

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: William T. Lichter, Village Manager

DATE: October 9, 2006 (B of T) Date: October 19, 2006

TITLE: ZBA 06-23: 145 E. Morningside Avenue

SUBMITTED BY: Department of Community Development 

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 from Section 155.212 of the Zoning Ordinance to allow a central air conditioning unit as a permitted obstruction within an interior side yard in the R2 Single Family Residence District. (DISTRICT #5)

The petitioner is requesting a waiver of first reading.

The Zoning Board of Appeals recommended approval of this petition with one condition.

Fiscal Impact/Funding Source:

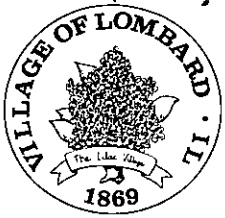
Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X W. T. Lichter _____ Date 10/10/06

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP *DAH*
Assistant Village Manager/Director of Community Development

DATE: October 19, 2006

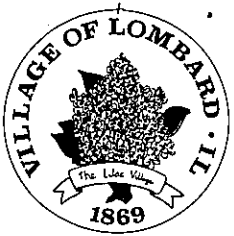
SUBJECT: ZBA 06-23: 145 E. Morningside Avenue

Attached please find the following items for Village Board consideration as part of the October 19, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-23;
3. An Ordinance granting approval of the requested variation; and
4. Companion site plan associated with the petitioner's request.

The petitioner is requesting that the Village Board waive a first reading of the aforementioned Ordinance so that a Certificate of Completion can be issued for the project. Please find the written request attached.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD

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Lombard, IL 60148-3926
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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

September 29, 2006

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

Subject: ZBA 06-23; 145 E. Morningside Avenue

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 from Section 155.212 of the Lombard Zoning Ordinance to allow a central air-conditioning unit as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District

The Zoning Board of Appeals conducted a public hearing on September 27, 2006. John Suarino, owner of the property, presented the petition. He stated that he has put substantial effort in remodeling the home and making sure everything was done the right way. He noted that he hired an architect and consulted with the Village prior to moving forward with the project. He mentioned that the air conditioner was not an issue until the final inspection and it wasn't caught in the initial HVAC inspections. He stated that had they known beforehand, they would have located the air conditioner elsewhere. He noted that his contractor just naturally put the new air conditioner next to the existing one, thinking that it would be no problem. He stated that at this point, after the project is complete, there is no where else to place the air conditioner.

Chairperson DeFalco then opened the meeting for public comment.

Michelle Kulikowski, Planner I, presented the staff report. She stated that the property owner applied for a building permit to construct a new front porch, two-story addition in the rear, deck, driveway and an attached garage. She noted that the building permit did cover HVAC work as a new furnace was indicated on the construction drawings, but the new air conditioning was not included. She mentioned that the Bureau of Inspectional Service noticed during the final inspection that a new air conditioning unit was placed next to the house and notified the Community Development Department. She stated that the property owner was notified that the Community Development Department would not sign off on a final

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

Certificate of Completion unless the air conditioning condenser was relocated or a variation was granted.

Ms. Kulikowski stated that the Zoning Ordinance lists air conditioning condensers as permitted encroachments within rear yards, but does not list them as permitted encroachments within interior side, corner side or front yards. She noted that the intent was that air conditioning condensers within front and corner side yards would worsen the appearance of the streetscape and condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

Ms. Kulikowski stated that the air conditioning condensers are located in the eastern side yard. She noted that the residence on the adjacent property to the east is legal non-conforming as it only maintains a 3' setback from the side property line that it shares with the subject property. She mentioned that there is only a 9' separation between the two residences whereas the provisions of the Zoning Ordinance would require at least a 12' separation between two residences. She noted that the residence on adjacent property does not have any windows on that side.

Ms. Kulikowski stated that there are no reasonable alternatives for relocating the air conditioning condensers in compliance with the Zoning Ordinance. She noted that the condensers cannot be relocated to the rear of the residence because of an existing deck and a window well. She mentioned that placing the condensers behind the garage would not be recommended because the efficiency would be greatly reduced due to the distance the line would have to extend to reach the furnace in the basement. She stated that there is not enough room to place the condensers on the other side of the house next to the driveway. She noted that the residence is setback far enough for the condensers to be placed in front and not be within the 30' front yard. However, the condensers would be visible from the street, creating an eye sore and the placement would not be consistent with the intent of the Code pertaining to permitted obstructions.

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

Chairperson DeFalco suggested that the petitioner ask for a waiver of first reading so that he wouldn't have any further delay in receiving the certificate of completion.

Mr. Suarino stated that he had already submitted a written request for a waiver of the first reading.

Ms. Kulikowski noted that staff can have the certificate of completion ready to be issued Friday morning following the Board meeting.

Mr. Young asked whether the variation would cover the existing air conditioner.

Ms. Kulikowski stated that the variation would apply to both air conditioners.

Mr. Young asked whether the old air conditioner could be replaced.

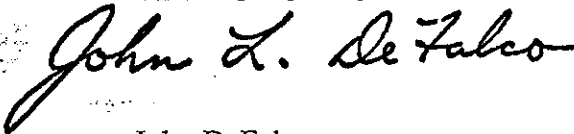
Mr. Kulikowski noted that the condition of approval is tied to the existing residence. The air conditioners would have to come into compliance when the residence is damaged or destroyed, not necessarily when the air conditioning condensers themselves are damaged.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested corner side yard variation complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mr. Polley, the Zoning Board of Appeals recommended approval of the requested variation associated ZBA 06-23 by a roll call vote of 6 to 0, subject to the following condition:

1. 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 the six foot (6') interior side yard provisions.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

att-

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on September 6, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by Schlaf-Sedig & Associates, Inc. and dated June 13, 2005.
4. Photographs of the existing residence.

DESCRIPTION

The property owners have recently completed a number of improvements to the subject property including a new front porch, two-story addition in the rear, deck, driveway and an attached garage. As part of the improvements, an additional air conditioning condenser was needed. The contractors placed the new air conditioning condenser next to the existing condenser, which is located in the side yard. Air conditioning condensers are not listed as a permitted encroachment within side yards. Therefore, a variation is needed.

INTER-DEPARTMENTAL REVIEW COMMENTS

Fire and Building

Fire and Building have no comments on this petition.

Public Works Engineering

Public Works has no comments on this petition.

Private Engineering

Private Engineering Services has no comment on this petition.

Planning

The property owner applied for a building permit to construct a new front porch, two-story addition in the rear, deck, driveway and an attached garage. The building permit did cover HVAC work as a new furnace was indicated on the construction drawings. The construction drawings did not indicate that a new air conditioning condenser would be installed. In

conducting the final inspection for the permit, the Bureau of Inspectional Service noticed that a new air conditioning unit was placed next to the house and notified the Community Development Department. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department would not sign off on a final Certificate of Completion unless the air conditioning condenser was relocated or a variation was granted.

The Zoning Ordinance lists air conditioning condensers as permitted encroachments within rear yards, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within front and corner side yards would worsen the appearance of the streetscape and condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The air conditioning condensers are located in the eastern side yard. The residence on the adjacent property to the east is legal non-conforming as it only maintains a 3' setback from the side property line that it shares with the subject property. There is only a 9' separation between the two residences whereas the provisions of the Zoning Ordinance would require at least a 12' separation between two residences. However, the residence on adjacent property does not have any windows on that side.

Staff finds that there are no reasonable alternatives for relocating the air conditioning condensers in compliance with the Zoning Ordinance. The condensers cannot be relocated to the rear of the residence because of an existing deck and a window well. Placing the condensers behind the garage would not be recommended because the efficiency would be greatly reduced due to the distance the line would have to extend to reach the furnace in the basement. Also, there is not enough room to place the condensers on the other side of the house next to the driveway. The residence is setback far enough for the condensers to be placed in front and not be within the 30' front yard. However, the condensers would be visible from the street, creating an eye sore and the placement would not be consistent with the intent of the Code pertaining to permitted obstructions.

