

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: July 12, 2016 (B of T) Date: July 21, 2016

TITLE: ZBA 16-03; 113 Regency Drive

SUBMITTED BY: Department of Community Development *ll*

BACKGROUND/POLICY IMPLICATIONS:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village approve a variation from Section 155.409(F)(2)(c) of the Lombard Zoning Ordinance to reduce the required rear yard setback from thirty feet (30') to twenty five feet (25') for the subject property located within the R4PD Limited General Residence Zoning District Planned Development.

The Zoning Board of Appeals recommended approval of this petition by a vote of 5-0.

The petitioner requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____


Village Manager X _____ 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: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development 

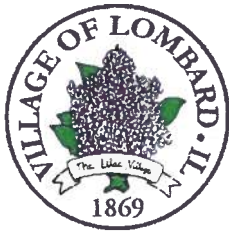
DATE: July 21, 2016

SUBJECT: ZBA 16-03; 113 Regency Drive

Please find the following items for Village Board consideration as part of the July 21, 2016 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 16-03;
3. An Ordinance granting approval of the requested variation; and
4. Supporting documentation (plans, response to standards, pictures, etc.) associated with the petition.

The Zoning Board of Appeals recommended approval of this petition by a vote of 5-0. Please place this petition on the July 21, 2016 Board of Trustees consent agenda. The petitioner requests a waiver of first reading of the Ordinance.



VILLAGE OF LOMBARD

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

July 21, 2016

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

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

Village Manager
Scott R. Niehaus

"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."

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

Mr. Keith Giagnorio
Village President, and
Board of Trustees
Village of Lombard

Subject: ZBA 16-03; 113 Regency Drive

Dear President and Trustees:

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 155.409(F)(2)(c) of the Lombard Zoning Ordinance to allow for a rear yard setback of twenty-five (25) feet for an addition where thirty (30) feet is required.

The Zoning Board of Appeals conducted a public hearing on June 22, 2016.

Mr. Muhammad Mutahir, Ms. Oniba Naqvi and staff were sworn in by Chairperson DeFalco to offer testimony. Mr. Muhammad Mutahir stated that through his initial consultation with staff that his proposed addition appeared to meet the setbacks however further examination with the architect he hired, it was discovered that a small portion of the addition would encroach into the rear yard setback and a variance would be required. They considered the alternative of a smaller addition. This resulted in an odd shaped exterior elevation and a much smaller "heart-shaped" bedroom. Therefore, seeking a variance was decided.

Chairperson DeFalco questioned if there was anyone else present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.

Tami Urish, Planner I, stated that the IDRC report is to be entered into the public record in its entirety. Ms. Urish said that the petitioner is requesting to construct an addition to the existing attached townhome that encroaches into the rear yard. The addition was discussed with the petitioner and architect earlier in the year when it was discovered that it encroached into the rear yard due to its unusual trapezoid shape. Staff finds that the hardship for the

variation is due the unusual shape of the lot, the neighbor it is impacting is a cemetery and past precedence as noted in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Mr. Young asked the petitioner if there is a homeowner's association for the neighborhood. Mr. Muhammad Mutahir responded that there is not a homeowner's association. Mr. Young asked the petitioner if the addition will line up with the attached home or extend further creating a wall as the neighbor's view. Mr. Muhammad Mutahir responded that the addition will extend approximately nineteen feet and 46 square feet of the addition encroaches into the rear yard at the southeast corner. A wall would be created as the view.

Mr. Tap asked the petitioner if he was aware of any concern of the neighbor in the attached house. Mr. Muhammad Mutahir responded that he had discussed his plans in advance with his next door neighbor to the west before meeting with the Village or an architect and they were supportive of his proposed plans. The neighbor was not in attendance of the meeting, three other neighbors were present without speaking for or against the project.

Chairman DeFalco emphasized that the neighbor to the south would incur the most direct impact which is minimal since this neighbor is the cemetery.

Chairman DeFalco reviewed the four conditions from the staff report.

