

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *dh*

DATE: September 8, 2008 (B of T) Date: September 18, 2008

TITLE: ZBA 08-13: 1008 S. Lewis

SUBMITTED BY: Department of Community Development *WD*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to 5.1 feet where six feet (6') is required within the R2 Single-Family Residence District. (DISTRICT #6)

The ZBA recommended approval of this petition with conditions.

The petitioner is requesting a waiver of first reading.

Please place this item on the September 18, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney

Finance Director

Village Manager

Date

Date

Date

9/11/08

David A. Hulseberg

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 Heniff, AICP *WH*
Acting Director of Community Development

DATE: September 18, 2008

SUBJECT: ZBA 08-13: 1008 S. Lewis

Please find the following items for Village Board consideration as part of the September 18, 2008 Village Board meeting:

1. Zoning Board of Appeals referral letter;

2. IDRC report for ZBA 08-13;

3. Waiver of first letter from petitioner; and

3. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials. The Zoning Board of Appeals recommended approval of the zoning actions associated with the petition.

VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3931
(630) 620-5700 Fax (630) 620-8222
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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Mr. William J. Mueller
Village President, and

Board of Trustees

Village of Lombard

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Laura A. Fitzpatrick, Dist. 5
Rick Soderstrom, Dist. 6

Dear President and Trustees:

Subject: ZBA 08-13; 1008 S. Lewis Ave

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to (5.1') feet where six feet (6') is required within the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on August 27, 2008.

Chairperson Defalco opened the meeting for public comment. The petitioner, Ricardo Alvarado, presented the petition. Mr. Alvarado began by stating that he is requesting the variance because he wishes to maintain the existing building line, otherwise his addition would have to be substantially altered. He added that he would like to keep the property aesthetically pleasing. Mr. Alvarado then stated that his neighbors all agreed that the addition would look best as planned.

Chairperson Defalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson Defalco then requested the staff report. Michael Toth, Planner I, read the staff report. Mr. Toth stated that the property contains a two-story single family residence built (at the closest point) approximately 5.5 feet from the southern property line. The petitioner plans to construct a two-story addition from the rear of the residence expanding west and a one-story bedroom addition on the northwest portion of the residence on an existing concrete block patio. The rear addition would maintain the current building line of the existing residence. However, the residence does not run parallel to the southern property line. As such, the degree of encroachment would be

"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

increased into the interior side yard. As the residence already consists of an insufficient side yard setback and the house sits on an angle, the proposed addition would increase the level of non-conformity, thus requiring a variation. In an effort to bring the entire property into full Code compliance, staff recommends that the non-conforming side yard setback of the existing structure also be memorialized. Therefore, not only would the proposed addition be granted zoning rights in relation to the side yard setback, but the existing residence would also be afforded those same applicable rights.

Mr. Toth explained that the minimum interior side yard setback in the R2 – Single Family Residence District is six feet (6'). The existing residence currently maintains a 5.5 foot setback and does not run parallel with the southern property line. As the setback is less than six (6) feet, it is considered non-conforming. The addition will maintain the building line of the existing residence; as such, the addition would further encroach into the required interior side yard setback. As the current residence is located 5.5 feet from the property line and the proposed addition will be 5.1 feet from the property line at the closest point, the increased degree of encroachment is roughly 4.5 inches. However slight the encroachment, the addition would still remain clear of the existing five foot (5') utility easement.

Mr. Toth mentioned that there are several ZBA cases that provide precedence for the requested variation where the addition holds the building line of the existing residence, but is located within the required side yard setback.

Mr. Toth stated that staff finds that this petition meets the Standards for Variations. A majority of the neighboring properties appear to be built directly on or in close proximity to the six (6) foot side yard setback lines. As such, the proposed addition would neither be out of character in the neighborhood nor detrimental to the welfare of the public or those neighboring properties.

Mr. Toth stated that staff is recommending approval of the side yard setback variation subject to the conditions outlined in the staff report.

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

Mr. Young had asked if the 50% provision was necessary to include as a condition of approval (condition #2) because in the event that the house were to be destroyed they would utilize the same foundation.

Chairperson Defalco replied by stating that the condition of approval would ensure that if the house were to be destroyed beyond 50% the house would need to come into conformance with Code. He also added that it would prevent the house or addition from being expanded deeper into the lot in the event that the house was to be destroyed.

