

October 18, 2007

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

**Subject: ZBA 07-07; 341 S. Grace Street**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1. Approve a variation from Section 155.406 (E) of the Zoning Ordinance to reduce the minimum required lot width from 60 feet to 40 feet; and
2. Approve a variation from Section 155.406 (F) (3) of the Zoning Ordinance to reduce the minimum required side yard setback along the northern property line from 9 feet to 6.8 feet.

The Zoning Board of Appeals conducted a public hearing on September 26, 2007. The petitioner, Chad Wooters, stated that staff is recommending approval of their request to reduce the lot width from 60 feet to 40 feet. The interior side yard setback is existing. The cross access they have with their neighbor is a gentleman's agreement, and it would be difficult for either of them to navigate without using the other's driveway. If their neighbor ever built a fence, they would have only 6.8 feet for their driveway. The setback variation request would be for the possibility that the south side of the house is destroyed but the north side is not.

Kirsten Wooters stated that the house is already narrow and conformance would make it narrower. Their shared driveway would look bigger than their home. They are certain that their neighbor would agree to a cross access agreement.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Jennifer Backensto, Planner II, stated that staff finds that the variation request to reduce the minimum lot width to 40 feet meets the Standards for Variations. The Zoning Ordinance permits redevelopment on lots in the R2 District that meet 80% of the required lot width, or a minimum of 48 feet. The intent of this rule is to provide a higher level of review for nonconforming lots platted before the 60-foot minimum lot width requirement. The subject property has a lot width of 40 feet, which is 67% of the required width. As the petitioner's residence was constructed on this lot in 1927, granting the variation would not further increase the degree of nonconformity. There are unique physical limitations on the property in that, due to the width of the subject property and surrounding lots, there is no practical way for the petitioner to meet the requirements of the Zoning Ordinance. The lots immediately north and south of the petitioner's property are 40 feet wide and 50 feet wide, respectively, so there would be no way for the lot to be brought into conformance by purchasing land from a neighboring property.

Without the requested relief, the property owner would not be able to make any additions to the property or rebuild the current home in the event it were destroyed or damaged more than 50% of its value. The requested relief is not needed due to the actions of anyone presently having an interest in the property as this subdivision occurred in 1930. Granting the request would neither be injurious to neighboring properties, nor would it change the visual and aesthetic character of the neighborhood. Staff is therefore supportive of the lot width variation request.

The existing home is 6.8 feet from the northern property line, where the Zoning Ordinance requires homes with detached garages to have interior side yard setbacks of 6 feet and 9 feet (in cases where the garage is not attached to the house) to allow for an adequately-sized driveway. This ensures an adequate separation between structures and also ensures that residents are not forced to drive on their neighbors' properties. (Staff is unaware of any existing cross-access agreements pertaining to this property.) No setback variations have been granted on the petitioner's block, so there is no established precedent for zoning relief.

Furthermore, to be granted a variation the petitioner must show that they affirmed each of the "Standards for Variation". Staff finds that the standards are not affirmed. The proposed variation will decrease the visual open space between homes that is typically protected by the required interior side yard setbacks. Setback requirements within the R2 District are intended to prevent overcrowding and preserve the open space characteristic of suburban single-family development. Granting this variation would increase the likelihood of further encroachments and reductions in open space on surrounding properties, thereby taking away from the spacious, residential character of the neighborhood. Also, because of the unusually narrow lot width for this property, any reduction in the required setbacks for this property would result in the appearance of this lot being overbuilt. Granting a variation for the side yard setback for a future reconstruction could, depending on the layout of the new home, create a rowhouse-like appearance that may be inappropriate for the neighborhood.

The petitioner wants assurances that a home can be built on the property in the event the existing home were destroyed. As the Zoning Ordinance requires interior side yard setbacks of only 6 feet on both sides where there is an attached garage (versus 6 feet and 9 feet), this variation would only be necessary in the event the new home did not have an attached garage.

Rather than grant a side yard variation to accommodate future construction, staff recommends that the request to reduce the interior side yard setback to 6.8 feet be denied. The petitioner and any future owners of this property would retain the right to construct a home within the buildable area of the subject property, assuming the lot width variation is granted, and the existing house would retain its legal nonconforming status. In the event the new construction does not meet the required setbacks, staff feels it would be appropriate for the property owner to appear before the Zoning Board of Appeals and the Board of Trustees at that time to request a variation for any future building plans.

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

Mr. Young stated that if the neighbor's house were to burn to the ground and a new house was built up to the allowable setbacks, the petitioner would have a problem. Granting the lot width variation ensures that a structure could be build on the lot, and the setback could remain grandfathered. It would make more sense for both the petitioner and the neighbor to seek lot width variations. The interior side yard setback request, though, is for a far-fetched contingency.

Mr. Bedard stated that, typically, relief is tied to a particular structure and not intended to allow a nonconforming structure to remain in perpetuity. He stated that he is more likely to support the lot width variation than the setback variation.

Mrs. Wooters stated that they learned about the noncompliance when they were inquiring about their taxes. Someone suggested to her that they should either stop paying their homeowner's insurance or get a variation. If they had known about the nonconformities when they were purchasing the house, they might have had concerns. It would be too stressful to ask for a variation at the time the house burns down. If both variations are not granted it will be very difficult to sell the home. They want to preserve the existing footprint, and meeting the setback requirements would be bad for Lombard.

Chairperson DeFalco asked if the footprint could be maintained if less than 50 percent of the house were damaged. Ms. Backensto stated that it could.

Chairperson DeFalco stated that variations are usually tied to the home. Assuming the lot width variation is granted, a replacement home with an attached garage could be built on the lot. It could have a two-car garage, especially with a tandem garage design.

Mr. Young noted that the front yard setback is 25.5 feet. Ms. Backensto confirmed that there is a 25.5-foot setback to the front porch, which would require relief if it were enclosed. Mrs. Wooters stated that the porch had been enclosed.

Mr. Young stated that builders are adept at preserving the architectural integrity of a neighborhood, and there are many possibilities that could work on this lot aside beyond the existing footprint. Mr. Bedard stated that a 40-foot wide lot is not particularly attractive to a builder, and he has concerns that a builder would negatively take advantage of a reduced side yard setback.

Mr. Young asked if cross access is required to get a building permit. Ms. Backensto stated that, for a shared driveway, the cross access is a private agreement between property owners and not something that is required by the Village.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested lot width variation complies with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Young and a second by Mr. Bedard, the Zoning Board of Appeals recommended approval of the requested lot width variation associated with ZBA 07-07 by a roll call vote of 6 to 0.

The Zoning Board of Appeals then made a separate recommendation regarding the proposed interior side yard setback variation. After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested interior side yard setback variation does not comply with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mr. Young, the Zoning Board of Appeals recommended denial of the requested interior side yard setback variation associated with ZBA 07-07 by a roll call vote of 5 to 1.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson  
Zoning Board of Appeals

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