

South: R2 Single Family Residence District; developed as Single Family Residences
East: R2 Single Family Residence District; developed as Single Family Residences
West: R2 Single Family Residence District; developed as Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on December 16, 2009.

1. Petition for Public Hearing.
2. Narrative prepared by the petitioner, dated December 7, 2009.
3. Response to the Standards for Variation.
4. Plans associated with the petition, prepared by the petitioner, undated.
5. Plat of Survey, prepared by Schlaf-Sedig & Associates, Inc., dated February 12, 2009.

DESCRIPTION

The subject property is located at the southeast corner of 2nd Avenue and Kenilworth Avenue and is improved with a one-story residence built in 1907. The existing residence was constructed at the rear of the property and is legal non-conforming with regard to the rear, corner side, and interior side yard setbacks as defined by the current Zoning Ordinance. On July 25, 2009, the residence caught on fire, resulting in damage greater than fifty percent (50%) of the fair market value. Pursuant to the Zoning Ordinance, in the event that any building or structure is damaged or destroyed to the extent of more than 50% of the fair market value, the structure shall not be restored unless it meets all the regulations of the underlying zoning district.

The petitioner is proposing to reconstruct the home and add a second-story with nearly the same footprint as the existing residence. The petitioner is proposing to increase the rear yard setback from the current 0.42 feet to 6 feet; however variations for the rear, corner side, and interior side yard setbacks are required.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The PES Division of Community Development has the following comments on the above petition:

1. The rear yard setback at 6' is acceptable as there is currently a building in this area. The foundation in this area shall be removed and positive grading established via a swale that directs flow from the south to the north.
2. A statement should be added to the plat that would require the garage to be moved out of the interior side yard setback at such time that it is reconstructed.
3. As far as the required utility easements that would typically be dedicated to the Village and other utility companies, the Village would not object to a 5' easement along the rear yard, and no easement along the interior side yard. It is the petitioner's responsibility to obtain the approval of the other utility companies for the same.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE DEPARTMENT

The Fire Department has reviewed the petition and has no comments.

BUILDING DIVISION

Upon review of the above referenced property, the Building Division has the following comments:

1. As to the petitioner's proposal to construct a 2nd story addition on the current structure, the issues raised and noted on Keith Steiskal's letter to the homeowner on 8/25/09 should be addressed, as well as the structural feasibility of the current foundation to support the additional weight of a second story along with the remodeling of the first floor layout of the floors and walls.

PLANNING

The subject property is developed with a single-story residence constructed at the far western side of the property. The existing home is also non-conforming in the following respects:

- A setback of 0.42 from the rear (western) property line where a thirty-five foot (35') rear yard setback is required.
- A corner side yard setback of sixteen and eight-tenths feet (16.8') where twenty feet (20') is required.
- An interior side yard setback of three and ninety-two one-hundredths feet (3.92') where six feet (6') is required.

Following a July 25, 2009 house fire at the property, the Fire Department made a determination that the structure had been destroyed to greater than fifty percent (50%) of its value. As a non-conforming structure, the Zoning Ordinance requires that the structure be brought into full compliance with code. Rather than demolish the home, the owner has developed a new plan to construct a two-story residence on nearly the same footprint as the existing home. The plan would increase the rear yard setback to six feet (6') from the existing 0.42' and increase the interior side

yard setback to 3.95' from 3.92'. The existing corner side yard setback of sixteen and eight-tenths feet (16.8') would remain the same. With the new plan, the petitioner has requested variations to reduce the required setbacks to the indicated measurements. The proposed plan, labeled "Site Plan", is included within the petitioner's submitted packet.

The new plan involves removal of the master bedroom and an office which are located at the far eastern side of the residence. The removed square footage will be made up for on the proposed second floor. The petitioner has indicated that replacing these areas on the western side of the home is undesirable. This would require the removal of two large trees that the petitioner would prefer to maintain. The petitioner has also indicated that placing the bedroom on the eastern side of the home is undesirable due to the proximity of the laundry area and utilities as well as distance from the bathroom and other living areas. Please see Exhibit A for existing layout of the residence.



The residence as it currently exists.

The Building Division comments on this petition indicate that improvements and repairs to the foundation will be necessary. This applies should the residence remain as a single-story structure or be expanded to two stories. The Building Division has indicated that the exterior walls appear to be structurally intact following an initial inspection. However, further evaluation will be necessary during the remodeling process.

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 new construction will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance. Variations may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area.

Staff notes that Section 155.305 of the Zoning Ordinance allows for a petitioner to apply to the Plan Commission for a conditional use to allow a non-conforming building to be reestablished. However, such a request would not be applicable in this case as the non-conforming building is proposed to be expanded.

Although the requested zoning relief is significant, staff is supportive of the proposed variations as the "Standards for Variations" have been met in the following respects:

- 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 finds that both the configuration of the improvements on the lot and the existence of a few large trees would require the site to be completely redeveloped in order to construct a new residence of comparable size to the existing residence. Redevelopment would include removal of the residence, the detached garage, and most likely the large trees which are located in the buildable area of the lot. The plan that the petitioner has proposed would bring the property into closer compliance with code than the current layout of the property. Please see the attached Exhibit B which depicts the existing residence and garage, the proposed footprint, and the applicable required setbacks.

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.*

Staff finds that the conditions on the subject property are uncommon. It is rare within the Village for a property to contain a single-family residence which is located exclusively in the rear yard setback area. The degree of non-conformity regarding the rear yard setback is extreme and the petitioner is proposing to improve this condition by bringing it into closer compliance with the Zoning Ordinance. The petitioner has proposed to maintain the current corner side yard setback while increasing the interior side yard setback slightly.

Staff notes that the location of the garage is also non-conforming as Section 155.210(A)(2)(b) of the Zoning Ordinance requires that all detached accessory buildings be located behind the front wall of the principal building. However, staff has determined that no relief for the garage is necessary as no changes to the garage are proposed.

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

The petitioner does not stand to profit from the requested variations. The petitioner plans to utilize as much of the existing residence as possible and they plan to live in the residence following restoration.

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 degree of non-conformity on the property is due to the selected location for the residence, constructed in 1907 according to the petitioner, and the manner in which the lot was subdivided in 1908.

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.*

It is staff's opinion that the requested variations will not have a detrimental effect on the public or the improvements on neighboring properties. In fact, the proposed plan is likely to improve safety over the current design of the property. The principal residence and the detached garage on the neighboring property to the east, 44 S. 3rd Avenue, are currently separated by approximately seven feet (7'). The new plan would create a separation of

approximately twelve and one-half feet (12.5') meeting the minimum requirements of the Zoning Ordinance.

As the petitioner indicated within his submitted statement, the new plan will also provide a clear path completely around the home. The Fire Department has indicated that this is desirable for firefighting and access purposes.



Proximity of residence and adjacent garage.

Staff believes that the additional height of the proposed second story is unlikely to have a negative impact on any of the adjacent residences. Each of the principal structures on the adjacent properties would be more than sixty (60') feet from the proposed house on the subject property. Please see the attached Exhibit C which depicts the proximity of the residences on adjacent properties.

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

Although the location of the residence, both currently and as proposed, is unusual within the neighborhood, the residence has occupied the same location for more than one hundred years. Further, the layout of 45 S. 3rd Avenue is similar to the subject property in that the detach garage is located closer to the front lot line than the principal residence.

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.*

As stated above, the proposed plan is unlikely to have any adverse effect on the neighborhood or the general public.

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 **do 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 10-01; subject to the following conditions:

1. The subject property shall be developed in substantial conformance with the drawing labeled "Site Plan" submitted as part of the public hearing packet prepared by the petitioner and dated December 7, 2009.
2. The approved setback variations shall apply only to the principal residence on the subject property.
3. All portions of the existing residence within six feet (6') of the rear lot line, including the foundation, shall be removed and positive grading established via a swale that directs flow from the south to the north.
4. In the event that the detached garage on the subject property is damaged or destroyed to fifty-percent (50%) of its value, any new garage shall meet the required interior side yard setback.
5. That the petitioner shall satisfactorily address all comments included within the IDRC report.
6. Prior to the issuance of the building permit, the petitioner shall submit for final approval, a Plat of Subdivision. The plat shall include a minimum five foot (5') easement along the rear yard and a statement that requires the existing garage to be moved out of the interior side yard setback at such time that it is reconstructed.

Inter-Departmental Review Group Report Approved By:

William Heniff, AICP
Director of Community Development

c: Petitioner

Exhibit A

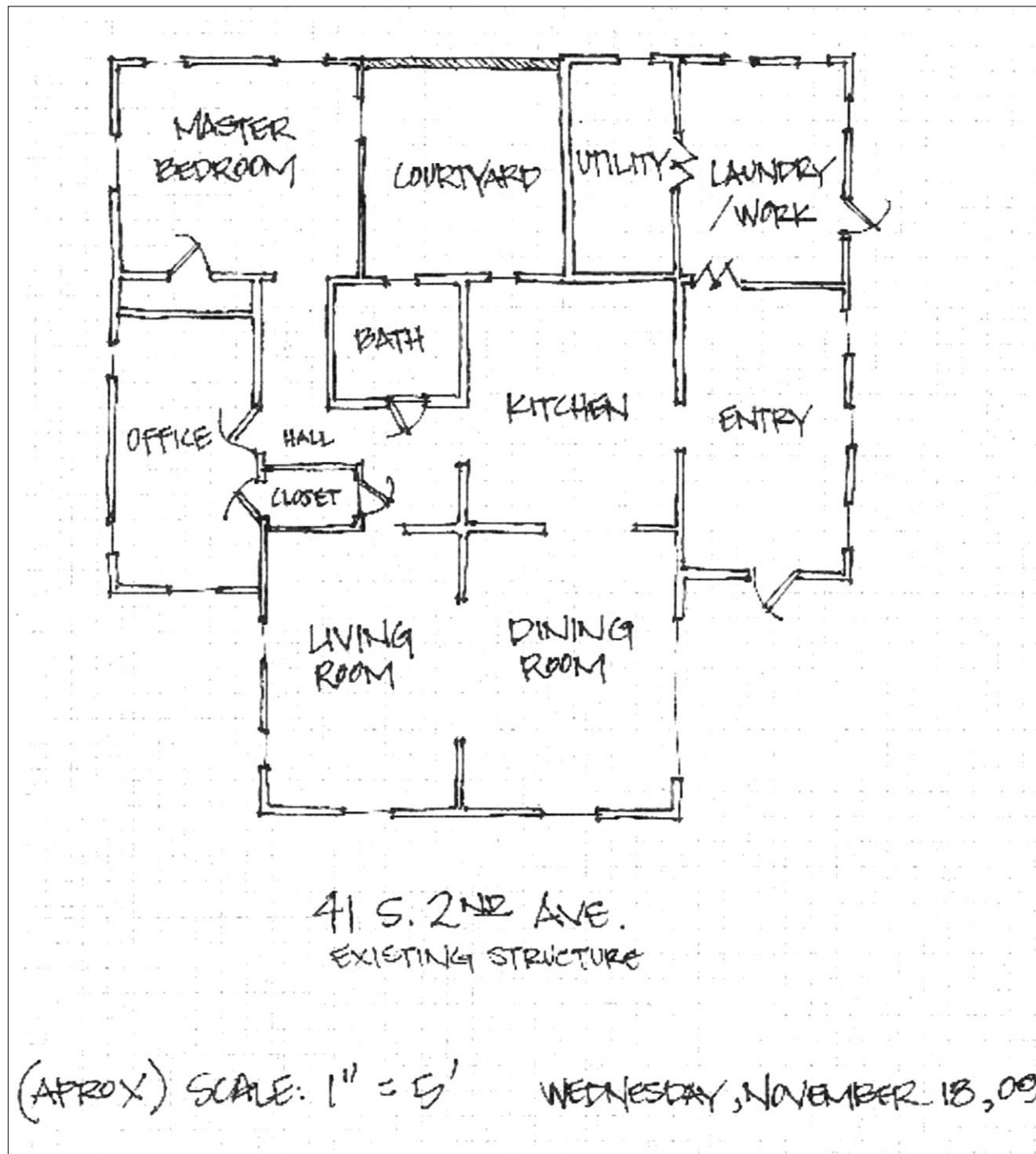


Exhibit C

