

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)
X Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: September 8, 2016 (B of T) Date: September 15, 2016

TITLE: Request for Appeal of the Public Works Director's Decision
Relative to a Variation from Section 150.301 of the Village Code

BACKGROUND/POLICY IMPLICATIONS:

A request for variation regarding width of a driveway in a single family residential application was requested by the property owner at 370 E. 17th Street. The request was denied in accordance with Section 150.303 of the Village Code by the Public Works Director. The petitioner has appealed the Public Works Directors' decision as provided for in the Village Code.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X UNB _____ Date 9/8/16

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: Scott Niehaus
Village Manager

FROM: Nicole P. Aranas *NPA*
Assistant Village Manager

DATE: September 7, 2016

SUBJECT: **APPEAL OF DRIVEWAY VARIATION DENIAL – 370 EAST 17TH STREET**

Attached please find information pertaining to a request to appeal the denial of a driveway variation for 370 East 17th Street. Section 150.301(A)(3) of the Lombard Village Code provides a residential driveway shall not exceed 20 feet in width, as measured at the property line. The formal request of property owner for a variance to expand the driveway width at the property line to a width of 22 feet was denied by the Director of Public Works for failure to meet the required standards for the granting of a variation.

VARIANCE REQUEST

Property owner, Zachary Wilson, requested a variance from Section 150.301(A)(3) of the Lombard Village Code to permit construction of a driveway exceeding the maximum allowable width at the property line (see attached letter dated August 19th). The Lombard Village Code provides that the driveway width at the property line shall not exceed 20 feet. The requested driveway replacement would measure 22 feet at the property line, two feet wider than the width permitted by Village Code.

Pursuant to the Code, the petitioner bears the burden of submitting evidence to support the required standards for the granting of a variation from the Village Code. In support of the request, Mr. Wilson states that the driveway design and garage placement make exiting the property difficult. In addition to the shape and location of the driveway, Mr. Wilson also states that the number and experience level of the drivers within the household are unique, warranting an exception to the Village Code requirements.

VARIANCE DENIAL

Pursuant to the Municipal Code, requests for variations of the driveway width requirement shall be evaluated and reviewed by the Director of Public Works. Based upon the evidence presented by the petitioner, the Director of Public Works shall make specific findings of fact and issue a written decision to the petitioner and adjacent taxpayers of record on the requested variation.

Public Works Director, Carl Goldsmith, reviewed the variance request and evidence submitted by the applicant and determined that the required standards for the granting of a variance had not been met (see attached letter dated August 25th). Director Goldsmith specifically found

that the current 20 foot driveway width has not prevented a reasonable return on the property, multiple additional properties within the same neighborhood have similar driveway configurations establishing that the existence of a driveway taper is not unique to the specific property, and there are alternate taper and landscape configurations that may be implemented without requiring a variance. Accordingly, without a basis upon which to authorize the variance, the requested variance was denied.

STANDARDS

Variations from the driveway standards may only be granted where the petitioner has submitted evidence that:

1. The property in questions cannot yield a reasonable return if permitted to be used only in full compliance with all driveway design and location requirements;
2. The plight of the petitioner (property owner) is due to unique circumstances; and
3. The variation, if granted, will not alter the essential character of the neighborhood.

HISTORICAL BACKGROUND

Petitioner filed a request for variation from the same section of Code in 2010, at which time the variance was denied by Director of Public Works. An appeal was heard by the Village Board of Trustees but failed to obtain a majority vote and subsequently the variance denial was upheld.

Around such time as the initial request was heard by the Public Works Director, the Public Works Committee also reviewed a request to formally increase the 20 foot maximum driveway width requirement. Following discussion and a Plan Commission workshop on the matter, the Public Works Committee eventually recommended against making an overall Code amendment to increase residential driveway widths. The Village Board of Trustees did not take any formal action on the Committee recommendation against amending the code at that time.

Additionally, Public Works Director Goldsmith has prepared a table of recent past requests made for variation from Section 150.301 for comparison and reference (table attached). In all, eight variances have been requested with five approvals (commercial and multi-family residences) and three denials (single-family residences).

APPEAL OF VARIANCE DENIAL

The Village Code provides that upon application to the Village Clerk, the petitioner may file an appeal to the Village Board of Trustees. Petitioner Wilson submitted a request for an appeal and placement on the next regular meeting of the Board of Trustees (see letter dated August 29th). Upon review of the petitioner's application and submitted evidence, the Village Board of Trustees may take formal action to either uphold or overturn the denial of the requested variance by the Director of Public Works.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

ZACHARY C. AND MARY B. WILSON

370 East 17th Street
Lombard, Illinois 60148
Cell: (630) 400-1171
zacklaw@sbcglobal.net

Tel: (630) 495-6920

Fax: (630) 495-2986

August 19, 2016

Director Carl Goldsmith
Department of Public Works
Village of Lombard
255 East Wilson
Lombard, Illinois 60148

AUG 22 2016

*Re: 370 East 17th Street
Driveway Permit/Variance*

Dear Director Goldsmith:

I am seeking to replace my driveway which is long overdue in its need for repair.

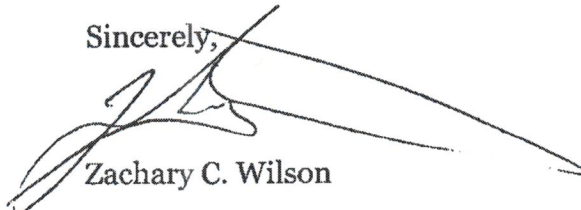
This letter, pursuant to Article XV., Chapter 150, Section 303 of the Lombard Code of Village Ordinances, serves as my formal request for a variance to §150.301(A)(3) allowing the width at the sidewalk to be increased from 20 feet to 22 feet.

In support of this request, I submit the following:

- Due to the design of the driveway and locations of the garage and curb cut, entry and exit from the third garage stall is difficult (if not impossible for some) without driving across the landscaping. As a result, an optically undesirable patch of ground remains in full view of the home and therefore detracts from the entire neighborhood community.
- I have attempted alternatives to no avail. My circumstances are unique in that the design shape and location of the driveway, in addition to the number and experience of additional drivers are inconsistent with others in the community.
- The variation, if granted, will not alter the essential character of the neighborhood but in fact will remove an unsightly aberration.

I have attached my permit application and copies of my plat of survey. I appreciate your time and attention to this matter and await your reply. Thank you.

Sincerely,



Zachary C. Wilson



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

August 25, 2016

Zachary and Mary Wilson
370 East 17th Street
Lombard, Illinois 60148

Village President
Keith T. Giagnorio

RE: Request for Driveway Variation

Village Clerk
Sharon Kuderna

Dear Mr. and Mrs. Wilson:

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Bill T. Johnston, Dist. 4
Robyn Pike, Dist. 5
William "Bill" Ware, Dist. 6

The Village of Lombard is in receipt of your request for a variation from the requirements of Section 150.301 (A)(3) of the Lombard Village Code ("Code"), dated August 22, 2016 (copy enclosed). The Code states that residential driveways shall not exceed 20 feet in width, as measured at the property line. The requested relief seeks to expand the width of the driveway surface, at the property line, to a width of not more than 22 feet.

Village Manager
Scott R. Niehaus

Variations to Section 150.301 (A)(3) of the Code are provided for in Section 150.303 of the Code. Pursuant to said section 150.303 of the Code, the petitioner bears the burden of submitting evidence relative to each of the three (3) standards for the granting of a variation, with all three (3) standards having to be met in order for a variation to be granted. In this regard, I have reviewed the evidence that you submitted in your August 22, 2016 correspondence, and have the following response to your variation request:

- (1) *The property in question cannot yield a reasonable return if permitted to be used only in full compliance with all driveway design and location requirements.*

"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."

In regard to this condition, I find that you have not presented evidence that the property cannot yield a reasonable return without the variation being granted. I conducted an inspection of your property on August 22, 2016, as well as other homes in your immediate neighborhood. Through the inspection and research of recent home sales in the area, there are several homes in the Highland Estates Subdivision that recently sold. Those homes have similar driveway configuration to your property. As such, it is difficult to state that a reasonable return is not possible without the request variation. Additionally, there are several landscaping options that you could employ to address the condition of the taper. Consequently, the maximum driveway width of 20 feet at the property line has not prevented a reasonable return.

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

- (2) *The plight of the petitioner (property owner) is due to unique circumstances.*

Based upon my inspection, I determined that of the sixty-nine (69) properties in the subdivision and surrounding single family neighborhood, there are thirty-five (35) homes with three car garages. Of the thirty-five, there are thirty-three (33) homes with similar tapered driveways at the property line. In only one instance, 370 East 17th Street was there any evidence that damage to the tapered area on the private side of the sidewalk was due to the existence of the taper. The fact that thirty-two (32) other properties are similarly situated, but have not experienced damage due to tapered area; indicate that the conditions at your property are not due to the mere existence of the taper.

As you know, alternate configurations for the driveway taper, which only impact your private property, and do not require a variation, have previously been suggested by Village staff to alleviate the rutting of your lawn. Therefore, the proposed widening of the driveway at the property line is not required to correct the damaged taper area.

(3) The variation, if granted, will not alter the essential character of the neighborhood.

Based upon a review of the requested variation, the Village has several concerns regarding the expanded driveway. Village staff has identified two issues that may negatively impact the neighborhood based upon the requested variation:

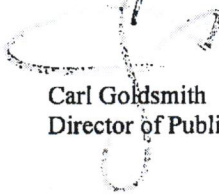
1. The widening of the driveway would result in a greater impervious area per lot. This could affect the property and neighboring properties in two notable ways.
 - a. First, the lack of pervious area could cause water to pond on the property for a greater period of time or cause flooding of the properties.
 - b. Second, the additional width of the driveway could impact the open space requirements under the Village Code.
2. The Village specification manual requires a greater thickness of concrete where sidewalks cross residential driveways (6") than that of a standard sidewalk (5"). In cases where a resident expands the width of the driveway, the Village would require the owner to remove sections of walk that are not consistent with the Village standard.

Based on the foregoing, I find that, all 3 standards for the granting of a variation have not been met by the evidence presented. Therefore, there is no basis upon which to authorize the granting of a variation from Section 150.301 (A)(3) of the Code. As such, your request for a variation is hereby denied pursuant to Section 150.303 (B) of the Code.

In accordance with Section 150.303 (B) of the Code, you have the right to appeal my decision to the Board of Trustees within thirty (30) days of the date of this letter, by submitting a written request to the Village Clerk. Any such written request for appeal shall be accompanied by a copy of this written decision. Your appeal would then be placed on the next Village Board meeting agenda, under the heading, "Other Business." If a written request is not received by the Village Clerk, this decision shall stand as a final decision.

Should you have any questions, please contact me at 630-620-5740.

Sincerely,



Carl Goldsmith
Director of Public Works

cc: Reid Foltyniewicz, District #3 Trustee
Scott Niehaus, Village Manager
William Heniff, Director of Community Development
Resident, 374 E. 17th Street, Lombard, IL 60148
Resident, 369 E. 16th Place, Lombard, IL 60148

Address	Code Section	Relief Sought	Approved or Denied	Date of Action	Appeal
370 E. 17 th Street	150.301(A)(3)	Width at property line and curb	Denied	May 3, 2010	No
1020 Westmore	150.298 (A)	Additional curb cut/access	Denied	June 18, 2012	No
236 E. Morningside	150.301 (A)(3)	Width at property line and curb	Denied	January 27, 2013	No
244 S. Lewis	150.298 (A)	Additional curb cut/access	Approved	June 30, 2013	N/A
405 West Road	150.301 (A)(3)	Width at property line and curb – match existing driveway	Approved	July 15, 2013	N/A
1000 N. Main Street	150.301 (A)(2)	Width of Commercial Driveway at property line	Approved	July 22, 2013	N/A
1051 S. Hammerschmidt	150.301 (A)(2)	Width of Commercial Driveway at property line	Approved	October 2, 2014	N/A
Broadview and North Avenue (Bluestone)	150.301 (A)(2) & 150.301 (A)(4)	Width of Commercial Driveway at property line and expanded curb radii	Approved	March 1, 2016	N/A

ZACHARY C. AND MARY B. WILSON

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August 29, 2016

Ms. Sharon Kuderna
Lombard Village Clerk
255 East Wilson
Lombard, Illinois 60148
Via e-mail: downerj@villageoflombard.org

Re: *370 East 17th Street
Driveway Permit/Variance*

Dear Madam Clerk:

I submitted an application for a permit to replace my driveway. Along with that application I requested, through the Director of Public Works, a variation from the requirements of §150.301(A)(3) allowing the width at the sidewalk to be increased from 20 feet to 22 feet.

The variation was denied by Director Goldsmith. Therefore I am appealing to the Village President and Board of Trustees and ask that my request, for a variation from the requirements of §150.301(A)(3) allowing the width at the sidewalk to be increased from 20 feet to 22 feet, be placed on the agenda for the next regular meeting of the Board of Trustees.

I appreciate your prompt attention to this matter. Thank you.

Sincerely,



Zachary C. Wilson