On a motion by Mr. Young, and a second by Mr. Tap, that the Zoning Board of Appeals recommend a variation from Section 155.409(F)(2)(c) of the Lombard Zoning Ordinance to allow for a twenty five (25) foot rear yard setback where thirty (30) feet is required for approval of ZBA 16-03 by a vote of 5 to 0 to the Village Board, subject to the five (5) conditions:

1. The subject property shall be developed in substantial conformance with the site plan prepared by Flint & Associates, LLC dated April 29, 2016.
2. The petitioner shall apply for and receive a building permit for proposed plans.
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.
4. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.
5. In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required rear yard setback.

ZBA 16-03
July 21, 2016
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Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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JUNE 22, 2016

Title

ZBA 16-03

Petitioner & Property Owner

Oniba Naqvi
113 Regency Drive
Lombard, IL 60148

Property Location

113 Regency Drive
(06-29-105-026)
Trustee District: #3

Zoning

R4 Limited General Residence
(Highland Green Planned
Development)

Existing Land Use

Attached Single Family Home

Comprehensive Plan

Low-Medium Density
Residential

Approval Sought

A variation to reduce the required thirty foot (30') rear yard setback to twenty-five feet (25') for an addition to an existing attached single family residence.

Prepared By

Tami Urish
Planner I



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing to construct an approximately 1,688 square foot addition to the existing structure. The addition will be on the east, west and rear of the house. The rear portion of the addition measures approximately 25 feet (25') by sixty feet (60') [as measured at the widest dimensions of an irregular shape] with 967 sq. ft. of this section. The east portion of the addition measures approximately sixteen feet (16') by eleven feet (11') at 176 sq. ft. with a total square footage of both areas yielding 1,143.

APPROVALS REQUIRED

Section 155.409 (F)(2)(c) requires a minimum thirty foot (30') rear yard setback. As such, the existing home is setback approximately 43 feet from the rear property line. The proposed addition to the principal structure encroaches into the required setback by five feet (5') reducing the rear yard setback to twenty-five feet (25'). Therefore, a variation is required.

EXISTING CONDITIONS

The property contains an approximately 1,000 square foot two-story frame two family dwelling with an attached garage and associated driveway. The rear yard is directly adjacent to the Allerton Ridge Cemetery. The subdivision was created in 1976 and the two family dwelling was built in 1979.

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size:	7,260 sq. ft.
Building	1,000 sq. ft.
Footprint:	(2,292 sq. ft.)
Lot Coverage:	50% (32%)

Reqd. Setbacks & Proposed Dimensions (in parens.)

Front(Regency)	30' (30')
Side (east)	6' (10')
Side (west)	0' (0')
Rear (north)	30' (25')

Submittals

1. Petition for Public Hearing
2. Response to Standards for Variation
3. Plat of Survey, prepared by Lambert & Associates, Land Surveyors, dated September 20, 2006.
4. Site Plan, prepared by Flint Architects LLC and dated April 29, 2016.

Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R4PD	Attached Single Family Home
South	CR	Cemetery
East	R4PD	Attached Single Family Home
West	R4PD	Attached Single Family Home

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments in relation to ZBA 16-03, 113 Regency Drive as it relates to the zoning relief they seek.

However, the applicant is to be aware of building code requirements associated with proximity of windows, and other openings in the wall nearest the other duplex unit (openings must be three feet away from the other unit's wall), and a requirement for fire retardant wood on the roof for the outer four feet where it is adjacent to the adjoining duplex unit.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:

Private Engineering Services (PES) has no issues or concerns regarding the project.

Public Works:

The Department of Public Works has no issues or concerns regarding the project.

Planning Services Division:

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Staff finds that the standards have been affirmed for the rear yard setback variation.

Staff can support the requested variance for the rear yard setback requirements for the following reasons:

1. The proposed improvements will not adversely affect this or other properties in the neighborhood and will be consistent with the existing structure and surrounding neighborhood. The subject property's rear yard is adjacent to a cemetery.

2. There is precedence for variations to rear yard setbacks on similar lots to allow for the construction of additions to single family homes.

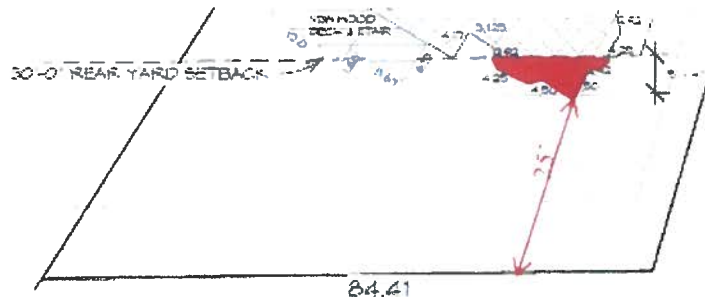
Staff has identified the most similar cases that appeared before the Zoning Board of Appeals based on proximity to the subject property as well as Village-wide cases that have appeared before the ZBA within the past five (5) years:

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
Surrounding Neighborhood History					
ZBA 86-13	1/8/1987	110 Regency Drive	10' Rear Yard (for a deck over 3')	Approved, 5-0	Approved, 5-0
ZBA 92-07	6/29/1992	2420 Royal Drive	25' Rear Yard	Denial	Denial
ZBA 96-03	3/21/1996	111 Majestic Drive	21' Rear Yard	No recommendation	Approved, 5-0
Cases Village-wide 2010 – 2015*					
ZBA 10-13	12/15/2010	320 S. Martha Court	23' Rear Yard	Approved, 5-0	Approved, 6-0
ZBA 13-01	2/7/2013	236 E. Morningside Ave.	15.7' Corner Side Yard & 29.5' Rear Yard	Approved, 4-0	Approved, 6-0
ZBA 14-03	4/23/2014	304 N. Park Avenue	11.9' Corner Side Yard & 25' Rear Yard	Partial approval (not on rear portion)	Approved, 6-0
ZBA 14-06	6/19/2014	505 E. Sunset Ave.	30' Rear Yard	Approved, 6-0	Approved, 6-0
ZBA 15-08	7/17/2016	1057 Daniel Court	25' Rear Yard	Approved, 6-0	Approved, 5-0

*There were thirteen (13) approved rear yard variances from 2005 through 2010. Since 1998, there have been forty-three (43) requests brought before the ZBA for a rear yard variance.

3. The subject property is uniquely shaped creating a hardship to expand the existing floor plan of the house in a logical arrangement of room placement.

The subject property is uniquely shaped (see location map) as a trapezoid instead of the typical rectangle shape creating a hardship to position an addition squarely on the property. As the enhanced image of the site plan (Exhibit C, attached) illustrates, a small portion (42 square feet) or four percent (4%) of the total addition requires the variation. The portion of the deck that is encroaching into the required rear yard setback is less than three feet (3') in height and is therefore a permitted obstruction per Section 155.212, Table 2.1.



FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested rear yard setback. 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 aforementioned rear yard setback variation:

Based on the submitted petition and the testimony presented, the requested variation to reduce the rear yard setback **does comply** with the Standards for Variations in the Lombard Zoning Ordinance and therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-

Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 16-03, subject to the following conditions:

- 1) The subject property shall be developed in substantial conformance with the site plan prepared by Flint & Associates, LLC dated April 29, 2016.
- 2) The petitioner shall apply for and receive a building permit for proposed plans.
- 3) The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.
- 4) Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.
- 5) In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required rear yard setback.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT A: RESPONSE TO STANDARDS

Response to Standards for Variations as Prepared by the Petitioner

April 14, 2016

Standards for variation for

113 Regency Dr, Lombard, IL 60148

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from mere inconvenience, if the strict letter of regulations were to be applied.*

Explanation: Due to layout of the house on the property, the projected expansion would result in unnecessary added costs due to an oddly shaped master bedroom as well as roofing difficulties without the variation. The proposed design entails a desirable, yet reasonable, size for the master bedroom, as well as, an aesthetically pleasing exterior upon completion.

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.*

Explanation: With the proposed extension, the property setback will continue to be 30ft, except for the southeast corner of house that will extend about 42 sq ft into variance. The proposed variance, which is in the backyard, does not directly face the immediate neighbors to either sides of the house, and the condo complex behind the house is separated from the house by several hundred feet of open landscaping.

3. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

Explanation: The purpose of the variation is not at all for financial gain, but rather to increase the living space in order to better accommodate my family. In addition, with regards to the investment required for this project, the cost of the home will more than likely exceed the average prices of the homes in this neighborhood.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

Explanation: Yes, the alleged difficulty or hardship is due to the ordinance, and no, the issue has not been created due to any person having an interest in the property.

5. *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 property is located.*

Explanation: The granting of this variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood. The variation will result in a

tasteful and reasonable addition to the neighborhood that will definitely not encroach upon any neighbor's privacy or property.

6. *The granting of the variation will not alter the essential character of the neighborhood; and*

Explanation: The variation will affect only the southeast corner of the backyard, thus the house will continue to maintain uniformity with the neighborhood. Plus, even with the variance, the house will have a 25ft clearance in the backyard, which is what most houses in the neighborhood maintain, if not less.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

Explanation: There is substantial clearance on all sides of the variance, and does not affect the supply of air or light to adjacent properties. The variance area will also not affect the street, nor cause any fire, drainage, or public safety issues, and will not diminish/impair property values in the area.

EXHIBIT B: PLAT OF SURVEY

1781-G Hawthick Circle
Bartlett, Illinois 60103

Phone: (630) 830-1570
Fax: (630) 830-1844

PLAT OF SURVEY MARCHESE SURVEYING, INC.

NO 36-4218728

RESIDENTIAL - COMMERCIAL SURVEYS

PROPERTY DESCRIPTION

LOT 74 IN MIDLAND GREEN SUBDIVISION, OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 11, 1977 AS DOCUMENT NUMBER 877-34898, IN DUPAGE COUNTY, ILLINOIS

ALSO KNOWN AS: 113 REGENCY DRIVE IN LOMBARD, ILLINOIS

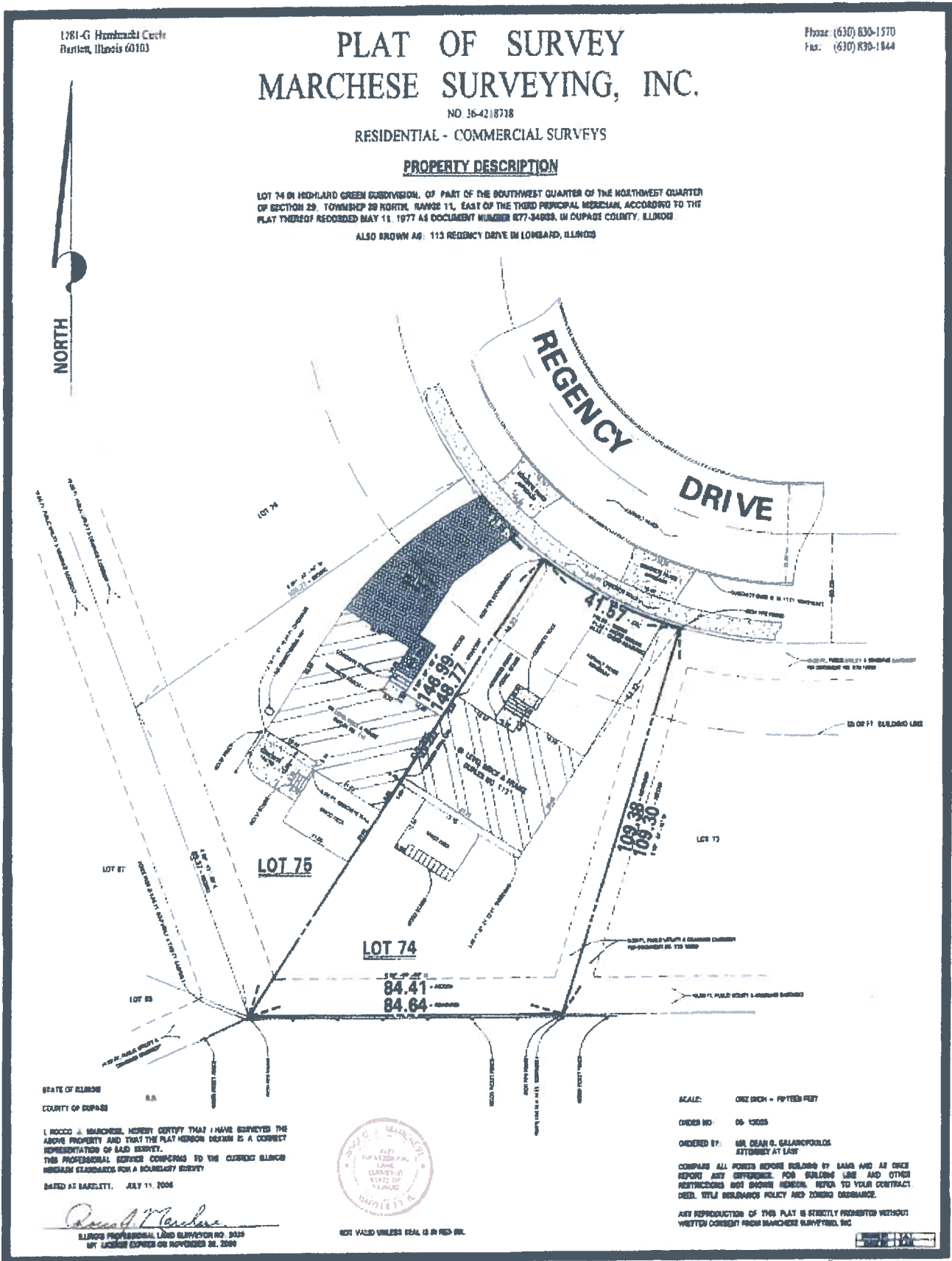
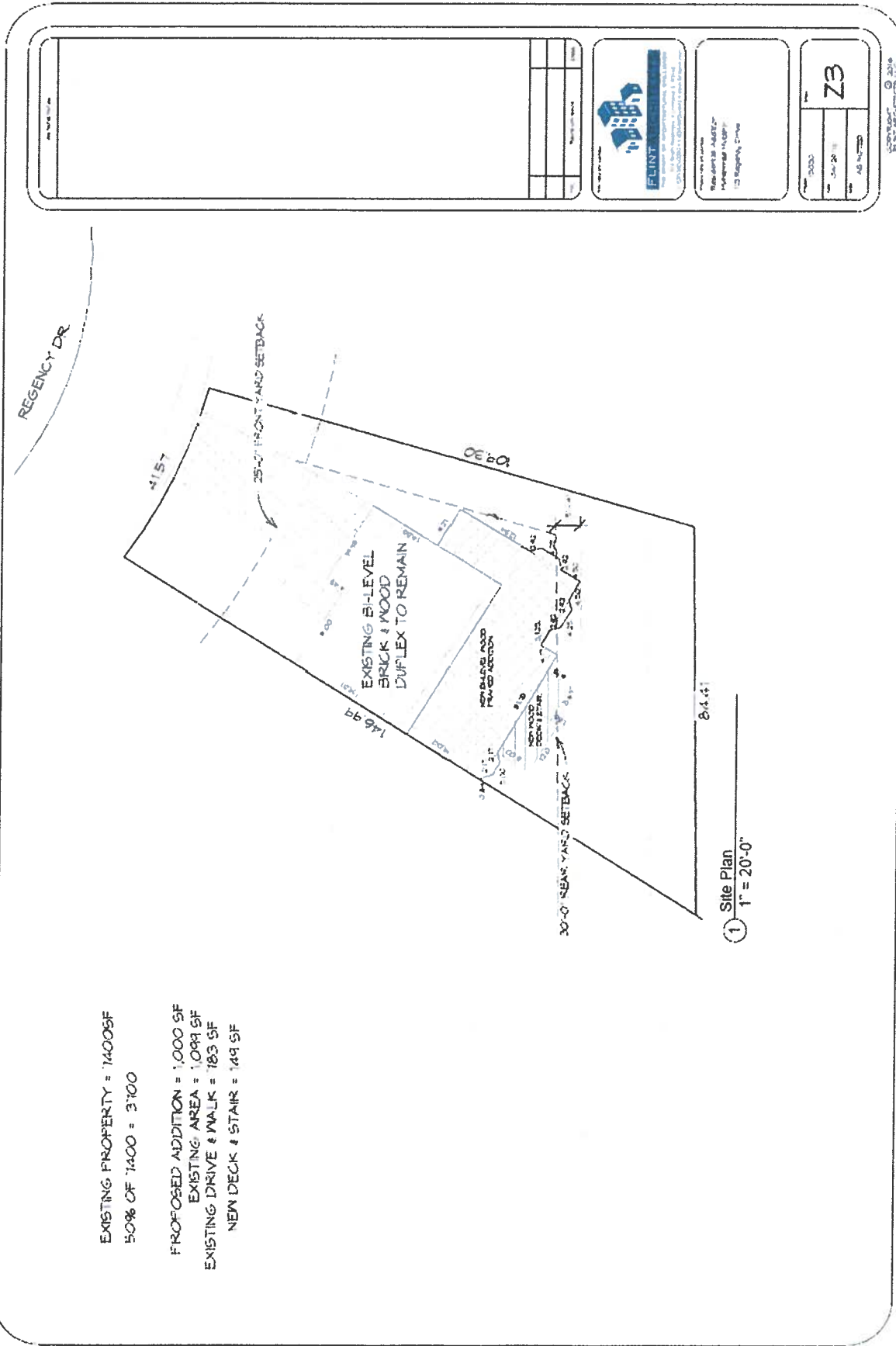


EXHIBIT C: SITE PLAN



Nowakowski, Tamara

From: Urish, Tami
Sent: Friday, July 01, 2016 2:13 PM
To: Nowakowski, Tamara
Subject: FW: 113 Regency ZBA petition

From: oniba naqvi [<mailto:oniba2001@yahoo.com>]

Sent: Friday, July 01, 2016 12:18 PM

To: Urish, Tami

Subject: Re: 113 Regency ZBA petition

Hi Tami, yes, would you please request the waiver. Thank you so much for your efforts!
Oniba

[Sent from Yahoo Mail for iPhone](#)

On Tuesday, June 28, 2016, 11:59 AM, Urish, Tami <UrishT@villageoflombard.org> wrote:

Ms. Oniba Naqvi,

The approved petition from the Zoning Board of Appeals meeting held on June 22 will be going before the Village Board on July 21. You can request a waiver of first reading, meaning your petition would not go to the Board twice only once and you would have final approval on July 21 instead of August 18th. Please reply to my email as soon as possible requesting a waiver of first reading since you would like to get your addition underway as soon as you can.



Tami Urish
Planner I
Village of Lombard
255 E. Wilson Ave. Lombard, IL 60148

Phone: [\(630\) 620-5750](tel:(630)620-5750)
Fax: [\(630\) 629-2374](tel:(630)629-2374)
Email: urisht@villageoflombard.org
Web: www.villageoflombard.org

Follow us:   

ORDINANCE NO. _____

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

(ZBA 16-03; 113 Regency Drive)

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 R4PD 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 155.409(F)(2)(c) of the Lombard Zoning Ordinance to reduce the rear yard setback to twenty-five feet (25') where thirty feet (30') is required to allow for an addition; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on June 22, 2016 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variation; 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 155.409(F)(2)(c) of the Lombard Zoning Ordinance to reduce the rear yard setback to twenty-five feet (25') where thirty feet (30') is required to allow for an addition.

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

1. The subject property shall be developed in substantial conformance with the site plan prepared by Flint & Associates, LLC dated April 29, 2016.

Ordinance No. _____

Re: ZBA 16-03

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2. The petitioner shall apply for and receive a building permit for proposed plans.
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.
4. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.
5. In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required rear yard setback.

SECTION 3: This ordinance is limited and restricted to the property generally located at 113 Regency Drive, Lombard, Illinois, and legally described as follows:

LOT 74 IN HIGHLAND GREEN SUBDIVISION, OF PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 11, 1977 AS DOCUMENT NO. R77-34933 IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-29-105-026

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 _____, 2016.

First reading waived by action of the Board of Trustees this _____ day of _____, 2016.

Passed on second reading this _____ day of _____, 2016.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2016

Ordinance No. _____

Re: ZBA 16-03

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Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2016

Sharon Kuderna, Village Clerk