

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

  X    
\_\_\_\_\_  
\_\_\_\_\_

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

TO: PRESIDENT AND BOARD OF TRUSTEES  
FROM: William T. Lichter, Village Manager  
DATE: July 13, 2005 (B of T) Date: July 21, 2005  
TITLE: ZBA 04-06: 935 E. St. Charles Road  
SUBMITTED BY: Department of Community Development *WTL*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a request granting a one-year time extension to Ordinance 5508 which granted approval of variations associated with the property located at 935 E. St. Charles Road. (DISTRICT # 5)

Staff recommends approval of this request.

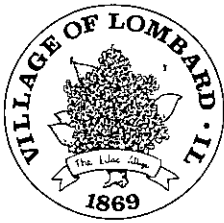
Staff also recommends that final consideration of the extension should be conditioned to require that the petitioner fine grade, place topsoil and seed and maintain the property until such time that construction commences on the property upon final consideration.

Fiscal Impact/Funding Source:

Review (as necessary):

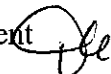
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *W. Lichter* \_\_\_\_\_ Date 7/13/05

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, Director of Community Development 

**DATE:** July 21, 2005

**SUBJECT:** Extension of Ordinance 5508 (ZBA 04-06; 935 E. St. Charles Road)

### **BACKGROUND:**

The Board of Trustees approved Ordinance 5508 (ZBA 04-06) on June 17, 2004 which granted approval of lot area and setback variations for the property at 935 E. St. Charles Road. Per the provisions of Section 155.103 (C)(10) of the Zoning Ordinance, if construction has not begun within one (1) year from the date of approval, the conditional use is null and void unless an extension is granted by the Board of Trustees. A copy of Ordinance 5508 is attached for your reference.

After being advised that the relief was about to expire, the petitioner submitted a letter requesting an extension of the relief for an additional year. As stated in the correspondence, the petitioner has applied for and received conceptual approval of the engineering for the site and the building permits are nearly ready for final approval by the Village. The petitioner has represented that the initial tenants that were going to occupy the building decided to relocate to another strip center under construction in Villa Park. As such, he does not have any tenants ready to occupy the premises at this time.

Staff believes that granting an extension is in the best interest of the Village, provided that the petitioner adheres to conditions incorporated in the Ordinance 5508. Should the relief expire, any future property owner or petitioner would need to go through the entire public hearing process to build on the property. As the petitioner's plans were deemed to be desirable and acceptable by the Village, we believe that granting the extension would provide the possibility of development to occur on the property in a more timely manner.

However, as the property is a gateway property into the Village, staff recommends that the Village Board considers a first reading of the Ordinance extending Ordinance 5508 at the July 21, 2004 meeting. Prior to final consideration of the Ordinance on August 18, 2005, the property owner shall either receive building permit approval and start construction of the project (and

therefore the extension would no longer be necessary) or fine grade, place topsoil and seed and maintain the property until such time that construction commences on the property.

**RECOMMENDATION:**

Staff recommends that the Village Board approve a first reading of an Ordinance extending the time period for the previously approved variations for an additional year. Staff also recommends that final consideration of the extension should be conditioned to require that the petitioner fine grade, place topsoil and seed and maintain the property until such time that construction commences on the property.

# THOMAS M. BREEN

*Attorney at Law*

619 South Addison Road  
Addison, Illinois 60101

Phone Number (630)834-4890  
Fax Number (630)834-4966

JUN 16 2005

VILLAGE ADMIN. DEPT.

XWR  
D.H.

RECEIVED  
JUN 20 2005  
COMMUNITY DEVELOPMENT

June 15, 2005

Village of Lombard  
Attention: Village President Mueller  
255 E. Wilson Avenue  
Lombard, IL 60148

RE: 935 E. St. Charles Road, Lombard, Illinois

Dear Village President Mueller and Village Board of Trustees:

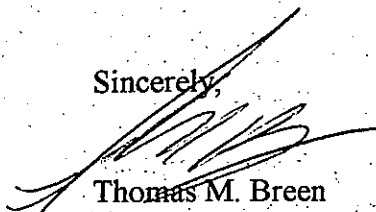
Please be advised that I represent Salvatore J. Pernice, the owner of property commonly known as 935 E. St. Charles Road, Lombard, Illinois and legally described in the attached Exhibit "A".