FINDINGS AND RECOMMENDATIONS

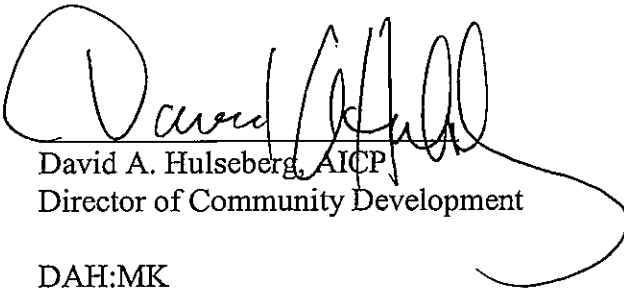
The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the variation:

Based on the submitted petition and the testimony presented, the requested variation **does comply** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and

recommend to the Corporate Authorities **approval** of ZBA 06-23, subject to the following condition:

1. 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 the six foot (6') interior side yard provisions.

Inter-Departmental Review Group Report Approved By:

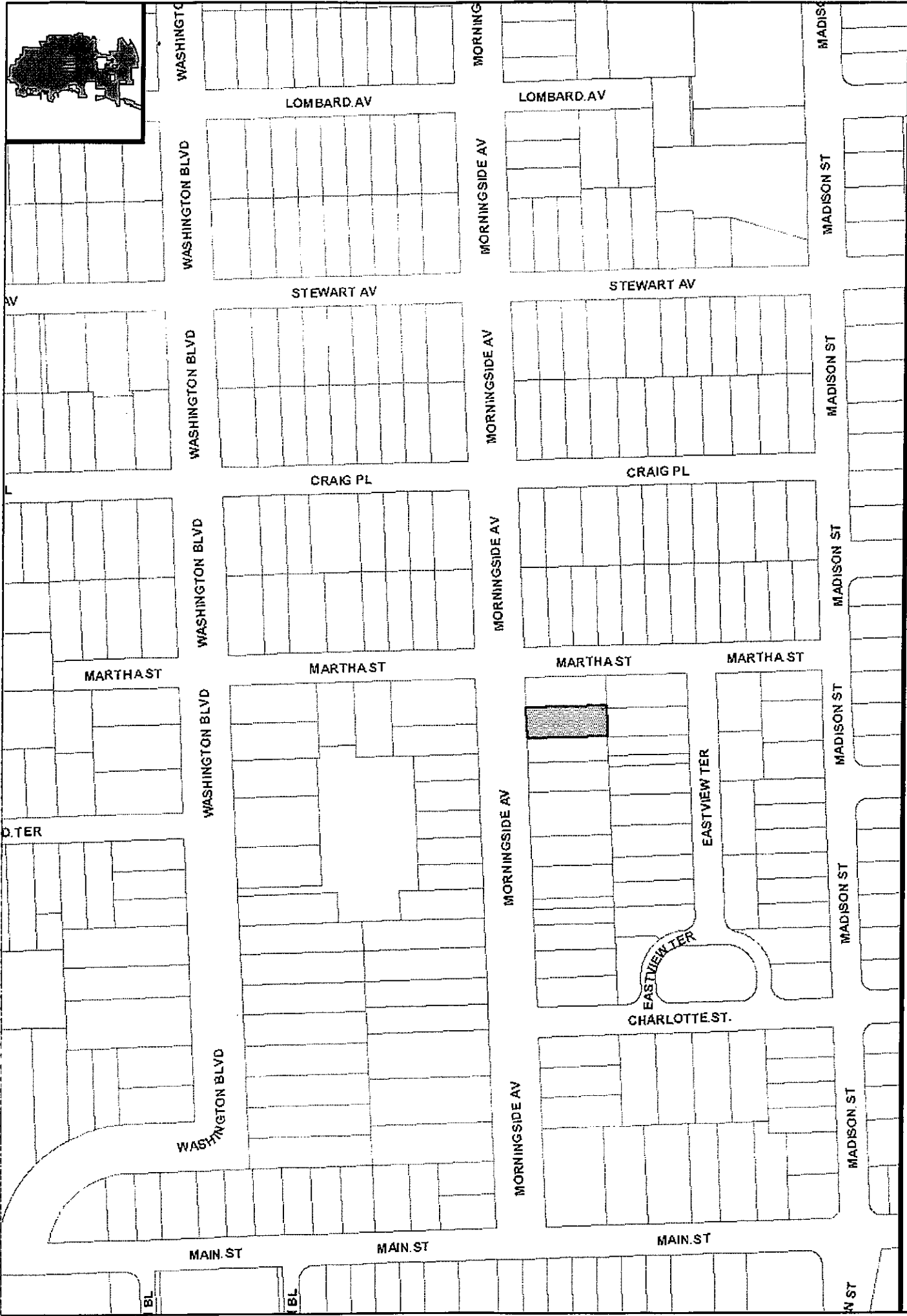
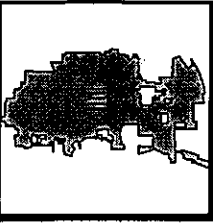


