

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)

\_\_\_\_\_  
X  
\_\_\_\_\_

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: November 6, 2007 (B of T) Date: November 15, 2007

TITLE: ZBA 07-14: 731 E. St. Charles Place

SUBMITTED BY: Department of Community Development *kol*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required within the R2 Single Family Residential District. (DISTRICT #5)

The Zoning Board of Appeals recommended approval of this request with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

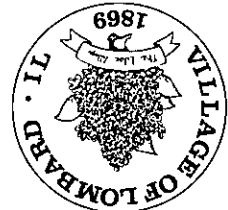
Village Attorney X

Finance Director X

Village Manager X

\_\_\_\_\_  
Date  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Date

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 *dash*  
Assistant Village Manager/Director of Community Development

**DATE:** November 15, 2007

**SUBJECT:** ZBA 07-14: 731 E. St. Charles Place

Please find the following items for Village Board consideration as part of the November 15, 2007 Village Board meeting:

1. Zoning Board of Appeals referral letter;
  2. IDRC report for ZBA 07-14;
  3. An Ordinance granting approval of the petition, subject to conditions; and
  4. Plans associated with the petition.
- Please contact me if you have any questions regarding the aforementioned materials.



**VILLAGE OF LOMBARD**  
 255 E. Wilson Avenue  
 Lombard, IL 60148-3931  
 (630) 620-5700 FAX: (630) 620-8222  
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 www.villageoflombard.org

Village President  
 William J. Mueller

Village Clerk  
 Brigitte O'Brien

Trustees  
 Greg Alan Gron, Dist. 1  
 Richard J. Tross, Dist. 2  
 John "Jack" T. O'Brien, Dist. 3  
 Dana L. Moreau, Dist. 4  
 Laura A. Fitzpatrick, Dist. 5  
 Rick Soderstrom, Dist. 6

Village Manager  
 William T. Lichter

November 15, 2007

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

**Subject: ZBA 07-14; 731 E. St. Charles Place**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on September 26, 2007. The petitioner, Daniel Schmitt, stated that he has met with staff extensively to see how green space could be added to the property. He is willing to sod the area behind the garage and renovate both the front and back porches. This will not result in full compliance with the open space regulations, but they are doing what they can. They expect to keep the swimming pool for about 20 years. Also, they informed their abutting neighbors about the variation request and those neighbors signed a petition in support of the relief.

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

Chairperson DeFalso then requested the staff report. Jennifer Backensto, Planner II, stated that the subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool. The Private Engineering Services Division notes that the Code requirement of 50% open space serves to limit both the density on lots and the volume of stormwater runoff. The back yard of this lot contributes to a known depression area on the block. Since the proposed pool would make the lot more than 50% impervious, the Private Engineering Services Division recommends denial.

"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 business to create a distinctive sense of spirit and an outstanding quality of life."

In addition, the petitioner previously permitted for, and constructed, a new garage and driveway. As part of the permit requirements, a drainage system was installed to direct runoff from the new impervious areas towards the right-of-way of St. Charles Place. This system shall not be altered in any way. The exposed gravel in the drainage system is, by design, pervious and thus if sod was placed over the gravel the water would drain through the grass, through the gravel, into the pipe and drain away towards the right-of-way. Thus the grass would not survive.

Ms. Backensto stated that the property as it exists today has 46.6% open space, which is defined as "that portion of a lot or property maintained as lawn, garden, field, woods, wetland, or other natural landscape area and is free of buildings, structures and impervious surfaces." In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4,452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench behind the garage and along the entire western property line. Since gravel areas are not included within the definition of open space, the 394 square feet of gravel and curbing brought the property below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool. Although the proposed swimming pool is only 257.1 square feet, when combined with the required 2002 drainage improvements the property would be left with only 43.4% open space.

The petitioner stated that they would be willing to create additional open space on the property. They suggested adding sod over the gravel areas behind the garage and along the western property line, which would add 351 square feet of green space and compensate for the nonconformity created by the required drainage improvements. However, the Private Engineering Services Division concluded that it is not feasible for sod to be installed over the required drainage improvements.

Ms. Backensto stated that the petitioner is also considering reducing the size of the existing deck and porch to create additional open space. While this could bring the property closer into compliance with the 50% open space requirement, the deck and porch combined are not large enough so that their removal would bring the property into full compliance.