My client obtained certain variations as set forth in Ordinance #5508 (ZBA 04-06) which was approved unanimously on June 17, 2004 by the Village Board of Trustees. My client has submitted and obtained final engineering approval and further he has complied with each and every requirement itemized in Section 4 of the Ordinance and submitted Building Plans which have been approved. However, as a result of his inability to obtain an acceptable tenant or tenants he has not yet begun construction at this time.

It is his intent to proceed with this project, but because of the restraints of his construction loan he has been unable to begin construction of the project. Based thereupon and on behalf of my client I am requesting an extension of the Ordinance for an additional year.

I thank you for your cooperation and consideration of this request.

Sincerely,



Thomas M. Breen  
TMB/cs

Via: Facsimile Transmission & Regular Mail

**ORDINANCE NO. 5508**

**AN ORDINANCE APPROVING VARIATIONS  
OF THE LOMBARD ZONING ORDINANCE  
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 04-06: 935 E. St. Charles Road)

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 B4 Corridor Commercial Shopping District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 155.415 (D) of the Zoning Ordinance to reduce the required minimum lot area from 40,000 square feet to 16,994 square feet and a variation from Section 155.415 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty (30) feet to ten (10) feet to allow for the construction of a commercial strip center; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on May 26, 2004 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendations to the Board of Trustees with a recommendation of approval of the requested variation; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; and

WHEREAS, the 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 155.415 (D) of the Zoning Ordinance to reduce the required minimum lot area from 40,000 square feet to 16,994 square feet, subject to the conditions noted in Section 4 below.

**SECTION 2:** That a variation is hereby granted from the provisions of Title 15, Chapter 155, Section 155.415 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty (30) feet to ten (10) feet subject to the conditions noted in Section 4 below.

**SECTION 3:** This ordinance is limited and restricted to the property generally located at 935 E. St. Charles Road, Lombard, Illinois, and legally described as follows:

LOT 1 (EXCEPT THAT PART BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 AND RUNNING THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 14.00 FEET; THENCE WEST, PERPENDICULAR TO THE EAST LINE OF SAID LOT 1, A DISTANCE OF 4.00 FEET; THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID LOT 1, A DISTANCE OF 5.77 FEET, MORE OR LESS TO A POINT OF INTERSECTION WITH A LINE DRAWN FROM A POINT ON THE NORTH LINE OF SAID LOT, 12.00 FEET SOUTH OF THE NORTHEAST CORNER THEREOF TO A POINT ON THE NORTH LINE OF SAID LOT, 13.00 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE NORTHWESTERLY, ALONG SAID LAST DESCRIBED LINE, A DISTANCE OF 6.41 FEET, MORE OR LESS, TO A POINT ON A LINE THAT IS 4.0 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1: THENCE WEST ALONG SAID LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 11.41 FEET, MORE OR LESS TO A POINT ON A LINE DRAWN PERPENDICULAR TO THE NORTH LINE OF SAID LOT 1 AT A POINT 20.00 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE NORTH ALONG SAID LAST DESCRIBED PERPENDICULAR LINE, A DISTANCE OF 4.00 FEET TO THE NORTH LINE OF SAID LOT 1: THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 20.00 FEET TO THE PLACE OF BEGINNING) IN SHELL OIL COMPANY ASSESSMENT PLAT OF PART OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 15, 1961 AS DOCUMENT 996799, IN DU PAGE COUNTY, ILLINOIS.

Parcel No: 06-09-101-015

**SECTION 4:** This ordinance shall be granted subject to compliance with the following conditions:

1. That the petitioner shall develop the site in accordance with the site plans prepared by Ekash Associates, Ltd., dated May 5, 2004 and submitted as part of this request.
2. That the petitioner's building improvements shall be designed and constructed consistent with Village Code and shall also address the comments included within the IDRC report.
3. That any trash enclosure screening on Lots 1 or 2 as required by Section 155.710 of the Zoning Ordinance shall be constructed of a material consistent with the principal building.
4. To ensure that the proposed signage and awnings present a favorable appearance to neighboring properties, the property shall be developed and operated as follows:
  - a. That channel lettering shall only be used for the wall signs.
  - b. That consistent with the Sign Ordinance, the awnings shall not include text in conjunction with the wall signage.
5. To minimize parking conflicts on the property and to minimize impacts on adjacent properties, the developer/owner of the property shall operate the property, as follows:
  - a. No more than fifty (50%) of the proposed building square footage shall be allowed to be occupied by restaurant uses.
  - b. That the handicapped parking spaces shall be located in a manner consistent with the Illinois Accessibility Code.
6. That the petitioner shall provide a plat of subdivision for the subject property making the property a lot of record.
7. That the petitioner shall submit a lighting/photometric plan demonstrating that the proposed development will meet the lighting provisions included within the Zoning Ordinance.