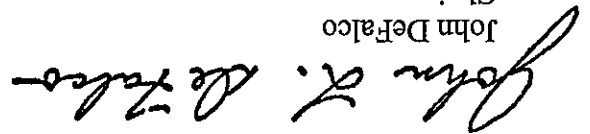
Chairperson Defalco asked staff if the five (5) foot utility easement is measured from the property line. Michael Toth responded that the five (5) foot utility easement is measured from the property line.

On a motion by Mr. Bedard and a second by Dr. Corrado, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve a variation to reduce the interior side yard setback to (5.1') feet where six feet (6') is required within the R2 Single-Family Residence District, subject to the following conditions:

1. The addition to the single-family residence shall be developed in accordance with the site plan prepared by Barnes Architects Ltd, dated July 2, 2008 as part of this petition.
2. That the variation shall apply to the proposed addition and the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD



John Defalco
Chairperson

Zoning Board of Appeals

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

TO: Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Michael S. Toth
HEARING DATE: August 27, 2008
Planner I

TITLE

ZBA 08-13; 1008 S. Lewis: The petitioner requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to 5.1 feet where six feet (6') is required within the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Property Owner:

Ricardo Alvarado
1008 S. Lewis Ave.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single-Family Residence District

Existing Land Use: Single-Family Residence

Size of Property: Approximately 9,453 square feet

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District; Single-Family Residences
South: R2 Single Family Residence District; Single Family Residences
East: R2 Single-Family Residence District; Single-Family Residences
West: R2 Single-Family Residence District; Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on July 24, 2008.

1. Petition for Public Hearing.
2. Response to Applicable Standards.
3. Plat of Survey, prepared by ARS Surveying Service, dated November 1, 2000.
4. Architectural drawings, prepared by Barnes Architects Ltd, dated July 2, 2008.

DESCRIPTION

The property contains a two-story single family residence built (at the closest point) approximately 5.5 feet from the southern property line. The petitioner plans to construct a two-story addition from the rear of the residence expanding west and a one-story bedroom addition on the northwest portion of the residence on an existing concrete block patio. The rear addition would maintain the current building line of the existing residence. However, the residence does not run parallel to the southern property line. As such, the degree of encroachment would be increased into the interior side yard. As the residence already consists of an insufficient side yard setback and the house sits on an angle, the proposed addition would increase the level of non-conformity, thus requiring a variation.

In an effort to bring the entire property into full Code compliance, staff recommends that the non-conforming side yard setback of the existing structure also be memorialized. Therefore, not only would the proposed addition be granted zoning rights in relation to the side yard setback, but the existing residence would also be afforded those same applicable rights.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has no comments at this time.

PUBLIC WORKS

The Utilities Division of the Department of Public Works does not have any comments regarding this variation. Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

Maintaining the existing structure's building line is recommended. Off-setting the addition with the existing building may alter the interior layout and angling the addition would create site lines that would not be uniform with the rest of the structure. In no case shall the addition encroach into the required five (5) foot utility easement located along the southern portion of the property.

PLANNING

The minimum interior side yard setback in the R2 – Single Family Residence District is six feet (6'). The existing residence currently maintains a 5.5 foot setback and does not run parallel with the southern property line. As the setback is less than six (6) feet, it is considered non-conforming. The addition will maintain the building line of the existing residence; as such, the addition would further encroach into the required interior side yard setback. As the current residence is located 5.5 feet from the property line and the proposed addition will be 5.1 feet from the property line at the closest point, the increased degree of encroachment is roughly 4.5 inches. However slight the encroachment, the addition would still remain clear of the existing five foot (5') utility easement.

The proposed addition will not violate the 50 percent open space requirement. With the proposed improvements, open space on the property would be 74 percent.

Setbacks are required to control bulk on property. Without such requirements structures could be built without adequate space for health and safety. Setbacks also preserve the suburban character of the area, help prevent over intensified use and help ensure that lots do not have the appearance of being overbuilt. For these reasons staff usually does not support setback variations unless a hardship can be shown that pertains to the physical attributes of the property.

There are several ZBA cases that provide precedence for the requested variation where the addition holds the building line of the existing residence, but is located within the required side yard setback. Examples of these variations include:

1) The property at 1067 Cherry Lane received approval of a variation to reduce the required interior side yard setback from six feet (6') to 5.5 feet for a building addition holding the previously developed exterior wall of the residence (ZBA 01-20). The degree of encroachment was increased as a result of the variation.

2) The property at 576 Green Valley Drive received approval of a variation to reduce the required interior side yard setback from six feet (6') to two feet (2') for the conversion of a carport into a garage and for a residential addition (ZBA 03-10).

3) The property at 219 W. Hickory received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and a half feet (2.5') for an attached garage (ZBA 06-14).

4) The property at 259 N. Garfield received approval of a variation to reduce the required interior side yard setback from nine feet (9') to 7.88 feet for a second story addition holding the previously developed exterior wall of the residence (ZBA 07-12).

5) The property at 217 N. Craig received approval of a variation to reduce the interior side yard setback from nine feet (9') to (7.9') feet to allow a sunroom addition (ZBA 08-03).

Staff finds that this petition meets the Standards for Variations. A majority of the neighboring properties appear to be built directly on or in close proximity to the six (6) foot side yard setback lines. As such, the proposed addition would neither be out of character in the neighborhood nor detrimental to the welfare of the public or those neighboring properties.

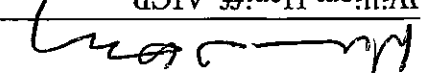
FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has affirmed the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the side yard setback variation:

Based on the submitted petition and the testimony presented, the requested variation complies with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals recommend to the Corporate Authorities **approval** of ZBA 08-13, subject to the following conditions:

1. The addition to the single-family residence shall be developed in accordance with the site plan prepared by Barnes Architects Ltd, dated July 2, 2008 as part of this petition.
2. That the variation shall apply to the proposed addition and the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, any new structures shall meet the full provisions of the Zoning Ordinance.

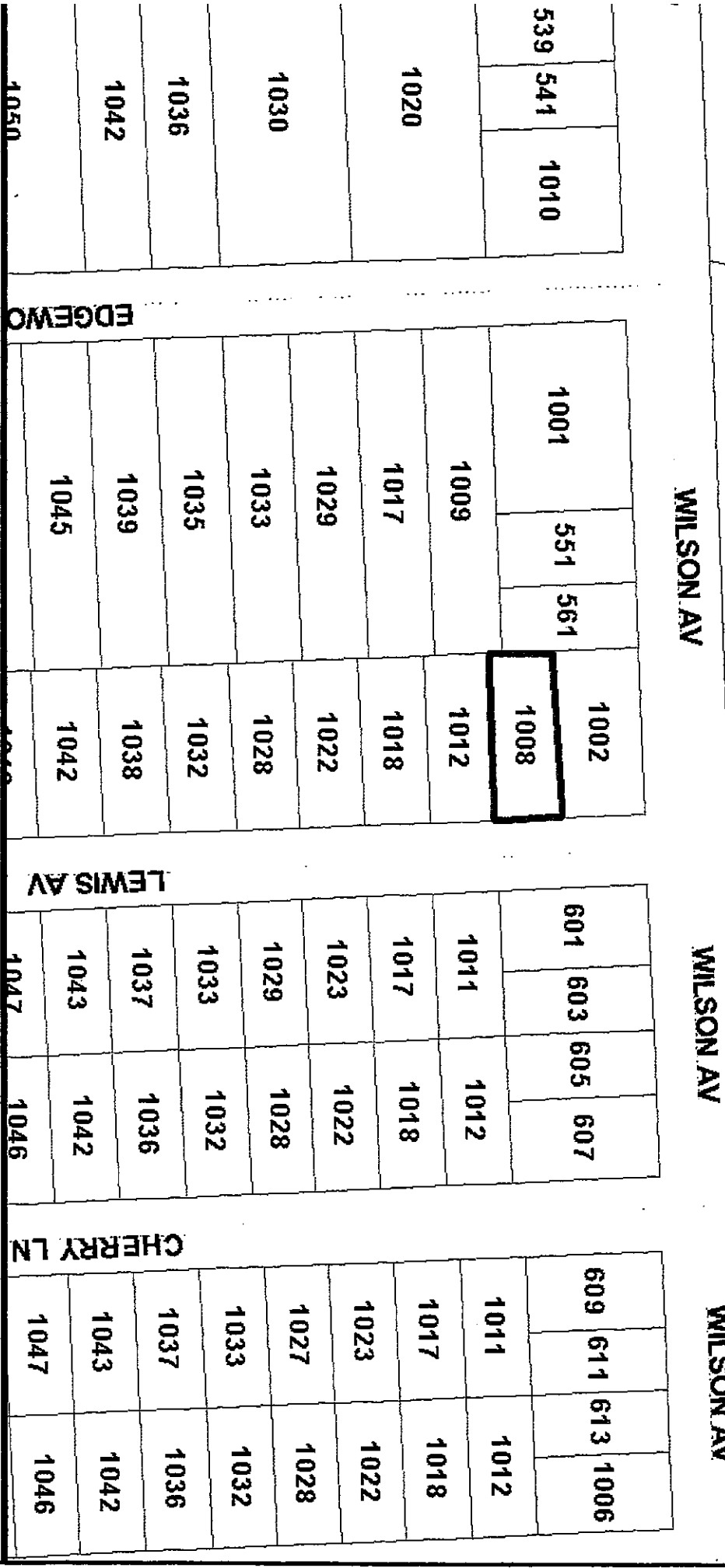
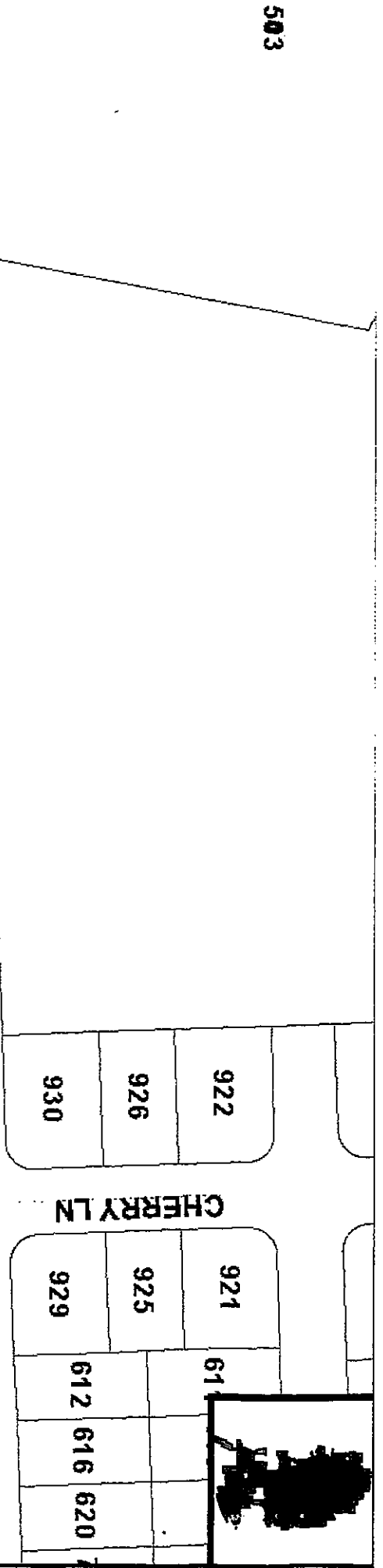
Inter-Departmental Review Group Report Approved By:


William Heniff, AICP

Acting Director of Community Development

WJH:MT

c: Petitioner



ZBA 08-13: 1008 S. Lewis

1 in. = 139.7 feet



Standards for Variations
Section 155.103.C.7 of the Lombard Zoning Ordinance

Response by Petitioner for Property:

1008 S. Lewis Ave.
Lombard, IL 60148

1. Our house was originally built in the late 60's in such a way that the furthest Southwest point of the house is less than the 6' distance from the property line. It currently does not meet the 6 foot ordinance. We have been informed that a search of our property records did not uncover an existing variance approval.

2. To our knowledge, this existing encroachment into the 6 foot property line is unique to our home.
3. The purpose of this variation request is not based on a desire to increase financial gain. We love Lombard and don't want to move. We simply want to improve our existing home.

4. The existing difficulty and hardship are directly related to the compliance of this ordinance as it will affect the structural integrity of the home and result in financial hardship. An offset results in increased costs to the kitchen cabinetry requirements, as custom cabinets would need to be built. Increased labor costs would result. An offset is architecturally not recommended.

5. The granting of this variation will not be detrimental to the public welfare or injurious to other property or improvements to the neighborhood. Maintaining the building line would be aesthetically sought out by the neighboring households. This would be a positive factor that would increase the value of the surrounding area.

6. The granting of this variation would be a positive action in maintaining the essential character of the neighborhood. The potential 10 inch offset would not be aesthetically pleasing to the surrounding properties and neighbors.

7. The proposed variation does not impair an adequate supply of light and air to adjacent properties, nor does it increase the congestion of the public streets. It does not negatively impact natural drainage, or endanger the public safety. It will have a positive impact on the property values of the neighborhood.

August 13, 2008

Department of Community Development
255 East Wilson Avenue
Lombard, IL 60148

Ref: ZBA 08-13


Dear Zoning Board Members,

In response to your request for comments from nearby property owners regarding a petition from Ricardo and Barb Alvarado of 1008 S. Lewis for a variance in side yard setback, we certainly have no objections. Frankly, I see no reason to poll any property owners within 250 feet of said property with the exception of John and Suzanne Guthrie who reside next door at 1012 S. Lewis and share the subject side yard.

The Old Grove Subdivision, which was constructed in the late sixties, features a majority of 60 foot wide lots with 48 foot wide homes leaving a theoretical side yard setback of exactly 10% of the lot width or 6 feet. However, any survey error which resulted in a narrower lot, the mis-location of the home on the lot, sloppy construction tolerances that resulted in a slightly wider structure or a house skewed on the lot due to either a survey or construction error could conceivably reduce the side yard setback. The latter situation describes the case of the Alvarado home. A skew of 40 minutes (or two-thirds of one degree) reduces the side yard setback by more than a half foot! Village inspection of such a large subdivision was rather poor and most likely did not include checking the survey or the actual side yard setback. I would wager that in the last forty-plus years, the Lombard Zoning Board has confronted this issue dozens of times and the resulting decision is probably a foregone conclusion by now. A full-blown public hearing on this trivial matter seems unnecessary.

Barb Alvarado has been very active regarding local issues and was an outspoken opponent of the Village policies regarding the DuPage Theater demolition and the recent proposal to erect a microwave relay tower near our homes in Madison Meadow Park. I would hope her opinions and public spirit will have no influence on what should be an impartial hearing.

Sincerely,


Tom Pawlak
601 E. Wilson Avenue
Lombard, IL 60148 4062
630 627 0975

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Ricardo Alvarado
1008 South Lewis Avenue
Lombard, Illinois 60148
(312) 285-7883

August 27, 2008

Village Of Lombard
Community Development Department
255 East Wilson Avenue

Re: Waiver of the First ZBA 08-13 1008 S. Lewis

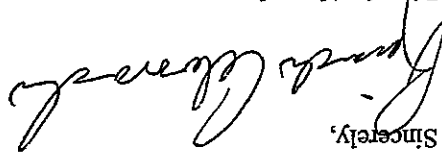
Dear Sir or Madam:

This letter is a formal request for a "Waiver of the First" reading so that this petition may be reviewed and acted on, in one Board of Trustee (BOT) session.

I am asking that this request be considered so that the construction project of said property can start in September and not in October. There is a considerable amount of work that needs to be completed to avoid a situation where the home will be exposed to the colder weather associated with the months of November and December. A section of the back wall of the home will have to be removed to accommodate the expansion of the kitchen and bedroom.

This project was initially scheduled to commence in June of this year until we discovered that a variance request was required. The ZBT meeting in July was canceled and the August session is scheduled one day before the BOT meeting. Hence, our first opportunity to have the BOT review this petition will not be until September 18th.

Sincerely,



Ricardo Alvarado

Home Owner of 1008 S Lewis Ave

ORDINANCE NO. _____

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

(ZBA 08-13: 1008 S. Lewis)

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 R2 Single Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to (5.1) feet where 6 feet is required to allow for a rear addition; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 27, 2008 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 interior side yard setback for a rear addition; 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.

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 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to (5.1) feet where 6 feet is required to allow for a rear addition; and,

SECTION 2: This ordinance shall be granted subject to compliance with the following conditions:

1. The addition to the single-family residence shall be developed in accordance with the site plan prepared by Barnes Architects Ltd, dated July 2, 2008 as part of this petition.

2. That the variation shall apply to the proposed addition and the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, any new structures shall meet the full provisions of the Zoning Ordinance.

SECTION 3: This ordinance is limited and restricted to the property generally located at 1008 S. Lewis Ave, Lombard, Illinois, and legally described as follows:

LOT 160 IN OLD GROVE SUBDIVISION UNIT NO. 3, BEING A SUBDIVISION OF PART OF THE NORTH 1960 FEET OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 5, 1967 AS DOCUMENT R67-18058 IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-17-402-018

SECTION 4: 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 _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Naves: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2008.

Brigitte O'Brien, Village Clerk