

Village of Lombard

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



Meeting Minutes

Wednesday, August 24, 2011

7:30 PM

Village Hall Board Room

Zoning Board of Appeals

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

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: Chairperson John DeFalco, Mary Newman, Raymond Bartels, Greg Young, Keith Tap, Ed Bedard and Val Corrado

Also present: Michael Toth, Planner I.

Public Hearings

110493

ZBA 11-05: 101 E. Maple Street

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 155.210(A)(2)(a) of the Lombard Zoning Ordinance to allow a detached garage to be constructed in the corner side yard.
2. A variation from Section 155.207(C) of the Lombard Zoning Ordinance to allow a detached garage to be constructed in a clear line of sight area. (DISTRICT #4)

Chairperson DeFalco opened the meeting for public comment.

The property owner, Mike Neary of 101 E. Maple Street, presented the petition. Mr. Neary stated that he would like to build a new detached garage where an old garage previously existed. He stated that the old garage was built around 1940 and was on a floating slab that had some severe cracks. He added that the old garage was in such a state of disrepair that they could not pull cars in the garage or lock the garage. He stated that the alley behind his property is not a through alley and only two properties take access from the alley. He added that those neighbors don't mind the garage being there and actually wrote emails stating such.

Mr. Neary then stated that a representative from the Village came out to the property to examine the garage. He stated that the Village representative laid out three options relative to the old garage. The first option was to leave the pad intact and spruce up the existing garage. The second option was to build a concrete wall around the pad, but leave the pad in place and build a new garage. The third option would be to tear the pad out and replace it with a new pad. Mr. Neary then stated that the best option seemed to tear the pad out and reconstruct a new garage. He added that they want a sound structure for security purposes as the old garage had been vandalized. He stated that the Village never told him that he could not rebuild the garage in the same location as the old garage.

Mr. Neary stated that he received a permit for the demolition and it was later when they applied for the permit for the detached garage when the Village informed him that he could not rebuild the garage in the same location. He added that if he had known that he could not rebuild the garage in the same location that he would have gone with a less-expensive alternative and saved a few thousand dollars. He then stated that if he had to move the garage back to meet the setback that he would have to pay one thousand dollars to move the fence.

Chairperson DeFalco asked if there was anyone present to speak in favor or against the petition. There was no one in the audience to speak in favor or against the petition.

Chairperson DeFalco then requested the staff report.

Mr. Toth presented the staff report. The subject property is located at the southeast corner of Maple Street and Charlotte Street. The petitioner is requesting a variation to allow for the replacement of a four-hundred and forty (440) square foot detached garage to be located nine and eighty-nine hundredths (9.89) feet from the western property line, which would be partially located in the corner side yard of the subject property. The detached garage is located along the Charlotte Street side of the property and conflicts with a thirty (30) foot clear line of sight area where Charlotte Street meets the public alley to the south of the subject property. As the non-conforming detached garage was removed in its entirety, the detached garage would be required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

The subject property was developed with the principal structure in 1940; and, according to the petitioner, the detached garage was constructed around the same time period. The detached garage was four-hundred and forty (440) square foot detached garage and located nine and eighty-nine hundredths (9.89) feet from the western property line, within the corner side yard and within the clear line of sight area. The petitioner indicated that the garage was in a state of disrepair; as such, the petitioner decided to replace the detached garage in the exact footprint as it previously existed.

The petitioner applied for and received a demolition permit for the previously-existing detached garage and the garage was subsequently razed. The petitioner did speak with a staff representative of the Building Division who presented a number of options to facilitate improvements to the garage. It was later during the permit application for the new detached garage that Planning Staff discovered that the detached garage did not meet the corner side yard setback or clear line of sight requirements. The permit applicant (contractor) was promptly notified. As a permit was never issued for the proposed garage, the scheduled construction on the garage has since ceased.

