



MEMORANDUM

TO: LOMBARD PLAN COMMISSION
Donald Ryan, Plan Commission Chairperson

FROM: Michael S. Toth, Planner I
Department of Community Development

DATE: August 17, 2009

SUBJECT: DuPage County Public Hearing Z09-037- Shah

DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 0.38 feet from the required 6.1 feet to allow for an existing shed in an R-4 Single Family Residence District. The petition is for the property at 2S350 Glen Ave. in the Butterfield East Subdivision (DuPage County ZBA Case Z09-037). As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

Staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.

BACKGROUND

While DuPage County has officially classified the subject variation as a variation to reduce the side yard setback for an existing shed, Village staff believes that the case may have additional variations associated with the proposed project. These additional elements may have a greater impact on the surrounding neighborhood than a setback variation for a shed. The submitted plat of survey from October 10, 1994 depicts the 'frame shed' connected to the house during the time of the survey. As the structure the County refers to as a 'shed' is connected to the house, tied to the foundation of the house and constructed from the same materials as the house, the shed should be considered an addition to the principal structure. Therefore, the side yard setback for the principal structure would now be recognized at 0.38 feet.



(A diagonal view of the addition and deck)



(A front view of the addition and deck)

As a point of clarification, staff will refer to the shed as an addition to the principal residence. Upon a site visit to the subject property, Village staff discovered that there was also a deck constructed on top of the subject addition. Under the Village Zoning Ordinance, the subject deck must also maintain a six foot (6') setback from the property line as Village does not permit decks over three feet in height as permitted encroachments in the interior side yard. Therefore, the Village recognizes two variations in this matter:

1. A setback variation for the principal structure; and,
2. Setback variation for the deck located above the addition.

Principal Structure Setback Variation

According to discussions with the County representatives, the addition on the property does not achieve code compliance concerning County and Village Codes. Noted below are the proposed characteristics associated with the addition:

	Existing Setback	Required by DuPage County	Required by Lombard
Setbacks from interior side lot line for principal structures.	.38 ft	6.1 feet, 10% of lot width	6 feet

Deck Variation

As the deck is located directly on top of the addition, the deck also encroaches into the required side yard; therefore, relief would be required to allow the deck to remain at its present location. Staff notes that neither the County nor Village Code recognizes the deck (as constructed) as a permitted encroachment in the interior side yard. Noted below are the proposed characteristics associated with the deck:

	Existing Setback	Setback Required by DuPage County	Setback Required by Lombard
Setback from interior side lot line for decks	.38 feet	6.1 feet, 10% of lot width	6 feet, as the deck is greater than the 3 feet in height.

ANALYSIS

The subject property is 13,711 square feet in size. The property is bordered by single family residences on all sides. The Village's Comprehensive Plan included the subject property and identifies the site for Low Density Residential use.

Staff finds that a great deal of flexibility exists for the property owner to construct a shed and/or deck that meets County and Village Codes. The lot is approximately 219 feet deep. The house is set back 40 feet from the front lot line and is 30 feet long (including the rear deck); therefore, there is approximately 149 lineal feet between the rear of the house and the rear lot line to construct a shed. The lot is pie-shaped; however, it is still more than thirty feet (30') at the most shallow point. Staff notes that there is a ten foot (10') public utility easement at the rear of the property. As such, a shed with a permanent foundation or footings could not locate in that area.

Staff finds that both the building addition and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

FINDINGS AND RECOMMENDATION

Based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard. Therefore, staff recommends that the Plan Commission make the following motion regarding the petition:

Based upon a review of the petition submitted to DuPage County, the Plan Commission finds that the petition is inconsistent with the Village's Comprehensive Plan, the established codes and ordinances of the Village of Lombard, and does not meet the standards for variations as expressed within the DuPage County Zoning Ordinance. Therefore, the Plan Commission recommends that the Village Board adopt a Resolution of Objection for DuPage County ZBA Case Z09-037.