David A. Hulseberg, AICP
Director of Community Development

DAH:MK

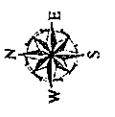
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c: Petitioner



1 in. = 250.0 feet

ZBA 06-23: 145 E. Morningside Avenue



145 E. Morningside Avenue
Zoning Board of Appeals Petition – Air Conditioning Units
Responses to the *STANDARDS FOR A VARIATION*

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.*

- Due to the fact that the home addition is completed and the air conditioners are installed (see owners statement), it would require considerable cost and reconstruction to modify the existing structure to accommodate the required setback of the air conditioning units. The design of the addition would have been altered prior to construction if the homeowner was made aware of the requirement applying to the air conditioners at the time of the air conditioning and electrical inspections.

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 side of the neighboring property facing the air conditioners was previously converted from a garage to living space and contains no windows. The lack of windows makes this situation unique because the neighbor's house is insulated from any noise that the air conditioners might make (see photos). The only alternate placement for the air conditioning units is in the rear left corner of the building. Such placement would create more of a noise nuisance to the neighbor, because the units would be directly opposite and closer to the neighbor's deck and patio doors.
- The existing structure has no applicable space in the rear of the house for the air conditioner units due to the existence of the attached garage and emergency egress window well for the basement (see photos). There is an existing deck which was added with the home addition. The deck could have been modified if the air conditioning requirements were known to the home owner. Significant reconstruction and cost would be required to alter the deck and the rear of the building to accommodate the air conditioning units at this point.

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

- No financial gain will result due to the requested variation for the home owner. Additional cost would be required without the variation since the air conditioning units are already in place.

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 difficulty was caused by the ordinance not being brought to the attention of the homeowner, not by any malicious act or intent of the home owner. One air conditioning unit was pre-existing prior to the current owner taking possession of the property. The second unit was placed next to the existing for mechanical purposes.

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.*

- Due to their lack of windows, the neighboring property will not have a detrimental impact from the location of the air conditioners. Moving the units to the rear of the house would create additional noise for our neighbors as it would be closer to their sliding doors and patio. The impacted neighbors have verbally agreed that there is no issue with the current location of the units.

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

- The existing neighborhood has many examples of homes with additions or improvements with pre-existing air conditioning units on the side of the house. Granting of this variation will not create an exception to the norm of the neighborhood.

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.*

- The proposed variation will have no impact to the light, air, traffic, fire risk, drainage or public safety for the adjacent properties. The variation is consistent with other homes in the neighborhood so it will not have an impact to property values.

145 E. Morningside Avenue
Zoning Board of Appeals Petition – Air Conditioning Units
Homeowner Statement

We have put much effort and care in the design of our house addition with the intent of building a home that meets our growing needs, is consistent with the character of the existing Georgian structure and meets the requirements and desires of the village and surrounding neighborhood. This includes having multiple surveys done to ensure that the west wall of the garage met the required six foot setback (prior demolished garage was set back only 4.5 feet), and meeting the village requirements for a dry well to catch rain run-off. We have not taken any action that is intentionally in defiance of the village zoning and building code.

The home had a pre-existing air conditioning unit on the side of the house when we purchased the house last summer. The building plans included a second furnace for the addition, which requires a second air compressor for cooling. The plans did not specify the location of the air conditioners, but their location also was not requested or noted during plan review by the village, so the second A/C unit was installed next to the existing one. At no time during the plan reviews or on-site inspections (including the HVAC inspections) were the home owners, architect or builder made aware that the air conditioning units were required to be set back 6 feet from the side yard. The final plans approved for permit also did not contain the village stamp regarding the setback requirement for air conditioners. Had we been made aware of this requirement, we would have changed the design of the home to be in compliance. At this point the home construction is complete. The issue with the air conditioners was only brought up during final inspection of the project.

There are limited options for where to place the air conditioning units because the rear of the house is truncated by the attached garage. The space behind the house has an escape well for the basement and a finished deck (see photos). The air conditioning units may not be permitted to be relocated near the escape well based on requirements for a safe and unobstructed exit. The only other possible solution would require the deck to be demolished and shortened, including installation of new concrete footings for a shorter structure to allow the air compressors to be placed beside the deck. Siding would need to be repaired as well as all the necessary heating and electrical work required for the air conditioners themselves. Cost for this work would create a particular hardship for us, as our contractor estimated several thousand dollars to complete such a task.

Given all the facts stated above, and our neighbors verbal statements that the air conditioners do not create a noise nuisance where they are currently located (a written statement or personal testimony will be brought to the village meetings), we respectfully request a variation to be approved to allow the air conditioners in their current location.

John Suarino
Home owner

Emily Suarino
Home owner

September 27, 2006

Dear Zoning Board Members,

On behalf of our neighbors, John and Emily Suarino, who reside at 145 E. Morningside Ave., we would like to strongly encourage you to permit them to keep their central air conditioning unit at the present site on the east side of their home. Our home is located directly east of their house. The current location of the air conditioning unit is in no way an annoyance to us. It is, however, very likely that if it is moved to the south of their home that it would become very irritating to us due to the proximity of the southern exposure of our doors and windows. Please allow them to keep the present location of their air conditioning unit. It would be greatly appreciated and best for our mutual sound environment.

Sincerely,

A handwritten signature in cursive script that reads "Richard & Martha Kuhr". The signature is written in black ink and is positioned below the word "Sincerely,".

Richard and Martha Kuhr
149 E. Morningside Ave.
Lombard, IL 60148
630/495-8244

John Suarino
145 E. Morningside Ave
Lombard, IL 60148

September 6, 2006

Community Development Department
Village of Lombard
255 E. Wilson Ave.
Lombard, IL 60148

Re: Request for Waiver of First

Community Development Department:

We request a waiver of the first reading of our petition with the Board of Trustees regarding the variation to the six foot set back for air conditioning units. The waiver of the first reading is requested in order to expedite resolution of the matter so that we may close on the final loan for the project, to allow for any work to be completed prior to the onset of winter weather, and to satisfy the timing of our conditional certificate of occupancy.

Sincerely,



John Suarino
Home owner



Emily Suarino
Home owner

ORDINANCE NO. _____

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

(ZBA 06-23: 145 E. Morningside Avenue)

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 155.212 of said Zoning Ordinance, to allow a central air-conditioning unit as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on September 27, 2006 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 to allow a central air-conditioning unit as a permitted obstruction within an interior side yard; and,

WHEREAS, President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested variation subject to conditions.

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 155.212 of the Lombard Zoning Ordinance for the property described in Section 2 below, so as to allow a central air-conditioning unit as a permitted obstruction within an interior side yard.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 145 E. Morningside Avenue, Lombard, Illinois, and legally described as follows:

LOT 1 OF SUARINO'S RESUBDIVISION, BEING A RESUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

Ordinance No. _____

Re: ZBA 06-23

Page 2

PIN: 06-08-318-011

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

1. 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 the six foot (6') interior side yard provisions.

SECTION 4: That 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 _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk