

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: David A. Hulseberg, Village Manager *DAH*
DATE: May 10, 2011 (B of T) Date: May 19, 2011
TITLE: ZBA 11-04: 1155 S. Fairfield Avenue
SUBMITTED BY: Department of Community Development *MS*

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)(1)(a)(6) of the Lombard Zoning Ordinance to allow a detached single family residence to be constructed more than fifty (50) feet from the front lot line.

The Zoning Board of Appeals recommended approval of this petition with conditions.

The petitioner is requesting a waiver of first reading.

Please place this item on the May 19, 2011 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X *David Hulseberg* _____ Date 5/10/11

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 Heniff, AICP,
Director of Community Development *WH*

DATE: May 19, 2011

SUBJECT: ZBA 11-04; 1155 S. Fairfield Ave.

Please find the following items for Village Board consideration as part of the May 19, 2011 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 11-04;
3. Plans associated with the petition; and
4. Letter from petitioner dated April 22, 2011 requesting a waiver of first reading.

The Zoning Board of Appeals recommended approval of this petition with conditions. Please place this petition on the May 19, 2011 Board of Trustees consent agenda. The petitioner is requesting a waiver of first reading.



VILLAGE OF LOMBARD

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(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

Village President
William J. Mueller

May 19, 2011

Village Clerk
Brigitte O'Brien

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

Trustees

Greg Alan Gron, Dist. 1
Keith T. Giagnorio, Dist. 2
Zachary C. Wilson, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Subject: ZBA 11-04; 1155 S. Fairfield Ave.

Dear President and Trustees:

Village Manager
David A. Hulseberg

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance to allow a detached single family to be constructed more than fifty (50) feet from the front lot line for the subject property located within the R2 Single-Family Residence District.

"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 Zoning Board of Appeals conducted a public hearing on April 27, 2011.

Chairperson DeFalco opened the meeting for public comment.

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

The property owner, Brian Hummert, 1N183 Stacy Ct., Glen Ellyn, presented the petition. Mr. Hummert stated that he is before the Zoning Board to ask for a front yard variation. He stated that he is asking for relief for the placement of the residence for aesthetic reasons and to be able to keep some of the mature trees that are located on the property. He added that he would also like to keep the house aligned with the houses to north of his property.

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

Bob Cunningham, 1161 S. Fairfield, stated that all of the houses on the block should be aligned. He added that the properties to the south of the subject property are all set back a great distance. He stated that the petitioner's residence should also be set back to the distance of the properties to the south of his property to maintain consistency.

Michael Toth, Planner I, stated that the petitioner is proposing to set his house back to a distance of seventy-two (72) feet from the front lot line. He added that if

the variation were to be denied, the residence would be required to be set back fifty (50) feet from the lot line. He stated that this would place the residence even closer to the front property line and in front of both neighboring residences.

Chairperson DeFalco then requested the staff report.

Mr. Toth presented the staff report. The petitioner is proposing to construct a new single-family residence seventy-two (72) feet from the front lot line. Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance states that a detached single family residence shall not be constructed more than fifty (50) feet from the front lot line in the R2 Single-Family Residence District. The new single-family residence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

In October 2008, the Village Board formally adopted the text amendments associated with residential development (PC 08-21), which included the residential front yard setbacks. As a result of said amendments, setbacks for all detached single-family homes are now required to consider the average front setback of adjacent properties to determine the required front setback for a given property. In addition to the average setback requirement, the amendments associated with PC 08-21 included a maximum 'build-to' line. The theory was that establishing a maximum front yard setback will help maintain neighborhood homogeneity by over time creating consistent front yard setback parameters. Prior to the amendment; if someone wanted to construct a new attached single family residence deep into the lot, the only limitation would be the thirty-five (35) foot rear yard setback requirement.

Existing Conditions

The subject property is located on Fairfield Avenue between Central Avenue and Roosevelt Road. The subject property once contained a two-story single family residence that was recently demolished. As such, the lot currently remains vacant. At its longest point, the lot itself is three hundred (300) feet in length. The setback of the previous residence was one hundred and twenty-six (126) feet from the front property line.

Proposed Conditions

The petitioner is proposing to construct a new two-story single-family residence on the subject property. The abutting property to the north of the subject property has a front yard setback approximately sixty-seven (67) feet and the abutting property to the south has a front yard setback of approximately one hundred and twenty (120) feet. According to Section 155.407(F)(1)(a)(5) of the Zoning Ordinance, lots having single family dwellings located more than fifty (50) feet from the front lot line shall be considered to have a default fifty (50) foot setback. As both abutting properties are greater than fifty (50) feet from the front lot line, they both have a default fifty (50) foot setback. Furthermore, Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance states that a detached single family residence shall be constructed

no more than fifty (50) feet from the front lot line, which means that the residence on the subject property would have to be built at exactly fifty (50) feet from the front property line.

Maximum Building Line

Since adoption in 2008, staff has faced a number of challenges with regard to the amended front setback provisions. One of the challenges is the maximum building line. Moreover, by requiring a fifty (50) foot maximum building line, an absolute setback is created for properties located in a neighborhood consisting of properties of greater depth, when neighboring properties are setback greater than fifty (50) feet. This is consistent with the subject variation. Moreover, the PC 08-21 staff report states that absolute setbacks can have negative implications in established neighborhoods. Staff recently conducted a workshop on the specific issues pertaining to average front yard setbacks at the March 21, 2011 Plan Commission meeting. During such meeting, the Plan Commission instructed staff to review the code provisions relative to average setbacks and the maximum building line. Under the Plan Commission's direction, staff will be proposing amendments that refine these regulations.

Concluding, Mr. Toth stated that staff is recommending approval of ZBA 11-04, subject to the four conditions outlined in the staff report.

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

Chairperson DeFalco stated that the case before them involves a front yard setback that requires a variation because the Zoning Ordinance states that the residence is to be built at exactly fifty (50) feet. He then referred to staff to provide an explanation of the regulations pertaining to average front setbacks.

Mr. Toth explained in detail the text amendments that were adopted in 2008 which require average setback and include a maximum build-to line.

Chairperson DeFalco questioned the front setbacks of the neighboring properties.

Mr. Toth stated that those residences were permitted for construction prior to the Code changes in 2008. As such, they were not subject to the new regulations.

Mr. Cunningham discussed the need to keep all of the houses on the block to a consistent setback.

Mr. Bartels asked if the petitioner's residence could be setback further. He then asked if the setback would be subject to an average setback.

Mr. Toth stated that the petitioner has requested a setback of seventy-two (72) feet for the reasons indicated. The petitioner would not be subject to an average setback because the Zoning

Ordinance requires them to be set at exactly fifty (50) feet – no more or no less. He added that after fifty (50) feet the only requirement limiting the location of the house would be the rear yard setback. He again clarified that the petitioner desires to construct the residence at seventy-two (72) feet with reason. He added that the amendments were originally created to get away from absolute setbacks, but as demonstrated in this case, they actually create absolute setbacks.

There was then discussion between Messrs. Cunningham and Hummert and the ZBA members relative to the configuration of the residences on S. Fairfield. They all discussed specific residences and how they lined up to one another.

Chairperson DeFalco stated that staff is in the process of amending the average front setbacks and maximum building line. He then deferred to staff for more information.

Mr. Toth provided an update on the progress of the proposed text amendments. He added that they are currently in the workshop phase with the Plan Commission.

Chairperson DeFalco asked if the petition should be tabled until the text amendments are resolved.

Mr. Toth stated that he advised against that on account that any text amendments that may occur may not be approved until the end of the summer, if at all. He added that the petitioner has demolished the previous residence and is ready to start construction as soon as possible.

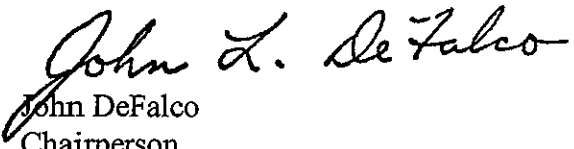
Chairperson DeFalco read the four conditions associated with the case.

On a motion by Tap and a second by Bartels, the Zoning Board of Appeals recommended by a vote of 6 to 0 that the Village Board **approve** the variation associated with ZBA 11-04, subject to the following conditions:

1. The property owner shall obtain a building permit for the air conditioning condensers.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, any new air conditioning equipment shall meet any required Code provisions.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.
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 front yard setback.

Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink that reads "John L. DeFalco". The signature is written in a cursive style with a large initial 'J'.

John DeFalco

Chairperson

Zoning Board of Appeals

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ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on March 30, 2011.

1. Petition for Public Hearing.
2. Standards to Variations.
3. Site Plan, prepared by Steinbrecher Land Surveyors, Inc., dated February 24, 2011.

DESCRIPTION

The petitioner is proposing to construct a new single-family residence seventy-two (72) feet from the front lot line. Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance states that a detached single family residence shall not be constructed more than fifty (50) feet from the front lot line in the R2 Single-Family Residence District. The new single-family residence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The PES Division of Community Development has no comments.

PUBLIC WORKS

Public Works Engineering has no comments.

FIRE DEPARTMENT

The Fire Department has no comments.

BUILDING DIVISION

The Building Division has no comments.

PLANNING

In October 2008, the Village Board formally adopted the text amendments associated with residential development (PC 08-21), which included the residential front yard setbacks. As a result of said amendments, setbacks for all detached single-family homes are now required to consider the average front setback of adjacent properties to determine the required front setback for a given property. In addition to the average setback requirement, the amendments associated with PC 08-21

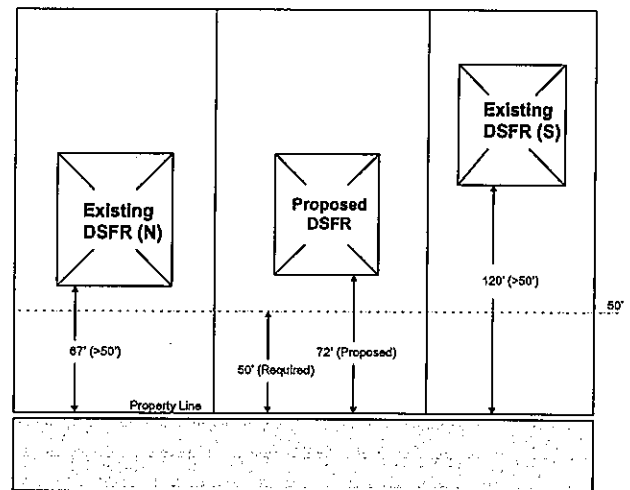
included a maximum 'build-to' line. The theory was that establishing a maximum front yard setback will help maintain neighborhood homogeneity by over time creating consistent front yard setback parameters. Prior to the amendment; if someone wanted to construct a new attached single family residence deep into the lot, the only limitation would be the thirty-five (35) foot rear yard setback requirement.

Existing Conditions

The subject property is located on Fairfield Avenue between Central Avenue and Roosevelt Road. The subject property once contained a two-story single family residence that was recently demolished. As such, the lot currently remains vacant. At its longest point, the lot itself is three hundred (300) feet in length. The setback of the previous residence was one hundred and twenty-six (126) feet from the front property line.

Proposed Conditions

The petitioner is proposing to construct a new two-story single-family residence on the subject property. The abutting property to the north of the subject property has a front yard setback approximately sixty-seven (67) feet and the abutting property to the south has a front yard setback of approximately one hundred and twenty (120) feet. According to Section 155.407(F)(1)(a)(5) of the Zoning Ordinance, lots having single family dwellings located more than fifty (50) feet from the front lot line shall be considered to have a default fifty (50) foot setback. As both abutting properties are greater than fifty (50) feet from the front lot line, they both have a default fifty (50) foot setback. Furthermore, Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance states that a detached single family residence shall be constructed no more than fifty (50) feet from the front lot line, which means that the residence on the subject property would have to be built at exactly fifty (50) feet from the front property line.



Maximum Building Line

Since adoption in 2008, staff has faced a number of challenges with regard to the amended front setback provisions. One of the challenges is the maximum building line. Moreover, by requiring a fifty (50) foot maximum building line, an absolute setback is created for properties located in a neighborhood consisting of properties of greater depth, when neighboring properties are setback greater than fifty (50) feet. This is consistent with the subject variation. Moreover, the PC 08-21 staff report states that absolute setbacks can have negative implications in established neighborhoods. Staff recently conducted a workshop on the specific issues pertaining to average front yard setbacks at the March 21, 2011 Plan Commission meeting. During such meeting, the Plan Commission instructed staff to review the code provisions relative to average setbacks and the maximum building line. Under the Plan Commission's direction, staff will be proposing amendments that refine these regulations.

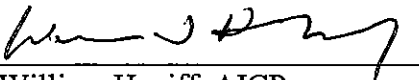
FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested 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 aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **does comply** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-departmental Review Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 11-04, subject to the following conditions:

1. The single family residence shall be developed in accordance with the site plan, prepared by Steinbrecher Land Surveyors, Inc., dated February 24, 2011.
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 front yard setback.

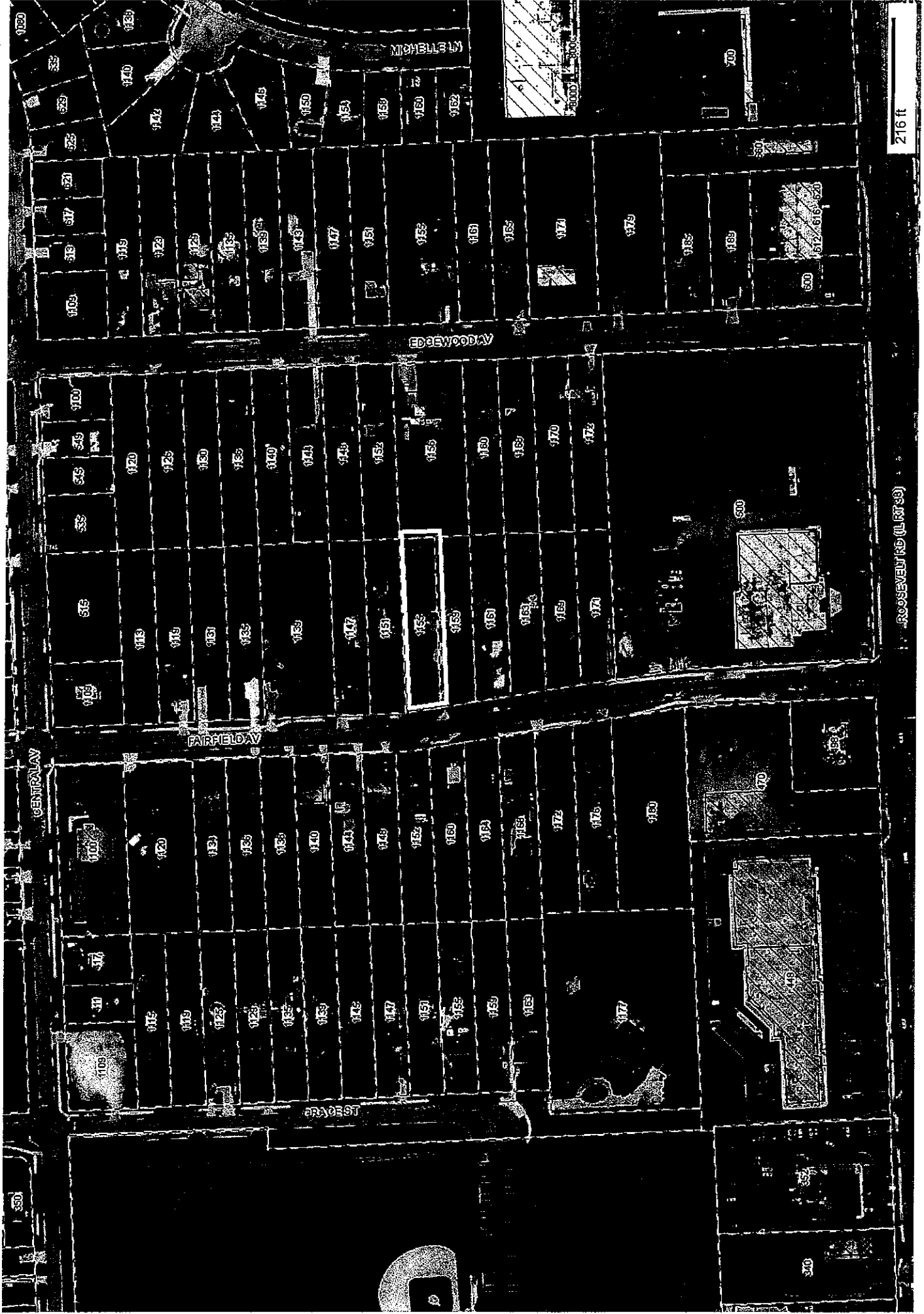
Inter-Departmental Review Group Report Approved By:



William Heniff, AICP
Director of Community Development

c: Petitioner

ZBA 11-04: 1155 S. Fairfield



Response to Standards of Variation

Subject Property: 1155 S. Fairfield Lombard IL

Variance Requested – Variance to required set back of 50 feet to 74 feet.

Standards for Variations:

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.

Set back to 74 feet would approximate the set back of adjacent property to the North. The set back of properties to the South of subject property all exceed setbacks of 74 feet. If strict letter of the regulations were applied the subject property would be approximately 24 feet or greater in front of adjacent properties and would cause additional tree removal.

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 unique to this property based on the existing setbacks of adjoining property to the North and setbacks of greater than 74 feet on properties to the South of the subject property.

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

No financial gain is expected from the variation.

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

The difficulty is caused by the ordinance and has not been created by any person having interest in this 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 granting of the variation will allow subject property setback to be consistent with adjacent properties which will be aesthetically pleasing to the neighborhood.

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

The granting of the variance will enhance the essential character of the neighborhood by allowing subject property set back line to be consistent with adjoining property to the North, while still having a set back less than adjoining properties to the south.

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

The proposed variation will enhance the supply of light and air to the adjacent property as it will be in line with adjacent properties. The proposed variation will allow for more parking in the drive way thus reducing congestion of the public street. The proposed variation will not increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger public safety or substantially impair property values within the neighborhood.

Prepared by:



Brian Hummert - Owner

ORDINANCE NO. _____

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

(ZBA 11-04; 1155 S. Fairfield Ave.)

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 Section 155.407(F)(1)(a)(6) of the Lombard Zoning Ordinance to allow a detached single family to be constructed more than fifty (50) feet from the front lot line; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on April 27, 2011 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variation; 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)(1)(a)(6) of the Lombard Zoning Ordinance to allow a detached single family to be constructed more than fifty (50) feet from the front lot line.

SECTION 2: This ordinance shall be granted subject to compliance with the following conditions:

1. The single family residence shall be developed in accordance with the site plan, prepared by Steinbrecher Land Surveyors, Inc., dated February 24, 2011.
2. The petitioner shall apply for and receive a building permit for the proposed plans.

Ordinance No. _____

Re: ZBA 11-04

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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 front yard setback.

SECTION 3: This ordinance is limited and restricted to the property generally located at 1155 S. Fairfield Ave., Lombard, Illinois, and legally described as follows:

THE NORTH HALF OF LOT 57 OF HOEPNERS SUBDIVISION, BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 25, 1949 AS DOCUMENT 563460, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-17-404-007

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 _____, 2011.

First reading waived by action of the Board of Trustees this _____ day of _____, 2011.

Passed on second reading this _____ day of _____, 2011.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2011

William J. Mueller, Village President

Ordinance No. _____

Re: ZBA 11-04

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ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2011

Brigitte O'Brien, Village Clerk

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