive Plan: Recommends Low Density Residential
Existing Zoning: R2 Single-Family Residence District

Surrounding Zoning and Land Use:

North:	R2 Single-Family Residence District; developed as single-family homes
South:	R2 Single-Family Residence District; developed as single-family homes
East:	R2 Single-Family Residence District; developed as single-family homes
West:	R2 Single-Family Residence District; developed as single-family homes

ANALYSIS

SUBMITTALS

This report is based on the following documentation, which was filed with the Department of Community Development on September 29, 2006:

1. Petition for Public Hearing, with response to standards.
2. Final Plat of Steffen's LeMoyne Resubdivision, prepared by Lambert & Associates Surveyors (with existing residence depicted on the proposed plat for reference).

DESCRIPTION

The subject properties are located at the northwest corner of LeMoyne Avenue and Craig Place. and are improved with existing residences. Each property meets current setback requirements. The property owner is proposing to subdivide the rear of the existing two lots to create a third lot, which would front Craig Place.

The proposed lots could be subdivided into three lots of record without requiring any zoning relief. However, the petitioner is seeking approval of companion zoning relief. The first request would create an irregularly shaped parcel, but would allow the existing residence at 230 E. LeMoyne to meet the 35-foot rear yard setback provisions. If the Village Board does not find this concept desirable, the petitioner would be amenable to zoning relief from the side yard setback requirements to allow for the rear side setback yard for the property at 230 E. LeMoyne to be 31 feet rather than the requested 35 feet.

The Zoning Ordinance (Section 155.102 (B)(3)) establishes the authority for reviewing companion variation requests associated with a plat application to the Plan Commission.

Please note that only one of the requested actions would be required to create a second buildable lot and let the existing residence to remain on the premises. Each of these actions will be discussed separately within the report below.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no objection to the request for approval from an engineering or construction perspective.

Public Works

The Department of Public Works has no comments regarding this application. However, they recommended that the final lot configuration should be reviewed to ensure code compliance if the subdivision option is approved.

FIRE AND BUILDING

The Bureau of Inspectional Services has no comments regarding this petition.

PLANNING

If the petitioner razes the rear portion of the house on 230 E. LeMoyne, the petitioner could subdivide the existing lots into three lots of record through an administrative plat of subdivision. However, as the proposed lots do not meet all other provisions of Village code, it is then classified as a Minor Plat of Subdivision. Below is a discussion of each option.

Option 1: Grant Relief from the Subdivision and Development Ordinance

The first option would grant a variation from Section 154.506 (G) of the Subdivision and Development Ordinance requiring lot lines to be generally perpendicular to the adjacent street with the side lot lines being approximately at right angles or radial to street lines. The purpose of this regulation is to ensure that side lot lines are not “gerrymandered” or created in a manner that is inconsistent with traditional lot subdivisions. Moreover, it also ensures that other sections of the Village Code are not circumvented.

In this request, the petitioner’s lot division would be placed sixty feet south of and parallel with the north property line for the first sixty feet of the proposed lot. However, in order for the new lot to be created without the need for a variation for the rear yard setback for the existing house at 230 E. LeMoyne, is to bend the interior lot line northward. This angle adjustment would establish the rear

yard approximately 51.32 feet wide at the rear lot line. This bend would still ensure that the new lot meets the 7,500 square foot area minimum requirement.

In consideration of this action, the petitioner offered a response to standards for variations for provisions within the Subdivision and Development Ordinance. Staff offers the following comments:

Where the Plan Commission finds that extraordinary hardship or particular difficulties may result from strict compliance with these regulations, it may recommend to the Village Board of Trustees the approval of variations to the regulations of this Ordinance so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of these regulations; and further provided that the Plan Commission shall not recommend variations to the provisions of these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

a) The granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements in the neighborhood in which the subject property is located.

Staff's concern with supporting divisions of this nature is that it could create an undesirable precedent for future divisions of land in the Village. Staff notes that the intent of the code is to provide for lots that are consistent with the Ordinance objectives and would not be contrary to the manner in which other lots in the neighborhood have been divided. Staff also notes that cul-de-sac lots also meet the intent of the code by having radial side lot lines. While staff readily admits that many lots in the Village are not completely rectangular in nature, their creation were the result of other subdivisions, that created remnant lots, the result of other divisions that were created prior to the current Ordinance regulations. In this instance, the angled lot is being created as a "run-around" from a variation from the lot area requirements.

Staff also notes that a similar petition was heard by the Plan Commission earlier this year (PC 06-23). Ultimately, the Village Board denied the petition.

b) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property.

The existing lot is generally rectangular in shape, although the entire block was platted in a manner that created lots and blocks that were not at a 90 degree angle. The petitioner's plan divides the lots at an angle not consistent with traditional platting of lots in the Village.

c) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as

distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;

Staff notes that the topographical conditions of the lot do not preclude the lot from being divided consistent with code.

d) Such variation or exception will not conflict with provisions of the Lombard Zoning Ordinance or Comprehensive Plan.

Staff asserts that the angled lot concept is not consistent with the intent of the Zoning Ordinance or the Plan as it creates lots with irregular shapes based upon individual preferences rather than external development constraints.

The standards and requirements of these regulations may be modified in the case of Planned Developments when the Plan Commission finds that a plan and program for a new neighborhood unit or part thereof provides adequate public spaces and improvements for the circulation, recreation, light, air and public utilities service needs of the tract when fully developed, and which also provides such covenants or other legal provisions as will assure conformity and achievement of the plan.

Staff believes the standards are not met in this instance and therefore, staff recommends denial of this request.

Option 2: Grant Relief from the Zoning Ordinance

As an alternative to the division request above, the petitioner included the alternate zoning request as well – that is, grant a variation from the rear yard setbacks from the lot to be created.

In consideration of this action, staff offers the following response to the variations for provisions within the Zoning Ordinance.

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.

Staff notes that there is nothing unique to the existing property that would constitute a particular hardship – it is just the petitioner’s desire to keep the existing home at 230 E. LeMoyne on the premises as it exists without modifying the rear of the house. In consideration of this option, staff notes that it is the lot division which is creating the need for the variation – the existing residence at 230 E. LeMoyne does and would continue to meet code but for the actions of the petitioner.

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 lot is typical of many other lots within the Village. With few exceptions, when corner and interior lots have been subdivided, the existing non-conforming homes are razed or modified.

3. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

Approval of this petition would allow the petitioner to sell off the rear portion of the lots while keeping the existing residence on the premises.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

The Ordinance has been consistently applied and this request would be created by the person having interest in the property.

5. *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.*

The relief could create an undesirable precedent for other residences in close proximity to the subject property.

6. *The granting of the variation will not alter the essential character of the neighborhood;*

The relief would place residences closer together than desired by Code.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

Overall, staff believes that the standards for variations from the Zoning Ordinance are not met.

Compliance with the Comprehensive Plan

The Comprehensive Plan recommends the property be used for Low-Density Residential purposes. Low Density Residential uses are defined as residential areas with a net density of six (6) or less units per acre. Low Density Residential is primarily made up of single-family residential uses. The net density proposed is five and seventeen hundredths (5.17) units per acre, meeting the recommendation of the Comprehensive Plan.

However, within the housing and residential goals section, a concern is raised about encouraging infill development which is complementary with the scale and character of surrounding residential uses protecting residential areas. Staff has generally held that granting relief to provide for more dense development is not consistent with the objectives of the plan, particularly when there options available to ensure that the newly created lots are consistent with the Ordinance provisions and/or any lots created by the subdivision meet code.

FINDINGS AND RECOMMENDATIONS

Staff believes that justification has been given for granting of the variation and that the standards for granting a variation have been not been met for the reasons noted above.

Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending denial of this petition:

Based on the submitted petition and the testimony presented, the proposal does not comply with the standards required by the Lombard Subdivision and Development Ordinance nor the Zoning Ordinance; and, therefore, I move that the Plan Commission recommend to the Corporate Authorities **denial** of both requested actions associated with PC 06-29.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

att
c. Petitioner