She noted that the Zoning Board of Appeals could make one of three recommendations:

1. Recommend denial of the petition in its entirety;
2. Recommend approval of a variation to 48.7% open space to recognize the required drainage improvements and denial of the additional relief for the swimming pool; or
3. Recommend approval of a variation to 46.5% open space, with a condition tying the requested relief to the submitted site plan.

Staff believes that the drainage improvements required by the Village create unique circumstances that warrant a variation. The drainage improvements are required due to the stormwater drainage characteristics of the subject property and the surrounding lots and are not generally applicable to other properties within the R2 District. Since it is a Village requirement designed to address drainage problem that pushed the property below the minimum open space, staff can support a variation to reduce the required open space to 48.7%.

However, staff does not believe there is a hardship for the proposed swimming pool. The property is subject to the same lot coverage requirements as other properties, which property owners were made aware of at the time of their 2002 building permit submittal. Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation." Staff finds that all of the standards have not been affirmed. The petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The lot is over 9,000 square feet, which exceeds the minimum lot size of 7,500 square feet in the R2 District. The conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 zoned lot in the Village. The hardship has not been caused by the ordinance and has instead been created by the extent of the proposed improvements. Granting the request could be injurious to neighboring properties because overbuilding of single-family lots contributes to a loss of the neighborhood's suburban character.

As such, staff recommends that the ZBA approve the petition with a condition limiting the requested relief to 48.7% open space. This will recognize the existing conditions on the property and acknowledge that the unique circumstances regarding the drainage improvements are appropriate in this case. The petitioner would be able to add the desired swimming pool or other accessory structures provided that an equal amount of open space is created elsewhere on the lot, but the property would be required to comply with code in the event it is ever fully redeveloped.

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

The Zoning Board of Appeals members discussed raised several questions regarding the stated open space percentages. They requested that staff prepare a new staff report incorporating the revised open space percentages that resulted from staff's on-site meeting with the petitioner.

On a motion by Mr. Young and a second by Mrs. Newman, the Zoning Board of Appeals continued ZBA 07-14 to the October 24, 2007 Zoning Board of Appeals meeting by a roll call vote of 6 to 0.

*The Zoning Board of Appeals reopened the meeting on October 24, 2007.*

The petitioner, Daniel Schmitt, summarized the petition. He stated that the drainage improvements function very well and slope toward the front of the property. He met with staff to figure out how to add open space to the property by removing gravel and reducing the porch size.

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

Chairperson Defalco then requested the staff report. Jennifer Backensto, Planner II, stated that the subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool. In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench along the western property line. Since gravel areas are not included within the definition of open space, the 202 square feet of gravel and curbing brought the property to 48.7% open space, which is below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool.

After the 2002 permit was issued, the petitioner chose to cover 192 square feet of the property with gravel that was left over from the construction process. This further reduced open space on the property to 46.6%. Now, the petitioner wishes to install a 257-square foot swimming pool on the property. This would reduce open space on the property to only 43.7%. To mitigate this, the petitioner has stated that they would be willing to create 250 square feet of additional open space by removing the 192-square foot gravel area, reducing the size of their rear porch by 26 square feet, and reducing the size of their front porch by 32 square feet. This reduces their open space variation request to 46.5%.

She then reiterated the comments presented in the initial IDRC staff report and stated that staff recommends approval of the open space lot area relief for the existing drainage improvements but not the relief for the proposed swimming pool.

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

Mr. Bedard asked about the square footage of the drainage improvements. Ms. Backensto stated that she did not know their exact size, but they were designed to compensate for the size of the addition, garage, and driveway that were constructed in 2002.

Chairperson Defalco noted that if the drainage is not considered an encumbrance, the property has 48.7% open space. The drainage improvements facilitate water runoff and do not create bulk. A swimming pool would impact runoff.

Mr. Young stated that was why staff recommended approval of a variation to 48.7%.

Mr. Bedard stated that the property was at 46.6% and were proposing 46.5%.

Mr. Young stated that the excess gravel further reduced the open space on the property, and the gravel would need to be removed to bring the property back up to 48.7%.

Chairperson Defalco asked if the drainage improvements benefit the neighborhood. The petitioner stated that he was told that the purpose of the drainage improvements was to benefit the neighbors. They do not want to negatively impact their neighbors in any way, and they would like to re-grade their property to further improve the drainage situation.

Mr. Young stated that the Village needs to look at the issue of how drainage improvements are considered with regard to open space calculations.

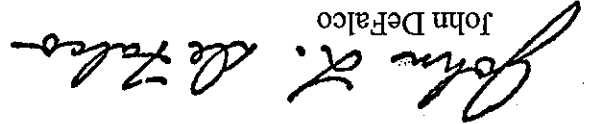
The petitioner added that the Village was pleased with how their drainage improvements turned out and used them as an example for other properties.

On a motion by Mr. Young and a second by Mr. Bedard, the Zoning Board of Appeals recommended that the Village Board approve the requested open space variation by a roll call vote of 5 to 1, subject to the following conditions:

1. The petitioner shall comply with a minimum required open space percentage of 46.5% by removing the 192-square foot gravel area in the rear of the property, reducing the size of the rear porch by 26 square feet, and reducing the size of the front porch by 32 square feet.
2. In the event that the proposed swimming pool is removed from the subject property, the required minimum open space shall be 48.7%.

Respectfully,

VILLAGE OF LOMBARD



John Defalco  
Chairperson  
Zoning Board of Appeals

VILLAGE OF LOMBARD  
INTER-DEPARTMENTAL REVIEW GROUP REPORT NO. 2

TO: Lombard Zoning Board of Appeals HEARING DATE: October 24, 2007

FROM: Department of Community Development  
PREPARED BY: Jennifer Backensto, AICP Planner II

TITLE

ZBA 07-14; 731 E. St. Charles Place: The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required within the R2 Single Family Residential District.

GENERAL INFORMATION

Petitioner/Property Owner: Daniel & Mamie Schmitt  
731 E. St. Charles Place  
Lombard, IL 60148

PROPERTY INFORMATION

Existing Land Use: Single-family Residence

Size of Property: Approx. 9,068 sq. ft.

Comprehensive Plan: Recommends Low Density Residential

Existing Zoning: R2 Single-Family Residence District

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District – Great Western Trail  
South: R2 Single-Family Residence District – single-family homes  
East: R2 Single-Family Residence District – single-family homes  
West: R2 Single-Family Residence District – single-family homes



## ANALYSIS

## SUBMITTALS

This report is based on the following documents filed on August 23, 2007 with the Department of Community Development:

1. Petition for Public Hearing.

2. Response to the Standards for Variations.

3. Plat of Survey, prepared by L.S.C.I., dated December 8, 1993.

4. Site Plan

5. Petition signed by neighbors

6. Photographs of property

7. Specifications for proposed swimming pool and pump

## DESCRIPTION

The subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool.

## INTER-DEPARTMENTAL REVIEW COMMENTS

### Private Engineering Services

The Private Engineering Services Division notes that the Code requirement of 50% open space serves to limit both the density on lots and the volume of stormwater runoff. The backyard of this lot contributes to a known depressional area on the block. Since the proposed pool would make the lot more than 50% impervious, the Private Engineering Services Division recommends denial of the requested relief to add a swimming pool.

However, the Private Engineering Services Division has no objection to a limited variation reducing the required open space to 48.7%, given that the drainage improvements on the property provide a stormwater benefit for the amount of impervious surface that currently exists on the property.

### Public Works

The Department of Public Works has no comments.

### Building and Fire

The Fire Department/Bureau of Inspectional Services has no comments on this matter.

**Planning**

The property as it exists today has 46.6% open space, which is defined as "that portion of a lot or property maintained as lawn, garden, field, woods, wetland, or other natural landscape area and is free of buildings, structures and impervious surfaces."

**Initial Noncompliance**

In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4,452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench along the western property line. Since gravel areas are not included within the definition of open space, the 202 square feet of gravel and curbing brought the property to 48.7% open space, which is below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool.

Lot area	9,068	
2002 open space w/ proposed addition, garage, & driveway extension	4,616	50.9%
Drainage improvements required along west property line	(202)	-2.2%
2002 open space w/ proposed improvements & required drainage improvements	4,414	48.7%
Sq. Ft.		Open space

**Subsequent Noncompliance**

After the 2002 permit was issued, the petitioner chose to cover 192 square feet of the property with gravel that was leftover from the construction process. This further reduced open space on the property to 46.6%.

Lot area	9,068	
2002 open space w/ proposed improvements & required drainage improvements	4,414	48.7%
5x27 area of gravel added at southwest corner of property	(192)	-2.1%
Current open space	4,222	46.6%
Sq. Ft.		Open space

**Open Space Variation Request**

Now, the petitioner wishes to install a 257-square foot swimming pool on the property. This would reduce open space on the property to only 43.7%. To mitigate this, the petitioner has stated that they would be willing to create 250 square feet of additional open space by removing the 192-square foot gravel area, reducing the size of their rear porch by 26 square feet, and reducing the size of their front porch by 32 square feet. This reduces their open space variation request to 46.5%.

It should be noted that the petitioner also desired to place sod over the required drainage improvements to further increase open space on the property. However, the Private Engineering Services Division reviewed the petitioner's proposal and concluded that it is not feasible for sod to be installed over the required drainage improvements.

Open space	Sq. Ft.	
	9,068	Lot area
46.6%	4,222	Current open space
		<b>Proposed decreases to open space:</b>
	(257)	Add 257.1-sq. ft. swimming pool
		<b>Proposed increases to open space:</b>
+2.1%	192	Remove 5x27 area of gravel at southwest corner of property
+0.3%	26	Remove 26 sq. ft. from rear porch
+0.4%	32	Remove 32 sq. ft. from front porch
46.5%	4,215	<b>Proposed open space</b>

**Possible Recommendations**

The Zoning Board of Appeals could make three recommendations:

1. Recommend denial of the petition in its entirety;
2. Recommend approval of a variation to 48.7% open space to recognize the required drainage improvements and denial of the additional relief for the swimming pool; or
3. Recommend approval of a variation to 46.5% open space, with a condition tying the requested relief to the submitted site plan.

**Standards for Variations**

Staff believes that the drainage improvements required by the Village create unique circumstances that warrant a variation. The drainage improvements are required due to the stormwater drainage characteristics of the subject property and the surrounding lots and are not generally applicable to other properties within the R2 District. Since it is a Village requirement designed to address a drainage problem that pushed the property below the minimum open space, staff can support a variation to reduce the required open space to 48.7%.

However, staff does not believe there is a hardship for the proposed swimming pool. The property is subject to the same lot coverage requirements as every other property in the Village, which property owners were made aware of at the time of their 2002 building permit submittal. Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation." With regard to the request to reduce the required open space to 46.5%, the following standards have not been affirmed:

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that the petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The lot is not unusually small. The lot is over 9,000 square feet, which exceeds the minimum lot size of 7,500 square feet in the R2 District.

2. 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. Staff finds that the conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 Single Family Residential lot in the Village of Lombard.

3. The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property. Staff finds that the hardship has not been caused by the ordinance and has instead been created by the extent of the existing and proposed improvements to the property. If the petitioner had planned to install the swimming pool as part of the 2002 improvements to the property, the permit for the pool could not have been approved at that time. Even before the drainage improvements are considered, the proposed pool (in combination with the addition, garage, and driveway extension) would have reduced the open space on the property to 48.1%.

4. 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. Staff finds that granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

As such, staff recommends that the ZBA approve the petition with a condition limiting the requested relief to 48.7% open space. This will recognize the existing conditions on the property and acknowledge that the unique circumstances regarding the drainage improvements are appropriate in this case. The petitioner would be able to add the desired swimming pool or other accessory structures provided that an equal amount of open space is created elsewhere on the lot, but the property would be required to comply with code in the event it is ever fully redeveloped.

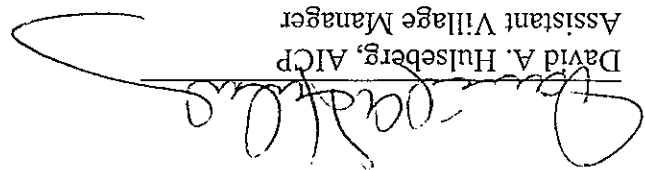
### FINDINGS AND RECOMMENDATIONS

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 requested relief:

Based on the information and testimony presented, the proposed open space variation does not comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Zoning Board of Appeals recommend to the Corporate Authorities approval of ZBA 07-14, subject to the following conditions:

1. The minimum open space requirement for this property shall be reduced to 48.7%.
2. The minimum 48.7% open space requirement shall only apply to the existing single-family residence. In the event that the residence is damaged or destroyed by more than 50% of its value, the property shall be required to comply with the standard R2 District open space requirements.

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP  
Assistant Village Manager

DAH:JB

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

**TO:** Lombard Zoning Board of Appeals      **HEARING DATE:** September 26, 2007  
**FROM:** Department of Community Development  
**PREPARED BY:** Jennifer Backensto, AICP Planner II

**TITLE**

**ZBA 07-14; 731 E. St. Charles Place:** The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required within the R2 Single Family Residential District.

**GENERAL INFORMATION**

**Petitioner/Property Owner:** Daniel & Marnie Schmitt  
731 E. St. Charles Place  
Lombard, IL 60148

**PROPERTY INFORMATION**

**Existing Land Use:** Single-family Residence  
**Size of Property:** Approx. 9,068 sq. ft.  
**Comprehensive Plan:** Recommends Low Density Residential  
**Existing Zoning:** R2 Single-Family Residence District

**Surrounding Zoning and Land Use:**

**North:** R2 Single-Family Residence District – Great Western Trail  
**South:** R2 Single-Family Residence District – single-family homes  
**East:** R2 Single-Family Residence District – single-family homes  
**West:** R2 Single-Family Residence District – single-family homes

## ANALYSIS

### SUBMITTALS

This report is based on the following documents filed on August 23, 2007 with the Department of Community Development:

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2. Response to the Standards for Variations.
3. Plat of Survey, prepared by L.S.C.I., dated December 8, 1993.
4. Site Plan
5. Petition signed by neighbors
6. Photographs of property
7. Specifications for proposed swimming pool and pump

### DESCRIPTION

The subject property currently has 46.6% open space, which is below the 50% minimum open space requirement. The petitioner is requesting a variation to allow for the installation of a 257.1-square foot above-ground swimming pool, which would further reduce the open space on the property to 43.4%.

### INTER-DEPARTMENTAL REVIEW COMMENTS

#### Private Engineering Services

The Private Engineering Services Division notes that the Code requirement of 50% open space serves to limit both the density on lots and the volume of stormwater runoff. The back yard of this lot contributes to a known depressional area on the block. Since the proposed pool would make the lot more than 50% impervious, the Private Engineering Services Division recommends denial.

In addition, this petitioner previously permitted for, and constructed, a new garage and driveway. As part of the permit requirements, a drainage system was installed to direct runoff from the new impervious areas towards the right-of-way of St. Charles Place. This system shall not be altered in any way. The exposed gravel in the drainage system is, by design, pervious and thus if sod was placed over the gravel the water would drain through the grass, through the gravel, into the pipe and drain away towards the right-of-way. Thus the grass would not survive.

#### Public Works

The Department of Public Works has no comments.

### Building and Fire

The Fire Department/Bureau of Inspectional Services has no comments on this matter.

### Planning

#### *Property History*

The property as it exists today has 46.6% open space, which is defined as "that portion of a lot or property maintained as lawn, garden, field, woods, wetland, or other natural landscape area and is free of buildings, structures and impervious surfaces."

In 2002, the petitioner received a building permit for a residential addition, garage, and driveway extension. The proposed improvements left the property with 4,452 square feet of open space (50.9%), which exceeded the minimum amount required by the Zoning Ordinance. However, due to the size of the new improvements, the petitioner was required to install additional drainage improvements including a plastic-lined stone trench behind the garage and along the entire western property line. Since gravel areas are not included within the definition of open space, the 394 square feet of gravel and curbing brought the property below the 50% minimum open space requirement. The drainage improvements were required subsequent to the zoning compliance review, so this nonconformity was not discovered until the petitioner met with staff to submit an open space variation petition to allow for the installation of an above-ground swimming pool. Although the proposed swimming pool is only 257.1 square feet, when combined with the required 2002 drainage improvements the property would be left with only 43.4% open space.

#### *Attempts at Compliance*

The petitioner has stated that they would be willing to create additional open space on the property. They have suggested adding sod over the gravel areas behind the garage and along the western property line, which would add 351 square feet of green space and compensate for the nonconformity created by the required drainage improvements. This would reduce the degree of the variation request needed for the proposed swimming pool to 47.3% open space. However, as stated in their comments earlier in this report, the Private Engineering Services Division has reviewed the petitioner's proposal and has concluded that it is not feasible for sod to be installed over the required drainage improvements.

The petitioner is also considering reducing the size of the existing deck and porch to create additional open space. While this could bring the property closer into compliance with the 50% open space requirement, the deck and porch combined are not large enough so that their removal would bring the property into full compliance.

#### *Possible Recommendations*

The Zoning Board of Appeals could make three recommendations:

1. Recommend denial of the petition in its entirety;
2. Recommend approval of a variation to 46.6% open space to recognize the required drainage improvements and denial of the additional relief for the swimming pool; or
3. Recommend approval of a variation to 43.4% open space, with a condition tying the requested relief to the submitted site plan.



**Standards for Variations**

Staff believes that the drainage improvements required by the Village create unique circumstances that warrant a variation. The drainage improvements are required due to the stormwater drainage characteristics of the subject property and the surrounding lots and are not generally applicable to other properties within the R2 District. Since it is a Village requirement designed to address drainage problem that pushed the property below the minimum open space, staff can support a variation to reduce the required open space to 46.6%.

However, staff does not believe there is a hardship for the proposed swimming pool. The property is subject to the same lot coverage requirements as every other property in the Village, which property owners were made aware of at the time of their 2002 building permit submittal. Furthermore, to be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation". With regard to the request to reduce the required open space to 43%, the following standards have not been affirmed:

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that the petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The lot is not unusually small. The lot over 9,000 square feet, which exceeds the minimum lot size of 7,500 square feet in the R2 District.
2. *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.* Staff finds that the conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 Single Family Residential lot in the Village of Lombard.
3. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.* Staff finds that the hardship has not been caused by the ordinance and has instead been created by the extent of the existing and proposed improvements to the property.
4. *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.* Staff finds that granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

As such, staff recommends that the ZBA approve the petition with a condition limiting the requested relief to 46.6% open space. This will recognize the existing conditions on the property and acknowledge that the unique circumstances regarding the drainage improvements are appropriate in this case. The petitioner would be able to add the desired swimming pool or other accessory structures provided that an equal amount of open space is created elsewhere on the lot, but the property would be required to comply with code in the event it is ever fully redeveloped.

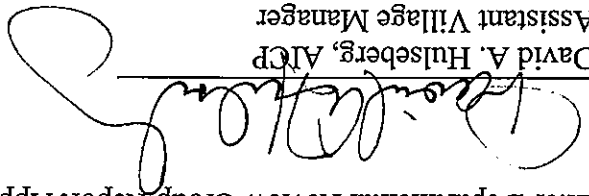
### FINDINGS AND RECOMMENDATIONS

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 requested relief:

Based on the information and testimony presented, the proposed open space variation does not comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Zoning Board of Appeals recommend to the Corporate Authorities **approval** of ZBA 07-14, subject to the following conditions:

1. The minimum open space requirement for this property shall be reduced to 46.6%.
2. The minimum 46.6% open space requirement shall only apply to the existing single-family residence. In the event that the residence is damaged or destroyed by more than 50% of its value, the property shall be required to comply with the standard R2 District open space requirements.

Inter-Departmental Review Group Report Approved By:

  
David A. Hulseberg, AICP  
Assistant Village Manager

DAH:JB

**Location Map**  
ZBA 07-14



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

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

(ZBA 07-14: 731 E. St. Charles Place)

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 155.406 (H) to reduce the amount of open space on the subject property to 43 percent where a minimum of 50 percent open space is required;

WHEREAS, public hearings have been conducted by the Zoning Board of Appeals on September 26, 2007 and October 24, 2007 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 open space 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.

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 155.406 (H) to reduce the amount of open space on the subject property to 46.5 percent where a minimum of 50 percent open space is required.

**SECTION 2:** This ordinance is limited and restricted to the property generally located at 731 E. St. Charles Place, Lombard, Illinois, and legally described as follows:

THE EASTERLY 60 FEET OF THE WESTERLY 120 FEET (AS MEASURED ON THE NORTHERLY LINE) OF LOT 1 IN BLOCK 1 IN LOMBARD HIGHLANDS, BEING A SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER, SOUTH OF THE CENTER LINE OF ST. CHARLES ROAD (EXCEPT THE RIGHT OF WAY OF THE CHICAGO GREAT WESTERN RAILROAD) AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, ALSO THE WEST HALF OF THE SOUTHEAST QUARTER (EXCEPT THE RIGHT OF WAY OF THE CHICAGO, AURORA AND ELGIN RAILROAD) IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 3, 1920 AS DOCUMENT 144105 IN DU PAGE COUNTY, ILLINOIS.

Parcel No: 06-08-205-027

**SECTION 3:** This ordinance shall be granted subject to compliance with the following conditions:

1. The petitioner shall comply with a minimum required open space percentage of 46.5% by removing the 192-square foot gravel area in the rear of the property, reducing the size of the rear porch by 26 square feet, and reducing the size of the front porch by 32 square feet.

2. In the event that the proposed swimming pool is removed from the subject property, the required minimum open space shall be 48.7%.

**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 \_\_\_\_\_, 2007.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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

Naves: \_\_\_\_\_

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

Brigitte O'Brien, Village Clerk

Published by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Brigitte O'Brien, Village Clerk

ATTEST:

William J. Mueller, Village President

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Ordinance No. \_\_\_\_\_  
Re: ZBA 07-14  
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