**SECTION 5:** 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 \_\_\_\_\_, 2004.

First reading waived by action of the Board of Trustees this 17th day of June, 2004.

Passed on second reading this 17th day of June, 2004.

Ordinance No. 5508

Re: ZBA 04-06


Page 4

Ayes: Trustees Tross, Sebby, Florey, Soderstrom

Nayes: None

Absent: Trustees DeStephano and Koenig

Approved this 17th day of June, 2004.

  
\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

  
\_\_\_\_\_  
Barbara A. Johnson, Deputy Village Clerk



EXHIBIT "A"

LOT 1 (EXCEPT THAT PART BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 AND RUNNING THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 14.00 FEET; THENCE WEST, PERPENDICULAR TO THE EAST LINE OF SAID LOT 1, A DISTANCE OF 4.00 FEET; THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID LOT 1, A DISTANCE OF 5.77 FEET, MORE OR LESS TO A POINT OF INTERSECTION WITH A LINE DRAWN FROM A POINT ON THE NORTH LINE OF SAID LOT, 12.00 FEET SOUTH OF THE NORTHEAST CORNER THEREOF TO A POINT ON THE NORTH LINE OF SAID LOT, 13.00 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE NORTHWESTERLY, ALONG SAID LAST DESCRIBED LINE, A DISTANCE OF 6.41 FEET, MORE OR LESS, TO A POINT ON A LINE THAT IS 4.0 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1: THENCE WEST ALONG SAID LAST DESCRIBED PARALLEL LINE, A DSITANCE OF 11.41 FEET, MORE OR LESS TO A POINT ON A LINE DRAWN PERPENDICULAR TO THE NORTH LINE OF SAID LOT 1 AT A POINT 20.00 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE NORTH ALONG SAID LAST DESCRIBED PERPENDICULAR LINE, A DISTANCE OF 4.00 FEET TO THE NORTH LINE OF SAID LOT 1: THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 20.00 FEET TO THE PLACE OF BEGINNING) IN SHELL OIL COMPANY ASSESSMENT PLAT OF PART OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 15, 1961 AS DOCUMENT 996799, IN DU PAGE COUNTY, ILLINOIS.

Parcel No: 06-09-101-015

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE GRANTING  
A TIME EXTENSION OF ORDINANCE 5508

(ZBA 04-06: 935 E. St. Charles Road)

WHEREAS, on June 17, 2004, the President and Board of Trustees of the Village of Lombard adopted Ordinance 5508, which granted approval of a variation from Title 15, Chapter 155, Section 155.415 (D) of the Zoning Ordinance to reduce the required minimum lot area from 40,000 square feet to 16,994 square feet and a variation from Section 155.415 (F)(4) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty (30) feet to ten (10) feet to allow for the construction of a commercial strip center

WHEREAS, pursuant to Section 155.103 (C)(10) of the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois, variations are null and void if construction is not substantially underway within one year from the date of granting thereof, unless further action is taken by the Village Board; and,

WHEREAS, construction has not commenced and no building permit has been issued for the development granted by Ordinance 5508; and,

WHEREAS, the Village has received a letter requesting an extension of Ordinance 5508; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interests of the Village of Lombard to grant said extension.

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: Ordinance 5508 is hereby amended and extended and shall be null and void unless a building permit is obtained and the project is substantially underway within twelve (12) months of the date of adoption of this Ordinance.

SECTION 2: That all other provisions associated with Ordinance 5508, not amended by this Ordinance, shall remain in full force and effect.

SECTION 3: 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 \_\_\_\_\_, 2005.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

Nayes: \_\_\_\_\_

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

Approved this \_\_\_\_\_, day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
William J. Mueller  
Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk