

April, 6 2006

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

**Subject: ZBA 06-06; 302 W. Loy Street**

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 the following actions on the subject property to allow for the construction of a single family residence within the R2 Single Family Residential District:

1. A variation to Section 155.406(F)(2) to reduce the corner side yard setback to ten feet six inches (10'6") where twenty feet (20') is required.
2. A variation to Section 155.406(4) to reduce the rear yard setback to thirty-one feet (31') where thirty-five feet (35') is required.

The Zoning Board of Appeals conducted a public hearing on March 22, 2006. Michael Lambert, with Arris Architects, presented the petition. He stated that he has been working with the Caputo's (property owners) for four years on the design for their own home just to the north of the subject property. He mentioned that the petitioners were concerned about the disrepair of the home on the subject property and had an opportunity to buy the home in December 2005.

Mr. Lambert noted that originally, they had requested a front yard variation because the houses on Loy have irregular setbacks. He referenced other houses on the north side of Loy Street that encroach into the thirty foot (30') front yard setback. He stated that the proposed residence is designed in such a way to keep the large pine trees on the property. He noted that after re-evaluating the location of the trees, the house had to be shifted to the north causing the proposed residence to encroach within the rear yard.

Mr. Lambert referenced staff's comments about the fourth bedroom. He stated that they had done research to try and match the market. He stated that the market demand is for four bedroom homes. He stated that the bedroom on the first floor is convenient for elderly or disabled residences or can be used as an office. He stated that another reason for having the bedroom on the first floor without a second story above it was to provide architectural balance. He also referenced staff's comments about reducing the sizes of the rooms and stated that the rooms could not be reduced smaller and still accommodate furniture. Mr. Lambert also presented floor plans with furniture layouts to demonstrate this.

Mr. Lambert noted that in designing the proposed residence for the subject property, the Caputo's were particularly concerned with the rear yard and maintaining a view of the park from their current residence. He stated that the house currently existing on the subject property has been a neighborhood eyesore for a number of years. He mentioned that he was impressed with the Caputo's efforts to beautify the neighborhood.

Chairperson DeFalco then opened the meeting for public comment.

Tom Zilla, who resides at 253 W. Crystal, spoke in favor of the petition. He stated that he has resided at his home for twenty nine years, and over the years has updated his home three times. He noted that he has also seen the neighborhood change over the years, and that the house at 302 W. Loy has been a neighborhood eyesore for a number of years. He stated that the proposed home will greatly improve the neighborhood.

Chairperson DeFalco then requested the staff report.

Michelle Kulikowski, Planner I, presented the staff report. She stated that the subject property is a corner lot approximately fifty feet (50') by one hundred fifty one feet (151') deep. She noted that the petitioner owns the subject property and the adjacent property to the north. She mentioned that he plans to construct a new home for his family on the adjacent property as well as redevelop the subject property with a single family home to compliment his anticipated home on the adjacent property. She stated that because the subject property is only fifty feet (50') wide, the setback requirements would only allow a twenty-four foot (24') wide house to be built, and in order to accommodate the construction of a new home, the petitioner is requesting two variations to reduce the corner side yard setback and to reduce the rear yard setback.

Ms. Kulikowski stated that staff can support the variation from the corner side yard setback. She noted that the subject property is recorded as a fifty foot (50') wide lot of record and with the required interior side yard and corner side yard setbacks, only a twenty-four foot (24') wide house could be constructed. She mentioned that many of the houses currently existing on fifty-foot (50') wide corner lots are considered legal non-conforming as they were constructed during the post World War II era when the Zoning Ordinance required a different side yard setback,

usually ten feet (10'). She stated that there is a precedent for variations to reduce the corner side yard setback on fifty-foot (50') wide corner lots to allow for the construction of a single family residence (most recently ZBA 05-03).

Ms. Kulikowski noted that the proposed residence will essentially have the same corner side yard setback as the existing residence. She stated that the existing residence is setback eleven and one half feet (11.5') and the proposed residence is setback eleven and eight tenths feet (11.8'). She mentioned that only the proposed chimney projects beyond the existing building line as it is setback ten and one half feet (10.5') from the corner side property line, but because the proposed chimney does not meet the provisions for allowing chimneys as an encroachment within the corner side yard, the corner side yard must be reduced to ten and one half feet (10.5').

Ms. Kulikowski also noted that there are three very large coniferous trees existing in the corner side yard, and that the proposed residence has been designed in such a way that the trees do not have to be removed. She stated that these trees will substantially screen the proposed residence thus reducing the visual impact of the encroachment within the corner side yard. She also mentioned that the encroachment within the side yard will have the greatest impact on the adjacent property to the north, which is also owned by the petitioner and is where he resides.

In reference to the variation from the rear yard setback, Ms. Kulikowski stated that staff does not support the requested variation. She noted that the subject property meets the minimum 7,500 square foot lot area requirement for the R2 Single Family Residence District, and staff finds that one hundred fifty one feet (151') is a sufficient lot depth to construct a two-story single family residence even in consideration of the narrow width of the lot. She stated that there are no conditions unique to the property that prevents compliance with the rear yard setback requirements and that granting the requested relief would set an undesirable precedent.

Ms. Kulikowski noted that the request is not based on a hardship but the petitioner's preference for the proposed design. She stated that alterations can be made to the design to bring the proposed residence in conformance with the rear yard setback. The fourth bedroom on the first floor can be eliminated, or rather than have a two story ceiling height over the living room, a fourth bedroom can be located above the living room on the second floor. She also mentioned that the widths of the rooms can be slightly reduced so as to total a four foot (4') reduction in the total width of the proposed residence. She stated that the length of the rooms can be reduced and still provide sufficient space.

Ms. Kulikowski also noted that an email was received from a resident after the Zoning Board of Appeals packets went out. She summarized the email as part of the public record. She stated that the email was from Joe Lamie who resides at 420 N. Elizabeth Street. Mr. Lamie stated that he had reviewed the proposed architectural plans with Tom and Cheryl Caputo and that he was in favor of the variation request. He noted that the existing structure is not well maintained and had

attracted transients with no personal interest in the property. He mentioned that the proposed home would enhance the value of the adjacent properties. He also stated that Tom and Cheryl are truly advocates for beautifying the neighborhood.

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

Mr. Young asked about time limitations as it relates to the expiration of a variation and expiration of building permits. He also asked whether the petitioner plans to construct the homes on the subject property and the adjacent property simultaneously.

Mr. Caputo stated that they would construct the home on the subject property first, so his family could live there while their home was being constructed on the adjacent property.

Mr. Polley asked about the pines trees that would remain on the property. He asked whether the trees would be right up against the house and how that would affect the neighbor to the west.

Mr. Caputo stated the trees would still be about ten feet (10') away from the house. He stated that the previous owner had a dilapidated shed and a trampoline in the back yard. He stated that the house is designed to provide visual interest on all sides. He said that the neighbor was very happy that he had bought the property.

Chairperson DeFalco mentioned that a detached garage could be built in the rear yard which would block more of the backyard than the proposed design.

Mr. Young stated that the proposed home would most likely be sold for profit. He stated that he understands that the petitioner is trying to match the market, but most houses being built don't require variances. He also noted that the Board of Trustees typically do not grant "for profit" variations.

Chairperson DeFalco asked whether the board objected to the corner side yard variation.

Mr. Young stated he did not have a problem with the corner side yard variation because code would only allow a twenty-four foot wide house to be built.

Mr. Bedard stated that he also was concerned that the variations were to facilitate for profit development.

Mrs. Newman stated that granting the rear yard variation would set a precedent. She stated that the lot is big enough to build on, but maybe not the house that petitioner wants to build. She noted that that is a condition of the lot.

Chairperson DeFalco also noted that the previous Zoning Ordinance only required a thirty foot (30') rear yard setback. He mentioned that the proposed residence would comply with the previous setback requirement.

Ms. Newman stated that the houses that being built now are also taller.

Mr. Caputo stated that the purpose of the project was not to gain a profit. He stated that his primary purpose is to improve the neighborhood. He stated that he is not in the real estate or construction business. He noted that if the property were sold to a builder, they would just build a big box that could meet code, but would not be aesthetically pleasing.

Mr. Lambert asked whether the Zoning Board of Appeals would consider a variation to allow an encroachment to decrease the rear yard by a certain percentage provided that they compensate by leaving an equivalent void space within the buildable area.

Chairperson DeFalco stated that the garage is setback thirty feet (30') from Loy Street. He noted that the proposed design would require a variation from either the front yard or rear yard setback.

Mr. Heniff stated that he does not recall any circumstance where a variation was conditioned as such. He stated that he would be concerned with how the ordinance would be enforced. He stated that it is easier to get creative like that with a Planned Development. He also noted that while that provision would still provide equivalent open space, the volume within the rear yard would not meet the intent of the rear yard setback.

Chairperson DeFalco noted that the portion of the house encroaching within the rear yard is only one story. He asked what the size of the 4<sup>th</sup> bedroom that encroached within the rear yard.

Mr. Lambert stated that the room was approximately eleven feet six inches (11'6") by thirteen feet (13').

Chairperson DeFalco stated that approximately seven feet (7') of that room is permissible by code.

Mr. Heniff stated that the area encroaching would be approximately four feet (4') by thirteen feet (13') which equals fifty two square feet (52 s.f.). He said the Zoning Board of Appeals does have the authority to add this type of condition.

Mr. Bedard stated that the Zoning Board of Appeals has looked at "trading" open space with variations from the fifty percent (50%) open space requirement.

Mr. Young stated that the footprint of the home was approximately two thousand three hundred twenty five square feet (2,325 s.f.). Mr. Lambert stated that the second story is not as large as the first story and the square footage of the whole house is under four thousand square feet (4,000 s.f.).

Mr. Heniff stated that the Zoning Board of Appeals can vote on the two variation requests separately.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested corner side yard variation complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mrs. Newman, the Zoning Board of Appeals recommended approval of the requested corner side yard variation associated ZBA 06-06 by a roll call vote of 5 to 0, subject to the following conditions:

1. The petitioner shall develop the site in accordance with the plans prepared by Arris Architects and Planners and submitted as part of the petition, but with the proposed residence meeting the required thirty-five foot (35') rear yard setback. The petitioner shall submit modified plans prior to consideration by the Board of Trustees.
2. That the petitioner shall apply for and receive a building permit for the proposed improvements associated with this petition.

In consideration of the requested rear yard variation, a motion recommending denial was made by Mrs. Newman and seconded by Mr. Young and resulted in a 3 to 2 roll call vote. As this was insufficient to forward a recommendation, a motion recommending approval was made by Mr. Polley and seconded by Chairperson DeFalco. The motion resulted in a roll call vote of 2 to 3. Therefore, the Zoning Board of Appeals forwards no recommendation regarding the requested rear yard variation.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson  
Zoning Board of Appeals

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