The Zoning Ordinance allows non-conforming structures to remain in existence provided that once a non-conforming structure reaches the end of its useful life any replacement structure will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance.

Detached garages are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the detached garage requires that the new garage meet the twenty (20) foot corner side yard setback or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

As depicted on Attachment A, the proposed detached garage would be located nine and eighty-nine hundredths (9.89) feet from the western property line. Detached garages are not permitted within corner side yards not only due to the visual obstruction they create, but also because they must provide adequate space to park vehicles. According to

Village Code, parking vehicles over the sidewalk or on the Village parkway is prohibited. With less than ten (10) feet of driveway between the structure and property line, there would be insufficient space to park a car on the subject property.

The subject property is fifty-seven (57) feet wide. If the proposed garage were to be hypothetically set at the minimum corner side yard setback of twenty (20) foot and considering the width of the garage to be twenty (20) feet, there would still be an additional seventy (17) feet between the garage and the eastern property line. As the side yard setback requirement for a detached garage at the eastern property line is three (3) feet, the petitioner would have fourteen (14) feet of additional space for the garage.

The Village of Lombard adopted an Alley Maintenance Program in 2010. As part of this program, the Village vacated certain improved and unimproved alleys throughout the Village. The vacation of the unimproved alley south of Maple Street, between Martha Street and Charlotte Street was approved by the Village Board on Thursday, February 3, 2011. The Village subsequently vacated the alley south of Maple Street, between Martha Street and Charlotte Street and divided it amongst the respective property owners. However, because certain properties have driveways on the alley and took vehicular access from the alley, the westernmost portion of said alley cannot be vacated.

A clear line of sight area is required when two public rights-of-way intersect. In this case, a triangle is formed with legs extending thirty feet (30') along the property line adjacent to the aforementioned alley and a thirty feet (30') leg extending into the property line, which is perpendicular to the alley. With the exception of the B5 District, no buildings or structures shall be located in a clear line of sight. The clear line of sight provisions exist specifically for public safety purposes.

Staff recommends that the petition be denied in its entirety. Within the response to standards, the petitioner states that the previous garage was in a state of disrepair and the proposed garage would be replaced to the same size as the previously existing garage. The petitioner states that the Village did not inform him that if the garage was demolished that it would have to meet the corner side yard setback requirement. While staff recognizes these concerns, staff does not believe that the rationale is demonstrative of a hardship associated with the geographic state of the property, but rather an inconvenience associated with meeting Code requirements and seeking relief through the public hearing process.

Concluding, Mr. Toth stated that staff is recommending denial of ZBA 11-05.

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

Mr. Bartels asked staff if it is legal to park in the area of the driveway between the street and sidewalk.

Mr. Toth stated that it is illegal to park on the sidewalk and parkway.

Mr. Neary stated that he would not park on the driveway, but rather inside the garage.

Mr. Bartels stated that the petitioner got the "short end of the stick" in this situation because the Village didn't facilitate this matter properly. He then asked staff if this happens frequently.

Mr. Toth stated that he wanted to clarify that the petitioner spoke with a representative of the Building Division. He then stated that the Community Development Department

consists of four separate divisions - Building, Planning, Code Enforcement and Engineering, each following a different set of Code regulations. He added that the petitioner did not speak with a representative of Planning Services relative to the garage location before submitting for permit. Mr. Toth responded to Mr. Bartels by stated that this sort of miscommunication rarely happens. Mr. Toth stated that there was a ZBA case on Sunset in 2006 (ZBA 06-22), which included a communication issue during permit submittal. He added that ZBA 06-22 was an attached garage and the variation was ultimately granted because the petitioner demonstrated a hardship with the replacement of an attached garage in the corner side yard. He stated that the hardship was associated with the altering of the floor plan of the house if a variation was not granted.

Mr. Tap asked who reviews demolition permits.

Mr. Toth stated that Building, Planning and Engineering review demolition permits. Mr. Toth added that the demolition permit was not submitted in conjunction with the garage permit in this case.

Chairperson DeFalco stated that the slab (and the rest of the garage) was removed; therefore, any rights to rebuild the structure at the previous location were lost. He added that any time more than 50% of the structure is demolished or destroyed, the non-conforming rights are lost. He then stated that 100% of the old garage was demolished. Chairperson DeFalco stated that there is also a line of sight issue, not only where the alley meets Charlotte, but also pulling out of the garage.

Mr. Young asked if there were any clear line of sight issues pertaining to the proposed garage as it relates to the sidewalk and Charlotte Street.

Mr. Toth stated that the only clear line of sight issue relative to the proposed garage is the thirty (30) foot clear line of sight area where the alley and Charlotte Street intersect. He added that any additional clear line of sight areas would have required additional variations.

Mr. Young discussed the garage improvement/construction options that were presented to the petitioner and asked staff how they relate to the 50% provision.

Mr. Toth stated that the Building Division makes a determination as to whether or not a structure has been demolished or destroyed beyond 50% of its fair market value. If a majority of the legal non-conforming structure still stands (more than 50%) the structure can be repaired, but not expanded upon.

Chairperson DeFalco then asked staff if the tall hedges that are located adjacent to the garage violate the clear line of sight provisions.

Mr. Toth stated that if the hedges are located in the clear line of sight area and are greater than two feet in height, they would be in violation of the clear line of sight provision. He added that the Village does not require permits for hedges so there is no tracking mechanism in place to monitor hedges, outside of the Code Enforcement route.

Mr. Young stated that the hedges are irrelevant to this case and the ZBA should be looking at the garage location on its own merit.

Chairperson DeFalco stated that the removal of the hedges could be a condition of approval, if the ZBA was to recommend approval of the petition.

Mr. Tap asked how many houses take access from the alley to the south of the subject

property.

Mr. Toth stated that two houses take access from the alley, which is the only reason the entire alley was not vacated originally.

Chairperson DeFalco then discussed the facts of the case. He asked staff if there would be seventeen feet between the garage if it were to be set at the required twenty foot corner side yard setback.

Mr. Toth responded, correct.

Chairperson DeFalco stated that the case before them involves a detached garage that is proposed to be rebuilt to its former size in its original location when it was first built in 1940. He also added that there are other garages in the area that do not meet the same Code requirements. Lastly, he stated that the alley to the south of the property is not a through alley and only two properties take access from the alley.

It was moved by Bedard, seconded by Tap, that this matter be Recommended to the Corporate Authorities for approval subject to one condition. The motion carried by the following vote:

Aye: 7 - Chairperson John DeFalco, Newman, Bartels, Young, Tap, Bedard and Corrado

1. All fencing and landscaping located within the thirty (30) foot clear line of sight area extending into the western property line and rear alley and the twenty (20) foot clear line of sight areas adjacent to the detached garage shall fully comply with the clear line of sight provisions.

Business Meeting

Approval of Minutes

On a motion by Tap and seconded by Young, the minutes of the April 27, 2011 meeting were unanimously approved by the members present.

Planner's Report

Michael Toth discussed the Code Red program being offered by the Village. The program works with local emergency response teams to notify people in the event of emergency situations or critical community alerts.

Mr. Toth then provided an update on the three ZBA cases from April. He stated that they were all approved, but there were modifications made to ZBA 11-02. The modifications required a change of location for one of the proposed fences.

New Business

Mr. Toth discussed the text amendments to the front yard setbacks for single-family detached residences. He then stated that the Plan Commission recommended favorably on the amendments and they will be going to the Board for final approval.

Unfinished Business

Adjournment

On a motion by Young and seconded by Bedard the meeting was adjourned at 8:10 p.m.

*John DeFalco, Chairperson
Zoning Board of Appeals*

*Michael Toth, Planner I
Zoning Board of Appeals*