

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: April 9, 2007 (BOT) Date: April 19, 2007

TITLE: PC 07-11: Text Amendments to the Zoning Ordinance – Administrative Variations

SUBMITTED BY: Department of Community Development 

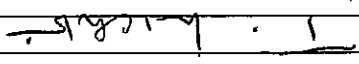
BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition is proposing Zoning Ordinance text amendments to Section 155.101(E): Administration and Enforcement (and other sections as needed for clarity) setting forth an alternate provision for granting variations for selected variation requests (also known as administrative variations).

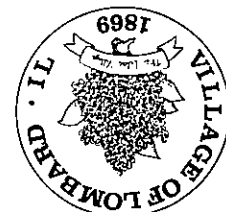
The Plan Commission recommended approval of this petition subject to final review of the language by Counsel.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X	_____	Date	_____
Finance Director X	_____	Date	_____
Village Manager X		Date	4/11/07

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, Assistant Village Manager/Director of Community Development *WTH*

DATE: April 19, 2007

SUBJECT: PC 07-11: Text Amendment to the Zoning Ordinance – Administrative Variations

Attached please find the following items for Village Board consideration as part of the April 19, 2007 Village Board meeting:

1. Plan Commission referral letter;
2. Memo summarizing the Zoning Board of Appeals discussion at their March 28 meeting;
3. IDRC report for PC 07-11;
4. An Ordinance granting approval of text amendments establishing an administrative variation process.



VILLAGE OF LOMBARD

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April 19, 2007

Mr. William J. Mueller,

Village President, and

Board of Trustees

Village of Lombard

**Subject: PC 07-11: Text Amendments to the Lombard Zoning Ordinance
(Administrative Variations)**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing Zoning Ordinance text amendments to Section 155.101(E): Administration and Enforcement (and other sections as needed for clarity), setting forth an alternate provision for granting variations for selected variation requests (also known as administrative variations). After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on March 19, 2007.

William Heniff, Senior Planner, presented the petition. He stated that the Community Development Department is proposing amendments providing for an administrative variation process, whereby the Zoning Board of Appeals (ZBA) is given authority to grant approval of selected variations. He noted the amendment provides for a streamlined approval process for those variation requests that are deemed to be minor in nature and have traditionally been supported by the ZBA and the Village Board. The proposed amendment establishes the types of relief that would be subject to an "administrative variation", the process for approving such relief and the associated appeal process, if necessary.

He then noted the history of this action. The Village Board of Trustees meeting has raised concerns about the appropriate review and approval process for rear yard variations associated with non-conforming properties. Staff researched alternatives for simplifying the variation process in cases in which the requested relief was deemed to be minor in nature. While staff initially envisioned an administrative variation process that could give approval authority to Village staff, similar to the process followed by DuPage County, Counsel noted that the Village's non-home rule authority would preclude such approvals. Instead, staff is now proposing a modified administrative approvals process whereby selected variations could be approved (or denied) by the Zoning Board of Appeals.

Village President
William J. Mueller

Village Clerk
Brittne O'Brien

Trustees

Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

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

The amendment streamlines the approval process and potentially allows for a quicker review of selected variation requests. The process would be similar in nature to Plan Commission's Site Plan Approvals process for selected signage relief and for off-site parking requests within established planned developments. The petitioners, staff and the Plan Commission have successfully followed the same legal procedures (i.e., provide legal notice to newspapers, send letters to adjacent property owners, conduct public hearings, make findings of fact and vote on the petitions) as all other zoning petitions. The existing Plan Commission Site Plan Approval process also has an appeals procedure to the Village Board.

The amendment would grant the authority to the ZBA to approve or deny minor variations to the bulk requirements (height, location of structures, open space requirements, etc.) and sign area relief. The language also provides an appeals procedure for either the petitioner (if the petition is denied) or another affected party. Appeals would be considered by the Village Board in the same manner that the Board currently considers zoning petitions.

Staff reviewed the residential variance petitions over the past ten years and suggests that 25% would be an appropriate cut-off for petitions eligible for an administrative variation. This comprises about one-third of all variance requests. He noted that these petitions would not be automatically granted relief by the ZBA. The petitioner would still need to meet the standards for variations.

He then discussed the specific language in the proposed amendments, noting that staff recommends approval of the petition. He also noted that staff recommends approval of the petition, subject to final review of the proposed text amendment language by Counsel.

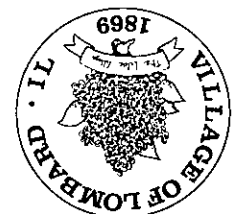
Chairperson Ryan opened the meeting for public comment. There was no one in the audience to speak in favor of or against the petition. He then opened the meeting for discussion among the Commissioners. Commissioner Sweetser asked staff to provide the Plan Commission with a report in June or July, 2008 noting how many cases are approved through the proposed process. Mr. Heniff noted that we will provide a report to the Commissioners in 2008 accordingly.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed text amendments complies with the standards of the Lombard Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4 to 0, recommends to the Corporate Authorities, approval of PC 07-11, subject to final review of the language by Counsel.

Respectfully,

VILLAGE OF LOMBARD

Donald F. Ryan
Chairperson
Lombard Plan Commission



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Assistant Village Manager/Director of Community Development

DATE: April 19, 2007

SUBJECT: PC 07-11: Text Amendment to the Zoning Ordinance – Administrative Variations
Zoning Board of Appeals Discussion

As a supplement to the recommendation of the Plan Commission relative to PC 07-11 pertaining to administrative variations, staff also brought the proposed text amendments to the Zoning Board of Appeals for discussion purposes at their March 28, 2007 meeting. The discussion by the ZBA members is offered below.

Mr. Bedard stated that establishing a process for administrative variations was a good idea.

Chairperson DeFalco asked why an objector only had five days to file an objection to the Zoning Board of Appeals decision. Ms. Kulikowski stated that the provisions were borrowed from a model ordinance that Village Counsel had previously worked on. Jennifer Backensto, Planner II stated that any time period longer than five days would essentially delay the issuance of a building permit.

Chairperson DeFalco asked when an approval granted through the administrative process would take effect. He wanted to know if it was in effect immediately or after the five day period. Ms. Kulikowski stated that the approval would be in effect immediately, similar to any zoning relief approved by the Board of Trustees.

Mr. Young posed the question, what if a variation is approved and after a building permit is issued, an objection is filed. Would the building permit be revoked? Ms. Kulikowski stated that staff could formulate a policy and/or procedure whereas a building permit could be under review, but would not be issued until the five day period is expired.

Chairperson DeFalco noted that petitions for administrative variations would still require notices be published in the newspaper and sent to adjacent property owners. He stated that potential objectors would have more than five days notice of the variation request. He asked when notices are required to be sent out. Ms. Kulikowski stated that notices must be sent no less than 15 days prior to the public

hearing date. Chairperson Defalco stated that the notices sent to adjacent property owners should explain the five day period for filing objections.

Mr. Young noted that they have seen cases before where the petitioners were in mid-construction before realizing that a variation was needed. He referenced a petition for a property located off of Maple Street where the petitioner had already started constructing the wrap-around porch when the case came before the Zoning Board of Appeals. Mr. Young also stated that the five day period for filing an objection isn't an issue that the Zoning Board of Appeals should be concerned with. He stated that he was sure that staff would find an appropriate way to handle that.

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: William Heniff, AICP Senior Planner
HEARING DATE: March 19, 2007

TITLE

PC 07-11: Text Amendments to the Lombard Zoning Ordinance: The Village of Lombard is proposing Zoning Ordinance text amendments to Section 155.101(E): Administration and Enforcement (and other sections as needed for clarity), setting forth an alternate provision for granting variations for selected variation requests (also known as administrative variations).

BACKGROUND

The Planning Services Division of the Community Development Department is proposing several changes to the Zoning Ordinance that pertain to the approval process for "minor" variation requests. Staff is proposing an administrative variation process, whereby the authority to grant approval of variations, in selected limited cases, is given to the Zoning Board of Appeals.

The intent of this amendment is to provide for a streamlined approval process for those variation requests that are deemed to be minor in nature and have traditionally been supported by the Zoning Board of Appeals and the Village Board. The proposed amendment establishes the types of relief that would be subject to an "administrative variation", the process for approving such relief and the associated appeal process, if necessary.

TEXT AMENDMENT DISCUSSION

At the August 17, 2006 Village Board of Trustees meeting, a concern was raised about the non-conforming as a result of the rear yard setback change from 30' to 35'. Community Development Department staff researched alternatives for simplifying the variation process in cases in which the requested relief was deemed to be minor in nature. While staff initially envisioned an administrative variation process that could give approval authority to Village staff, similar to the process followed by DuPage County, Counsel noted that the Village's non-home rule authority would preclude such approvals. Instead, staff is now proposing a modified administrative approvals process whereby selected variations could be approved (or denied) by the Zoning Board of Appeals.

The proposed amendment attempts to streamline the approval process and potentially allow for a quicker review and approval of selected variation requests. The process would be similar in nature to the authority the Village Board gave to the Plan Commission for Site Plan Approvals for selected signage relief and for off-site parking requests within established planned developments. Since 2000, the Village has utilized this process to streamline their review and consideration of their

signage requests. The petitioners, staff and the Plan Commission have successfully followed the same legal procedures (i.e., provide legal notice to newspapers, send letters to adjacent property owners, conduct public hearings, make findings of fact and vote on the petitions) as all other zoning petitions. The existing Plan Commission Site Plan Approval process also has an appeals procedure to the Village Board.

The proposed text amendment would grant the authority to the Zoning Board of Appeals to approve or deny minor variations to the bulk requirements (height, location of structures, open space requirements, etc.) and sign area relief. The proposed language also provides an appeals procedure for either the petitioner (if the petition is denied) or another affected party. Appeals would be considered by the Village Board in the same manner that the Board currently considers zoning petitions.

ANALYSIS

Community Development Department staff has reviewed all the residential variance petitions over the past ten years and found that a substantial number of residential variance petitions were seeking variations of 10% or less. However, after reviewing the setbacks corresponding to a variance request of 10% or less, staff finds that 25% to be a more appropriate cut-off for petitions eligible for an administrative variation. Specifically, over the past ten years, the following data were derived:

- Of the rear yard setback petitions, 36% of the cases were for variations of 25% or less of the underlying rear yard setback;
- Of the rear yard setback petitions, 30% of the cases were for variations of 25% or less of the underlying interior side yard setback; and
- Of the rear yard setback petitions, 36% of the cases were for variations of 25% or less of the underlying front yard setback.

The corresponding setbacks are outlined in the table below.

Setback	Required by Code	10% relief granted	25% relief granted
Front yard	30'	27'	22.5'
Rear yard	35'	31.5'	26.25'
Interior side yard	6' / 9' (with no attached garage)	5.4' / 8.1'	4.5' / 6.75'
Corner side yard	20'	18'	15'

At 25%, the cut-off for rear yard administrative variances would be approximately 26.25'. This will allow any residential property that is non-conforming as a result of the rear yard setback changing from 35' to 26.25' to be eligible for an administrative variance.

It is important to note that these petitions would not be automatically granted the requested zoning relief by the Zoning Board of Appeals – the petitioner would still need to meet the standards for variations.

Proposed Text Amendments
The following are the proposed text amendments for the Zoning and Sign Ordinances. For purpose of comparison and reference, staff has included the relevant Sections of these Ordinances. Proposed changes are denoted by striking out old text and underlining new text.

SECTION 1: ADMINISTRATION AND ENFORCEMENT

§155.102 ADMINISTRATIVE BODIES AND DUTIES

The administrative duties and functions of the five administrative offices are as follows:

(C) Zoning Board of Appeals

The Zoning Board of Appeals of the Village of Lombard, as created by Ordinance 612 and any amendment thereto, has the authority and duties described below.

- (1) To hear appeals from any order, requirement, decision, or determination made by the Director of Community Development under this ordinance and prepare a recommendation to the Board of Trustees, as prescribed in Section 155.103(D), below;

- (2) To hear petitions for variations and prepare recommendations to the Village Board of Trustees regarding such petitions, as prescribed in Section 155.103(C), below.

- (3) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.

- (4) Review and approve or deny, all applications for administrative variations as described in Section 155.103(C)(11), below.

§155.103 PROCEDURES FOR ADMINISTRATIVE FUNCTIONS

Procedures governing zoning compliance reviews, occupancy permits, variations, appeals, amendments, conditional uses, fees, penalties, and site plan reviews shall be as set forth below:

(C) Variations

- (1) Intent
Variations shall be granted only where such Board makes findings of fact in accordance with the standards set forth in this Ordinance, and further,

finds that the regulations in this Ordinance will impose practical difficulties or particular hardships to a petitioner in the way of carrying out the strict letter of the regulations of this ordinance.

(2) Authority

(a) The Zoning Board of Appeals and the Board of Trustees may, after a public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.

(b) For variation requests for a site that has been previously granted a conditional use, and for which the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.

(c) For variation requests for signage and parking requirements for a site that has been previously granted a conditional use for a planned development, and for which the planned development is still in effect, the Plan Commission may, after conducting a public hearing, vary the regulations of this ordinance per Sections 155.504 (C) or 155.504 (D) in harmony with its general purpose and intent.

(3)

Eligible Petitioners

An application for a variation may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request an application for a building permit. Any variation request for properties which have R6, O, B1, B2, B3, B4, B5, B5A or I District zoning and which meet the minimum lot area and width requirements for a planned development must be submitted to the Village as a request for a planned development, unless waived per Section 155.502(G).

(4)

Filing for Applications

An application for a variation shall be filed with the Director of Community Development, who shall forward such application to the Zoning Board of Appeals or to the Plan Commission based upon Section 155.103(C)(2).

(5)

Public Hearings

Public hearings conforming to State Statute and Section 155.103 (J), below, shall be required for all variation applications.

(6)

Decisions

Unless otherwise noted in Section 155.103(C)(11), the Zoning Board of Appeals or the Plan Commission, whichever may be applicable, shall

determine findings of fact based on the standards established in Section 155.103 (C) (7), below, and render recommendations to the Board of Trustees. The Board of Trustees shall consider the Zoning Board's or Plan Commission's findings of fact, which the board shall accept, except with modifications, or issue new findings of fact. The Board of Trustees shall then render a final decision.

(7) Standards for Variations
The regulations of this ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirm each of the following standards:

(a) 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;

(b) 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;

(c) The purpose of the variation is not based primarily upon a desire to increase financial gain;

(d) 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;

(e) 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;

(f) The granting of the variation will not alter the essential character of the neighborhood; and

(g) 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.

(8) Restrictions on Variations
The following restrictions shall apply to all variations.

- (a) No variation shall be authorized that would modify any definition;
- (b) No variation shall be authorized that would vary uses between zoning districts, except use exceptions approved in a planned development;
- (c) No variation shall be authorized that would result in a density increase from that permitted in a zoning district except in conjunction with a planned development;

- (9) Additional Restrictions
- In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this ordinance.

- (10) Revocation
- Where a variation has been granted pursuant to the provisions of this ordinance, such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

(11) Administrative Variations

- (a) Intent
- Variations may be granted under this subsection by the Zoning Board of Appeals, only for relief from bulk and sign area requirements which are no more than twenty-five percent (25%) of the associated underlying district regulation, without need for approval by the Board of Trustees. Variation applications under this subsection shall follow the same public hearing procedures set forth within this Section. However, the Zoning Board of Appeals shall have the authority to grant approval of a petition, grant approval of a petition subject to conditions of approval, or deny any requested zoning relief. Variations shall be granted only where the Zoning Board of Appeals makes findings of fact in accordance with the standards set forth in this Ordinance. Further, written notice of a variation granted under this subsection shall be placed for recording with the office of the DuPage County Recorder.
- (b) Authority

- (1) The Zoning Board of Appeals, after a review of an application for an administrative variation, may vary, vary subject to conditions, or deny any variance from the regulations of this Chapter in harmony with its general purpose and intent. The concurring vote of four (4) members of the Zoning Board of

Appeals is necessary to decide in favor of the applicant any matter upon which it is required to pass under said Chapter, including this subsection.

(2) In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this Chapter. If the petitioner does not concur with the any of the conditions of approval that the Zoning Board of Appeals has placed on the premises, the petitioner may appeal said decision pursuant to Section 155.103 (C)(11)(c) below.

(3) Notwithstanding the provisions of subsection (2) above, when the property in relation to which the variation is being requested has been previously granted a conditional use, and for which the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a public hearing, vary the regulations of this Chapter in harmony with its general purpose and intent.

(4) In cases where the requested variation exceeds the jurisdiction of the Zoning Board of Appeals as set forth in subsection (a) above, the Zoning Board of Appeals shall make recommendations to the Village Board of Trustees.

(c) Appeals of Decisions of the Zoning Board of Appeals

(1) Denial: The appeal procedure from a denial or an unfavorable recommendation of a petition by the appeals board is as follows: A petitioner has the right to appeal to the President and Board of Trustees if his petition has been denied by the Zoning Board of Appeals. The petitioner shall submit a letter no later than thirty (30) days after his petition has been denied by the Zoning Board of Appeals to the Village Clerk, requesting to be placed upon the agenda of the Village Board of Trustees. The Village Clerk shall then place the appeal petition on the earliest practical agenda of the Board of Trustees. In cases where the Zoning Board of Appeals denies a petition or recommends that a proposed variation not be adopted, such denial, amendment or variation shall not be reversed, adopted or passed, except by the favorable vote of four (4) concurring Trustees.

(2) Favorable Recommendation: The appeal procedure from a favorable recommendation of a petition by the Zoning Board of Appeals is as follows: An objector has the right to appeal to the

Village Board of Trustees if a petition to which he has objected has been granted by the Zoning Board of Appeals. The objector shall submit a letter no later than five (5) days after a petition to which he has objected has been granted by the Zoning Board of Appeals to the Village Clerk, requesting to be placed upon the agenda of the Board of Trustees. The Village Clerk shall then place the appeal petition on the next agenda of the Board of Trustees and inform the petitioner of the meeting date accordingly. In cases where the Zoning Board of Appeals grants a petition or recommends that a proposed variation or amendment be adopted, such grant or variation shall not be reversed, except by the favorable vote of four (4) concurring Trustees.

(3) Notice Requirements For An Appeal: In the event that a petitioner files a notice of appeal with the Village Clerk pursuant to subsection (1) above, the Village Clerk shall schedule said appeal for the first Village Board meeting occurring at least twenty one (21) days following the filing of said notice of appeal and shall notify the Director of Community Development of said appeal. The Department of Community Development shall be required to serve each individual, who appeared as an objector at the Zoning Board of Appeals hearings on the petitioner's request, with a copy of the notice of appeal and the date of the Village Board meeting at which said appeal will be heard. For purposes of determining who is entitled to said notice, the Department of Community Development shall only be required to notify those objectors whose names and addresses appear in the records of the Zoning Board of Appeals relative to the petitioner's request. Village staff on appeal shall be required to furnish an affidavit setting forth the names and addresses of the persons who appeared as objectors at the proceedings before the Zoning Board of Appeals. The form of said affidavit shall be supplied by the department of quality control. Said affidavit shall state that written notice of the appeal request has been personally served upon the persons named in said affidavit at least seven (7) days prior to the date upon which the Village Board is to hear said appeal request, or that said notices have been mailed to said persons at least fourteen (14) days prior to the date upon which the Village Board is to hear said appeal request. Where such service is by the United States mail, same shall be by certified or registered mail with return receipt requested and a copy of said receipt shall be affixed to the affidavit and made a part thereof. The affidavit shall be determined to be proper by the Village attorney before proceeding on the appeal.

VARIATION, ADMINISTRATIVE is a variation from bulk and sign area requirements that do not exceed twenty-five percent (25%) of the underlying district regulation.

RECOMMENDATION:

Based on the above considerations, the Inter-Departmental Review Committee finds that the proposed text amendments meet the standards for text amendments as set forth within the Zoning Ordinance. Therefore, the IDRC recommends that the Plan Commission make the following motion recommending **approval** of the request as proposed:

Based on the information and testimony presented, the proposed text amendments comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings of the Inter-department Review Report as the findings of the Lombard Plan Commission, and therefore, recommend to the Corporate Authorities **approval** of the text amendments described in PC 07-11.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

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Standards for Text Amendments

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property*
The proposed amendment would apply to all property owners seeking relief from bulk regulations and/or sign area relief of less than 25% beyond that which is required by the underlying Zoning Ordinance provisions. The amendment would be uniformly applied to all properties in the Village.
2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations*
This amendment is consistent with similar text amendments previously granted by the Village Board pertaining to site plan approval petitions. The amendment does not alter the intent of the underlying district regulations.
3. *The degree to which the proposed amendment would create nonconformity; and*
The amendment does not create any nonconformities to the Ordinance.
4. *The degree to which the proposed amendment would make this ordinance more permissive*
The amendment would not make the Ordinance more permissive. Rather, it offers an alternate method for reviewing and/or approving selected variation requests.
5. *The consistency of the proposed amendment with the Comprehensive Plan*
The amendment is not inconsistent with the Comprehensive Plan. It provides for a streamlined approval process so that individuals could receive approval of minor variations in a timely manner.
6. *The degree to which the proposed amendment is consistent with Village policy as established in previous rulings on petitions involving similar circumstances.*
The amendment follows the directive of the Village Board to address "minor" variation requests. Moreover, it is consistent with the Plan Commission's site plan approval process.

ORDINANCE

**AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(PC 07-11: Administrative Variations)

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, Section 155.102 (E)(13) of the Zoning Ordinance directs the Director of Community Development to initiate a review of the provisions established within the Zoning Ordinance; and

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Zoning Ordinance and make necessary changes; and

WHEREAS, as the Director has identified and recommends text amendments to the Zoning Ordinance as set forth herein; and

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on March 19, 2007 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein.

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 Title 15, Chapter 155, Section 102 (C), of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

§155.102 ADMINISTRATIVE BODIES AND DUTIES

The administrative duties and functions of the five administrative offices are as follows:

(C) Zoning Board of Appeals

The Zoning Board of Appeals of the Village of Lombard, as created by Ordinance 612 and any amendment thereto, has the authority and duties described below.

- (1) To hear appeals from any order, requirement, decision, or determination made by the Director of Community Development under this ordinance and prepare a recommendation to the Board of Trustees, as prescribed in Section 155.103(D), below;
- (2) To hear petitions for variations and prepare recommendations to the Village Board of Trustees regarding such petitions, as prescribed in Section 155.103 (C), below.
- (3) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.
- (4) Review and grant or deny, all applications for administrative variations as described in Section 155.103(C)(11), below.

SECTION 2: That Title 15, Chapter 155, Section 103 (C), of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

(C) Variations

- (1) Intent
Variations shall be granted only where such Board makes findings of fact in accordance with the standards set forth in this Ordinance, and further, finds that the regulations in this Ordinance will impose practical difficulties or particular hardships to a petitioner in the way of carrying out the strict letter of the regulations of this ordinance.
- (2) Authority

- (a) The Zoning Board of Appeals and the Board of Trustees may, after a public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.
- (b) For variation requests for a site that has been previously granted a conditional use, and for which the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a

public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.

(c) For variation requests for signage and parking requirements for a site that has been previously granted a conditional use for a planned development, and for which the planned development is still in effect, the Plan Commission may, after conducting a public hearing, vary the regulations of this ordinance per Sections 155.504 (C) or 155.504 (D) in harmony with its general purpose and intent.

(3) Eligible Petitioners

An application for a variation may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request an application for a building permit. Any variation request for properties which have R6, O, B1, B2, B3, B4, B5, B5A or I District zoning and which meet the minimum lot area and width requirements for a planned development must be submitted to the Village as a request for a planned development, unless waived per Section 155.502(G).

(4) Filing for Applications

An application for a variation shall be filed with the Director of Community Development, who shall forward such application to the Zoning Board of Appeals or to the Plan Commission based upon Section 155.103(C)(2).

(5) Public Hearings

Public hearings conforming to State Statute and Section 155.103 (J), below, shall be required for all variation applications.

(6) Decisions

Unless otherwise noted in Section 155.103(C)(11), the Zoning Board of Appeals or the Plan Commission, whichever may be applicable, shall determine findings of fact based on the standards established in Section 155.103 (C) (7), below, and render recommendations to the Board of Trustees. The Board of Trustees shall consider the Zoning Board's or Plan Commission's findings of fact, which the board shall accept, except with modifications, or issue new findings of fact. The Board of Trustees shall then render a final decision.

(7) Standards for Variations

The regulations of this ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirm each of the following standards:

(a) 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;

(b) 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;

(c) The purpose of the variation is not based primarily upon a desire to increase financial gain;

(d) 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;

(e) 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;

(f) The granting of the variation will not alter the essential character of the neighborhood; and

(g) 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.

(8) Restrictions on Variations
The following restrictions shall apply to all variations.

(a) No variation shall be authorized that would modify any definition;

(b) No variation shall be authorized that would vary uses between zoning districts, except use exceptions approved in a planned development;

(c) No variation shall be authorized that would result in a density increase from that permitted in a zoning district except in conjunction with a planned development;

(9) Additional Restrictions

In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this ordinance.

(10) Revocation

Where a variation has been granted pursuant to the provisions of this ordinance, such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

(11) Administrative Variations

(a) Intent

Variations may be granted by the Zoning Board of Appeals under this subsection, without approval by the Board of Trustees, for relief from bulk and sign area requirements which are no more than twenty-five percent (25%) of the associated underlying district regulation. Variation applications under this subsection shall follow the public hearing procedures set forth within this Section. The Zoning Board of Appeals shall have the authority to grant or deny a petition for such a variation. Variations shall be granted only if the Zoning Board of Appeals makes findings of fact in accordance with the standards set forth in this Section. Further, written notice of a variation granted under this subsection shall be recorded by the office of the DuPage County Recorder.

(b) Authority

(1) The Zoning Board of Appeals, after a review of an application for an administrative variation under this subsection, may grant or deny such variations. The concurring vote of four (4) members of the Zoning Board of Appeals is necessary to grant a variation under this subsection.

(2) In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this Chapter. If the petitioner does not concur with any of the conditions or restrictions of approval, the petitioner may appeal said decision pursuant to Section 155.103 (C)(11)(c) below.

- (3) Notwithstanding the provisions of subsection (1) above, if the premises in relation to which the variation is being requested has been previously granted a conditional use, and the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a public hearing, vary the regulations of this Chapter in harmony with its general purpose and intent, as provided in Section 155.103(C)(6).
- (4) In cases where a requested variation exceeds the jurisdiction of the Zoning Board of Appeals to grant an administrative variation as set forth in subsection (a) above, the Zoning Board of Appeals shall make recommendations to the Village Board of Trustees, as provided in Section 155.103(C)(6).

(c) Appeals of Decisions of the Zoning Board of Appeals

- (1) Denial or grant with unfavorable conditions or restrictions: A petitioner has the right to appeal to the President and Board of Trustees if his/her petition for an administrative variation has been denied or granted with unfavorable conditions or restrictions by the Zoning Board of Appeals. The petitioner shall submit a letter to the Village Clerk, no later than thirty (30) days after the Zoning Board of Appeals' decision, requesting that an appeal of that decision be placed upon the agenda of the Village Board of Trustees. In cases where the Zoning Board of Appeals denies a variation or grants a variation with conditions or restrictions, such decision shall not be reversed, adopted or passed, except by the favorable vote of four (4) concurring Trustees.

- (2) Grant of Variation: An objector, as described in subsection (3) below, has the right to appeal to the Village Board of Trustees if a petition for an administrative variation, with or without conditions or restrictions, has been granted by the Zoning Board of Appeals. The objector shall submit a letter to the Village Clerk, no later than five (5) days after the Zoning Board of Appeals' decision, requesting that an appeal of that decision be placed upon the agenda of the Board of Trustees. In cases where the Zoning Board of Appeals grants such a variation, such grant shall not be reversed, except by the favorable vote of four (4) concurring Trustees.

- (3) Notice Requirements For An Appeal: In the event that a petitioner files a letter of appeal with the Village Clerk pursuant

to subsection (1) above, or an objector files a letter of appeal with the Village Clerk pursuant to section (2) above, the Village Clerk shall schedule said appeal for the first Village Board of Trustees meeting occurring at least twenty one (21) days following the filing of said notice of appeal and shall notify the Director of Community Development of said appeal. The Department of Community Development shall serve each objector, in the event of a petitioner's appeal, and the petitioner in addition to each objector, in the event of an objector's appeal, with a copy of the letter of appeal and the date of the Village Board of Trustees meeting at which said appeal will be heard. For purposes of determining who is entitled to said notice, the Department of Community Development shall only be required to notify, as objectors, those persons whose names and addresses appear in the records of the Zoning Board of Appeals relative to the petitioner's variation application. Village staff shall furnish the Village Board of Trustees with an affidavit setting forth the names and addresses of the persons who appeared as objectors at the proceedings before the Zoning Board of Appeals. Said affidavit shall state that written notice of the appeal request has been personally served upon the persons named in said affidavit at least seven (7) days prior to the date upon which the Village Board of Trustees is to hear said appeal request, or that said notices have been mailed to said persons at least fourteen (14) days prior to the date upon which the Village Board of Trustees is to hear said appeal request. Where such service is by United States mail, same shall be by certified or registered mail with return receipt requested and a copy of said receipt shall be affixed to the affidavit and made a part thereof. The affidavit shall be determined to be proper by the Village Attorney before proceeding on the appeal.

SECTION 3: That Title 15, Chapter 802, of the Code of Lombarard, Illinois is hereby amended to read in part, as follows:

155.802 Rules and Definitions

VARIATION, ADMINISTRATIVE is a variation from bulk and sign area requirements that do not exceed twenty-five percent (25%) of the underlying district regulation.

SECTION 4: That 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 _____, 2007.
First reading waived by action of the Board of Trustees this _____ day of _____, 2007.
Passed on second reading this _____ day of _____, 2007.

Ayes: _____
Nays: _____
Absent: _____

Approved this _____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2007.

Brigitte O'Brien, Village Clerk