


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


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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager 

DATE: August 25, 2009 (B of T) Date: September 3, 2009

TITLE: Resolution of Objection to DuPage County Case Z09-037 (Shah)  
28350 Glen Avenue

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

Please find attached a Resolution of Objection to a request for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District in unincorporated DuPage County.

The Plan Commission recommended approval of the Resolution of Objection.  
Please place this item on the September 3, 2009 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

Date \_\_\_\_\_

Date \_\_\_\_\_

Date 8/25/09

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 J. Heniff, AICP, Director of Community Development

**DATE:** September 3, 2009

**SUBJECT:** DuPage County Public Hearing Z09-037- Shah

DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

On August 17, 2009, staff presented this case to the Plan Commission to solicit their input. The Plan Commission considered the following findings, as identified by Village staff:

1. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:
  - a. A setback variation for the principal structure; and,
  - b. Setback variation for the deck located above the addition.
2. Based upon the site plan, flexibility exists for the property owner to construct a shed and deck that meets County and Village Codes.
3. Staff finds that both the shed and the deck in their current locations may present a negative impact upon the adjacent property owners.

In their deliberations, the Lombard Plan Commission found that the petition is inconsistent with the Village's Comprehensive Plan, the established codes and ordinances of the Village of Lombard, and did not meet the standards for variations as expressed within the DuPage County Zoning Ordinance. As such, the Plan Commission unanimously recommended that the Lombard Village Board adopt a Resolution of Objection for Z09-037, to be forwarded to the County Board before the subject case is presented before them.



**VILLAGE OF LOMBARD**  
 255 E. Wilson Ave.  
 Lombard, Illinois 60148-3931  
 (630) 620-5700 Fax (630) 620-8222  
 www.villageoflombard.org



Village President  
 William J. Mueller

Village Clerk  
 Brigitte O'Brien

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

**Subject: DuPage County ZBA Case Z09-037 - Shah**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced case under review by DuPage County. Michael Toth, Planner I, presented the petition. Mr. Toth stated that DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

Mr. Toth stated that staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.

While DuPage County has officially classified the subject variation as a variation to reduce the side yard setback for an existing shed, Mr. Toth stated that Village staff believes that the case may have additional variations associated with the proposed project. These additional elements may have a greater impact on the surrounding neighborhood than a setback variation for a shed. The submitted plat of survey from October 10, 1994 depicts the 'frame shed' connected to the house during the time of the survey. As the structure the County refers to as a 'shed' is connected to the house, tied to the foundation of the house and constructed from the same materials as the house, the shed should be considered an addition to the principal structure. Therefore,

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

*"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."*

Village Manager  
 David A. Hulseberg

Trustees  
 Greg Alan Gron, Dist. 1  
 Richard J. Tross, Dist. 2  
 Zachary C. Wilson, Dist. 3  
 Dana L. Moreau, Dist. 4  
 Laura A. Fitzpatrick, Dist. 5  
 William "Bill" Ware, Dist. 6

the side yard setback for the principal structure would now be recognized at 0.38 feet. Mr. Toth stated that while on a site visit to the subject property, Village staff discovered that there was also a deck constructed on top of the subject addition. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as the Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:

1. A setback variation for the principal structure; and,

2. Setback variation for the deck located above the addition.

Mr. Toth then made reference to the setback variation. According to discussions with the County representatives, the addition on the property does not achieve code compliance concerning County and Village Codes.

Mr. Toth then made reference to the deck variation. As the deck is located directly on top of the addition, the deck also encroaches into the required side yard; therefore, relief would be required to allow the deck to remain at its present location. Staff notes that neither the County nor Village Code recognizes the deck (as constructed) as a permitted encroachment in the interior side yard.

Mr. Toth stated that staff finds that both the building addition and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

Lastly, Mr. Toth stated that based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard. Therefore, staff recommends that the Plan Commission adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

Vice Chairperson Flint then opened the meeting for comments among the Commissioners.

Commissioner Olbrysh agreed with staff. If something like this was approved it could set a precedent. The shed could have been placed in a different location and to make matters worse, they put a deck on top of the shed. This petition does not meet the standards for a variation.

Commissioner Sweetser questioned the practical result of adopting a Resolution of Objection. Mr. Toth answered that since the property could ultimately become part of the Village, we will

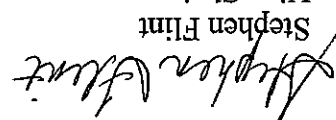
forward our objection to the County, once approved by the Village Board. By doing so, our objection will be noted disputing the case and become part of the County's public hearing process which is similar to what happens here.

Commissioner Sweetser asked if the petitioner would have to take these things down should they become part of the Village. Mr. Toth answered yes. Mr. Stilling stated that when the County votes on the issue it will require a 3/4 majority of the voting members in order to approve the petition.

After due consideration, the Plan Commission recommended by a roll call vote of 6 to 0, that the Board of Trustees adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

Respectfully,

**VILLAGE OF LOMBARD**



Stephen Flint

Vice Chairperson

Lombard Plan Commission

attachment

c. Lombard Plan Commission







**MEMORANDUM**

**TO:** LOMBARD PLAN COMMISSION  
Donald Ryan, Plan Commission Chairperson

**FROM:** Michael S. Toth, Planner I  
Department of Community Development  
M.T.

**DATE:** August 17, 2009

**SUBJECT:** DuPage County Public Hearing Z09-037- Shah

DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

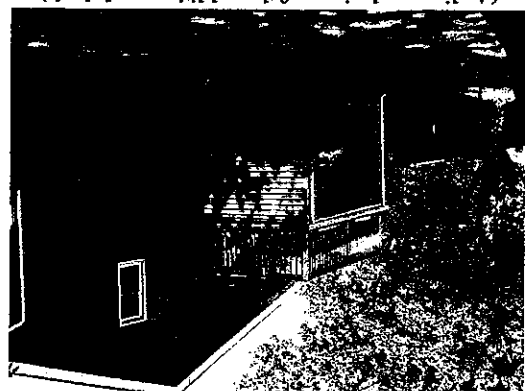
Staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.

**BACKGROUND**

While DuPage County has officially classified the subject variation as a variation to reduce the side yard setback for an existing shed, Village staff believes that the case may have additional variations associated with the proposed project. These additional elements may have a greater impact on the surrounding neighborhood than a setback variation for a shed. The submitted plat of survey from October 10, 1994 depicts the 'frame shed' connected to the house during the time of the survey. As the structure the County refers to as a 'shed' is connected to the house, tied to the foundation of the house and constructed from the same materials as the house, the shed should be considered an addition to the principal structure. Therefore, the side yard setback for the principal structure would now be recognized at 0.38 feet.



(A front view of the addition and deck)



(A diagonal view of the addition and deck)

As a point of clarification, staff will refer to the shed as an addition to the principal residence. Upon a site visit to the subject property, Village staff discovered that there was also a deck constructed on top of the subject addition. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:

1. A setback variation for the principal structure; and,
2. Setback variation for the deck located above the addition.

*Principal Structure Setback Variation*

According to discussions with the County representatives, the addition on the property does not achieve code compliance concerning County and Village Codes. Noted below are the proposed characteristics associated with the addition:

Existing	Setback	Required by DuPage County	Required by Lombard
Setbacks from interior side lot line for principal structures.	.38 ft	6.1 feet, 10% of lot width	6 feet

*Deck Variation*

As the deck is located directly on top of the addition, the deck also encroaches into the required side yard; therefore, relief would be required to allow the deck to remain at its present location. Staff notes that neither the County nor Village Code recognizes the deck (as constructed) as a permitted encroachment in the interior side yard. Noted below are the proposed characteristics associated with the deck:

Existing	Setback	Setback Required by DuPage County	Setback Required by Lombard
Setback from interior side lot line for decks	.38 feet	6.1 feet, 10% of lot width	6 feet, as the deck is greater than the 3 feet in height.

**ANALYSIS**

The subject property is 13,711 square feet in size. The property is bordered by single family residences on all sides. The Village's Comprehensive Plan included the subject property and identifies the site for Low Density Residential use.

Staff finds that a great deal of flexibility exists for the property owner to construct a shed and/or deck that meets County and Village Codes. The lot is approximately 219 feet deep. The house is set back 40 feet from the front lot line and is 30 feet long (including the rear deck); therefore, there is approximately 149 lineal feet between the rear of the house and the rear lot line to construct a shed. The lot is pie-shaped; however, it is still more than thirty feet (30') at the most shallow point. Staff notes that there is a ten foot (10') public utility easement at the rear of the property. As such, a shed with a permanent foundation or footings could not locate in that area.

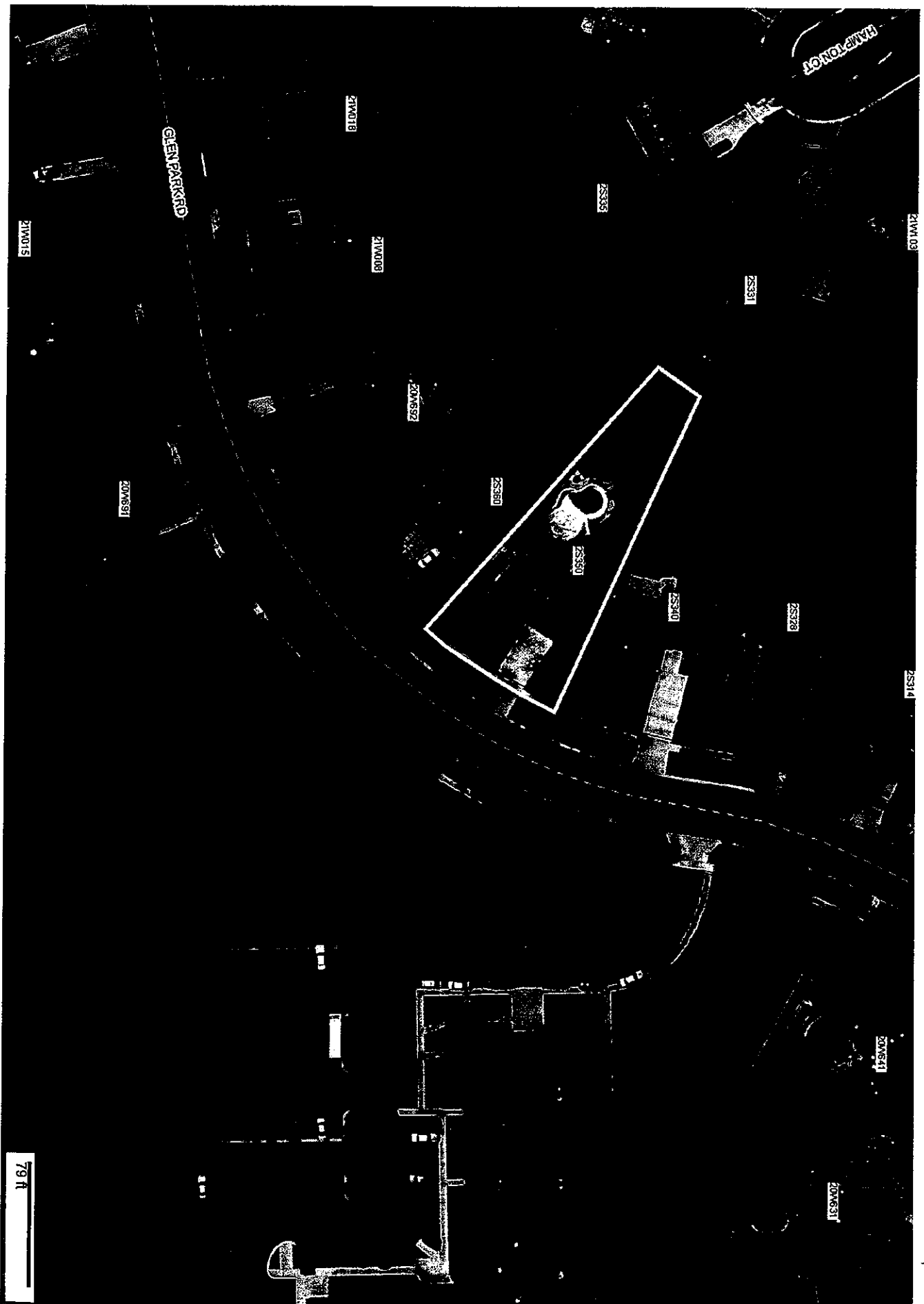
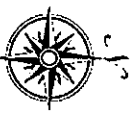
Staff finds that both the building addition and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

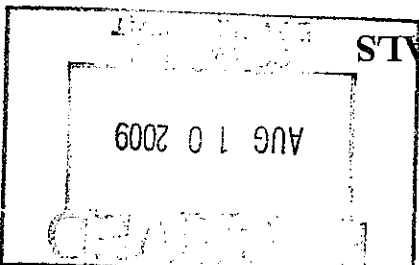
**FINDINGS AND RECOMMENDATION**

Based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard. Therefore, staff recommends that the Plan Commission make the following motion regarding the petition:

Based upon a review of the petition submitted to DuPage County, the Plan Commission finds that the petition is inconsistent with the Village's Comprehensive Plan, the established codes and ordinances of the Village of Lombard, and does not meet the standards for variations as expressed within the DuPage County Zoning Ordinance. Therefore, the Plan Commission recommends that the Village Board adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.

# Z09-037: 2S350 Glen Ave.





**DUPAGE COUNTY ZONING BOARD OF APPEALS**

JACK T. KNUFFER ADMINISTRATION BUILDING  
 421 NORTH COUNTY FARM ROAD, WHEATON, ILLINOIS 60187/ 630-407-6700/630-407-6702 (fax)

Zoning Petition Z09-037 Shah

Please review the information herein and return with your comments to: Paul Lauricella, DuPage County Department of Economic Development & Planning, 421 North County Farm Road, Wheaton, Illinois 60187 or via email at [Paul.Lauricella@dupalpageco.org](mailto:Paul.Lauricella@dupalpageco.org), or via facsimile at 630-407-6702 by August 23, 2009.

<b>COMMENT SECTION:</b>	
: NO OBJECTION/CONCERNS WITH THE PETITION.	
: NO OBJECTION/CONCERNS WITH THE CONCEPT OF THE PETITION. ADDITIONAL INFORMATION MAY BE REQUIRED AT TIME OF PERMIT APPLICATION.	
: I CAN NOT COMMENT AT THIS TIME. ADDITIONAL INFORMATION REQUIRED.	
: I OBJECT/HAVE CONCERNS WITH THE PETITION.	
<b>COMMENTS:</b>	
<b>SIGNATURE:</b>	
<b>DATE:</b>	
<b>MUNICIPALITY/TOWNSHIP/AGENCY/DEPARTMENT:</b>	

**GENERAL ZONING CASE INFORMATION**

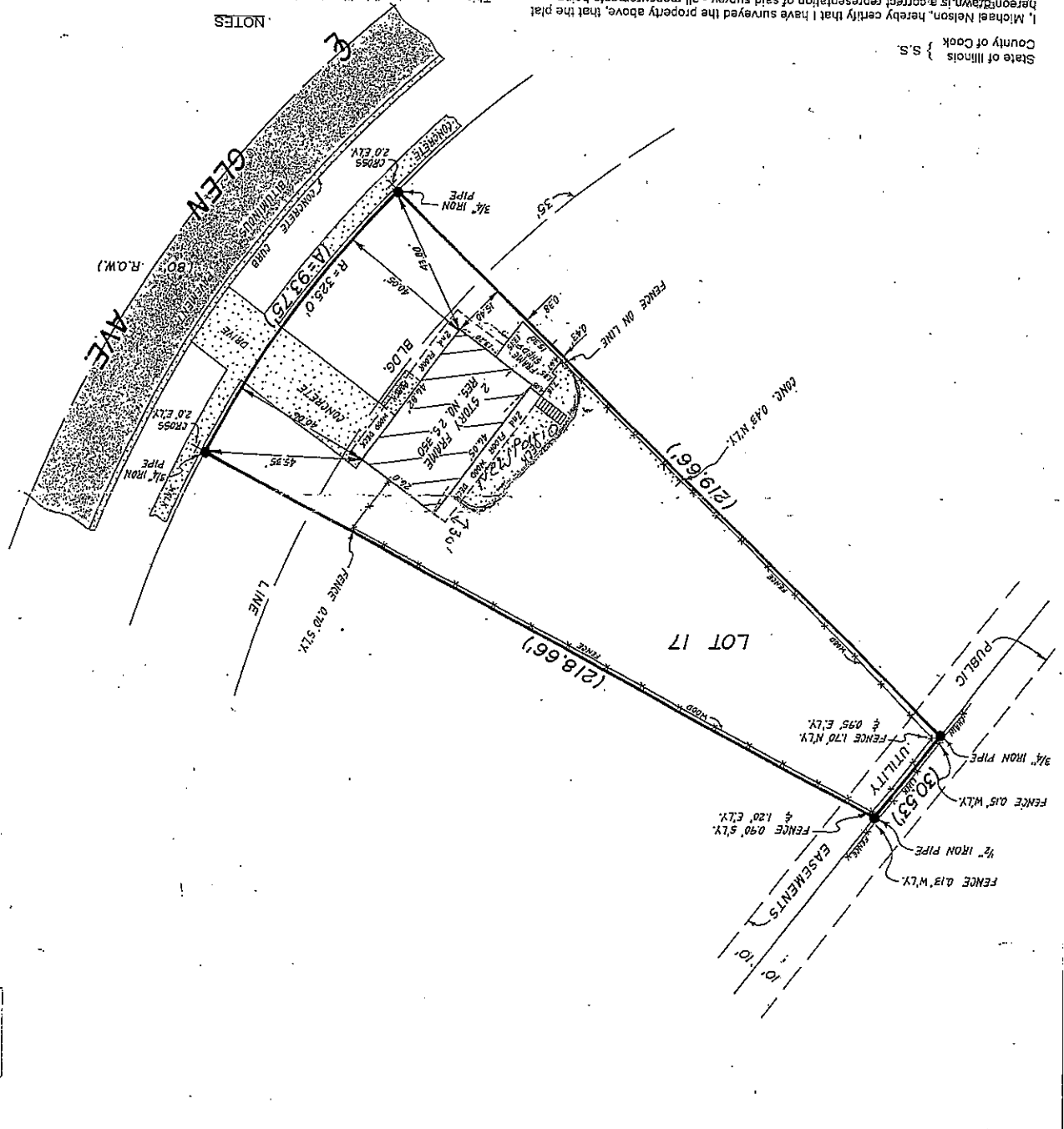
<b>CASE #/PETITIONER</b>		Z09-037 Shah
<b>OWNER</b>		Rajesh Shah, 2S350 Glen Ave, Lombard, IL 60148
<b>ADDRESS/LOCATION</b>		2S350 Glen Ave, Lombard, IL 60148
<b>PUBLICATION DATE</b>		Daily Herald: August 9, 2009
<b>ZONING REQUEST</b>		Variation to reduce side yard setback from 6.1 ft. to .38 ft. for an existing shed. (Sec 37-704.1)
<b>PIN/TWSP / COUNTY</b>	<b>BOARD DIST.</b>	06-30-111-028
<b>ZONING/LUP</b>		R-4 Single Family Res.
<b>AREA/UTILITIES</b>	13,711 sq. ft. (.31 Acres)	Water and Sewer
<b>PUBLIC HEARING</b>		August 24, 2009, 5:30 p.m.

PLEASE NOTE: FILING OF THIS FORM DOES NOT SUBSTITUTE FOR A FORMAL OBJECTION PURSUANT TO THE ILLINOIS STATE STATUTES.

- Legend
- Monumentation Found
  - Monumentation Set
  - (50') Record Dimension
  - X- Fence Line

# Plat of Survey

LOT 17 IN BLOCK 25 IN BUTTERFIELD UNIT NUMBER 8, BEING A SUBDIVISION IN SECTION 25, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 8, 1964 AS DOCUMENT R64-46014, AND CORRECTION CERTIFICATES, RECORDED SEPTEMBER 10, 1965 AS DOCUMENT R65-35167 AND NOVEMBER 5, 1965 AS DOCUMENT R65-43977, IN DUPAGE COUNTY, ILLINOIS.



**NOTES:**  
 All distances shown hereon are in feet and decimal parts thereof.  
 Building Lines and Easements are shown only where they are so recorded in the maps. Compare the Legal Description, Building Lines, and Easements as shown hereon with your Deed, Title Insurance Policy or Title Commitment.  
 Consult the local authorities for additional setback lines and restrictions not shown hereon. Compare all points before building and report any discrepancies at once.  
 Consult utility companies and municipalities prior to the start of any construction.  
 Do not assume distances from scaled measurements made hereon.

I, Michael Nelson, hereby certify that I have surveyed the property above, that the plat hereon represents a correct representation of said survey - all measurements being corrected to standard at 68° Fahrenheit.  
 Signed and Sealed at Brookfield, Illinois this 10th day of Oct. A.D. 1994  
 By \_\_\_\_\_ Illinois Professional Land Surveyor No. 3095.  
 Hereby \_\_\_\_\_ day of \_\_\_\_\_ A.D. Illinois Professional Land Surveyor No. 3095.  
 By \_\_\_\_\_ Illinois Professional Land Surveyor No. 3095.



DU PAGE COUNTY ZONING BOARD OF APPEALS  
JACK T. KNUEPFER ADMINISTRATION BUILDING  
421 NORTH COUNTY FARM ROAD WHEATON, ILLINOIS 60187 / 630-407-6700

Zoning Petition Z09-037 Shah

The DuPage County Zoning Board of Appeals will conduct the following public hearing:

PUBLIC HEARING: 5:30 p.m., August 24, 2009, Room 3500-B, JACK T. KNUEPFER  
ADMINISTRATION BUILDING 421 NORTH COUNTY FARM ROAD WHEATON, ILLINOIS 60187

PETITIONER: Rajesh Shah, 28350 Glen Ave., Lombard, IL 60148

REQUEST: Variation to reduce side yard setback from 6.1 ft. to .38 ft. for an  
existing shed. (Sec 37-704.1)

ADDRESS OR GENERAL LOCATION: 28350 Glen Ave., Lombard, IL 60148

LEGAL DESCRIPTION:

LOT 17 IN BLOCK 25 IN BUTTERFIELD UNIT NUMBER 8, BEING A SUBDIVISION IN SECTION 25,  
TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND SECTION 30,  
TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE  
PLAT THEREOF RECORDED DECEMBER 8, 1964 AS DOCUMENT R64-35167 AND NOVEMBER 5, 1965 AS  
DOCUMENT R65-43977, IN DUPAGE COUNTY, ILLINOIS.

Respectfully Submitted,  
ROBERT J. KARTHOLT, CHAIRMAN,  
DUPAGE COUNTY ZONING BOARD OF APPEALS

Notice of this hearing is being sent to property owners within 300 feet of the  
subject property and as one of them you are invited to attend the meeting and comment  
on the petition. A sketch or drawing of the petitioner's request is included for  
your review. If you have any questions, please contact the zoning Division at (630)  
407-6700.

Please be advised that access to the 421 JACK T. KNUEPFER ADMINISTRATION BUILDING is  
limited to the main entrance located in the center on the east side of the building.





**A RESOLUTION OF OBJECTION  
TO A REQUEST FOR A VARIATION TO REDUCE THE INTERIOR SIDE YARD  
SETBACK TO 0.38 FEET FROM THE REQUIRED 6.1 FEET TO ALLOW AN  
EXISTING SHED AT 28350 GLEN AVENUE,  
IN UNINCORPORATED DUPAGE COUNTY**

WHEREAS, the Corporate Authorities of the Village of Lombard have been advised that DuPage County is considering a request for a variation pursuant to Section 37-704.1 of the DuPage County Zoning Ordinance to reduce the interior side yard setback from 6.1 feet to approximately 0.38 feet to allow an existing shed at 28350 Glen Avenue, DuPage County, Case Number Z09-037; and,

WHEREAS, the subject property is currently zoned R-4 Single Family Residence District as designated within the DuPage County Zoning Ordinance; and

WHEREAS, the subject property is located within one and one-half mile of the Village of Lombard's corporate limits and is therefore within the Village of Lombard's planning jurisdiction pursuant to 65 ILCS 5/7-4-1; and

WHEREAS, the property owner desires to maintain an existing shed on the subject property; and

WHEREAS, the Corporate Authorities find that the variation is inconsistent with the intent of the Ordinance as no hardship or practical difficulties exist; and

WHEREAS, the Corporate Authorities find that the shed would be inconsistent with development trends of neighboring properties and would be injurious to neighboring properties as the property would not be developed to the same development standards as the neighboring properties; and

WHEREAS, the Corporate Authorities find that the petition is inconsistent with the Village's Comprehensive Plan, the established codes and ordinances of the Village of Lombard, and does not meet the standards for variations as expressed within the DuPage County Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the DuPage County Board be and hereby is notified of the opposition of the Corporate Authorities of the Village of Lombard to the granting of the action requested in ZBA Case Z09-037.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk