

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

 X

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: October 5, 2009 (B of T) Date: October 15, 2009

TITLE: ZBA 09-08: 228 W. Willow Street

SUBMITTED BY: Department of Community Development *WH*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village grant a variation from Section 155.407(F)(1)(a)(1) of the Lombard Zoning Ordinance to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch within the R2 Single-Family Residence District.

The Zoning Board of Appeals recommended approval of this petition subject to conditions.

Please place this item on the October 15, 2009 Board of Trustees agenda.

Fiscal Impact/Funding Source:

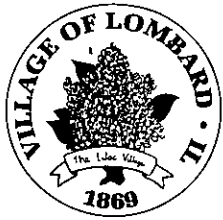
Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X *Jahulal* _____ Date *10/6/09*

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: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP,
Director of Community Development *WH*

DATE: October 15, 2009

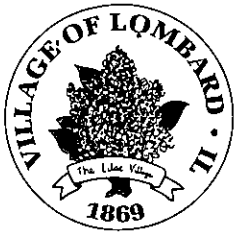
SUBJECT: ZBA 09-08; 228 W. Willow Street

Please find the following items for Village Board consideration as part of the October 15, 2009 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 09-08;
3. Plans associated with the petition; and
4. An Ordinance granting approval of the requested variation from Section 155.407(F)(1)(a)(1) of the Lombard Zoning Ordinance to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch within the R2 Single-Family Residence District.

The Zoning Board of Appeals recommended approval of the zoning actions associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3931
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

Village President
William J. Mueller

October 15, 2009

Village Clerk
Brigitte O'Brien

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

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
Zachary C. Wilson, Dist. 3
Dana L. Moreau, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Subject: ZBA 09-08; 228 W. Willow Street

Village Manager
David A. Hulseberg

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 155.407(F)(1)(a)(1) of the Lombard Zoning Ordinance to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch within the R2 Single-Family Residence District.

"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 Zoning Board of Appeals conducted a public hearing on September 23, 2009.

Chairperson DeFalco opened the meeting for public comment. The petitioner, Brian Weltyk, presented the petition. Mr. Weltyk stated that he was requesting the variation to replace a previous front porch with one of the same size. This would be an improved and safer structure. The old porch was 85 years old with no insulation.

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

Chairperson DeFalco asked if anyone was present to speak for or against the petition.

Lucinda Arendt, 211 W. Willow St., read a letter and submitted it to the record. She stated that both the garage and the new addition on the property are intrusive to other properties in the neighborhood. She expressed her disappointment with the Village government in approving these structures. She stated her objection to the variation and any further construction.

David Ringgenberg, 209 W. Willow St., read a letter and submitted it to the record. He stated that he did not object to the original size of the porch but would object to it being any larger. He stated that he questions the vertical addition as the home now looks like a three-flat.

Thomas Zymali, 219 W. Willow St., stated that there is an intrusive theme on the subject property due to the height of the addition and size of the garage. He stated he would vote against the variation.

Chairperson DeFalco then requested the staff report. Stuart Moynihan, Associate Planner, read the staff report. Mr. Moynihan stated that the petitioner is requesting this variation to replace a previously existing legal non-conforming enclosed front porch with a new porch that will have almost identical dimensions. The previous front porch had a front yard setback of 29.78 feet where thirty (30) feet was previously required. This corresponds to a front yard setback encroachment of approximately 2.5 inches.

In October 2008, the Village Board approved text amendments to the Lombard Zoning Ordinance establishing average front yard setbacks for detached single-family dwellings on residentially zoned properties. For the subject property, these text amendments had the effect of increasing the required front yard setback from thirty (30) feet to 33.93 feet. This setback is formulated as the average of the front yard setbacks of the residence to the west, which is 37.78 feet, and the residence to the east, which is 30.07 feet.

As a result of the aforementioned text amendments, the existing enclosed porch became legal non-conforming as it then encroached 4.15 feet into the front yard setback. After the new code was adopted, the petitioner submitted a permit application to replace the porch at the same dimensions, along with adding a second story addition on the home.

The previously existing front porch had acted as the front entrance to the home. In order to meet the current setback requirement, the enclosed porch would have to project from the home no more than four (4) feet. The petitioner has stated that such a reduction in the porch's size would be a detriment to both its functionality and the home's character. He states that it would also restrict access at the front entrance of the residence.

The petitioner has also indicated that he is proposing to construct essentially the same structure, adding new construction elements that will allow for greater efficiency and safety. In order to address the previous .22 feet encroachment, the new enclosed porch would be reduced to a width of approximately seven (7) feet, eleven (11) inches.

Within the PC 08-21 staff report, several reasons were identified for establishing average front yard setbacks. Among these reasons was the protection of the viewshed of neighboring properties by preventing new homes and additions from being built too far in front of existing homes. This concern does not seem to be applicable in this case. The front yard setback for the principal structure to the west, 230 W. Willow Street, is 37.78 feet. However, projecting from this residence is an unenclosed front porch which has a setback of thirty (30) feet and steps which project still further from the porch. The front yard setback for the principal structure to the east, 220 W. Willow Street, is 30.07 feet. These homes effectively have the same setback as is

proposed as part of this variation and, therefore, are unlikely to experience a negative impact on their viewshed.

Staff also stated, "The intent of the proposed relative setback text is to maintain the character of existing neighborhoods and to establish status quo for any new developments."

It is staff's opinion that in this particular case, the variation would allow the petitioner to maintain the status quo and the character of existing neighborhood.

Staff notes that at least one neighbor has expressed concern over the height of the vertical addition being added to the residence. Though the height of the structure has no direct effect on this variation request, staff would like to address the resident's concern. Staff's review has shown that the submitted plans do meet the height requirements of the R2 zoning district:

No buildings or structures shall exceed two and one-half stories or 30 feet in height, whichever is less.

Mr. Moynihan stated that the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make a motion recommending **approval** of the side yard setback variation subject to the conditions in the staff report.

Mr. Young asked if the garage had received any variations as part of its construction.

Mr. Moynihan stated that it had not.

Mr. Young asked if all construction on the property meets code.

Mr. Moynihan stated that to his knowledge it does.

Chairperson DeFalco stated that the porch would have been conforming as well if it was proposed before the recent text amendments. He stated that the reason for the text amendments was to prevent a home from being constructed too far in front of an existing home. Last year no variation would have been necessary.

Mr. Young asked if the porch would meet a 30 foot setback.

Mr. Moynihan stated that the porch would be reduced in size by a few inches to meet this setback.

Chairperson DeFalco addressed the concerned neighbors. He stated that the petitioner has the right to cover fifty percent of his lot per code and this is a large lot.

Mr. Young stated that the ZBA should only be concerned with the front yard setback.

Chairperson DeFalco stated that code used to allow for an unenclosed front porch in the front yard setback.

Mr. Moynihan stated that this is still the case.

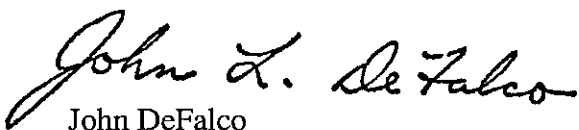
Mr. Tap suggested that a statement regarding 50 percent of the value of the structure should be added to condition 2.

On a motion by Mr. Tap and a second by Dr. Corrado, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board **approve** a variation to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch within the R2 Single-Family Residence District, subject to the following conditions:

1. The variation shall be limited to the single-story enclosed front porch as depicted Plat of Survey, prepared by Lambert and Associates, dated June 23, 1994, with the stipulation that a front yard setback of thirty (30) feet be met.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on July 29, 2009.

1. Petition for Public Hearing.
2. Response to Applicable Standards.
3. Plat of Survey, prepared by Lambert and Associates, dated June 23, 1994.

DESCRIPTION

The petitioner is requesting a variation to replace a previously existing enclosed front porch. Text amendments adopted in October 2008 established average front yard setbacks for detached single-family dwellings on residentially zoned properties. As a result, the required front yard setback for the subject property increased from thirty (30) feet to 33.93 feet. Since the petitioner is seeking to replace the enclosed porch in the same location, a variation is required.

INTER-DEPARTMENTAL REVIEW COMMENTS

PRIVATE ENGINEERING SERVICES

The PES Division has no comment on this petition.

PUBLIC WORKS

Engineering

Public Works Engineering has reviewed the petition and has no comments.

Utilities

The Utilities Division of the Department of Public Works does not have any comments on the subject petition.

BUILDING DIVISION

Upon review of the above referenced request for variation for a front yard setback from 33.93' to 30' to allow for an enclosed front porch, the Building Division has no comments at this time.

FIRE DEPARTMENT

The Fire Department has reviewed the petition and has no comments.

PLANNING

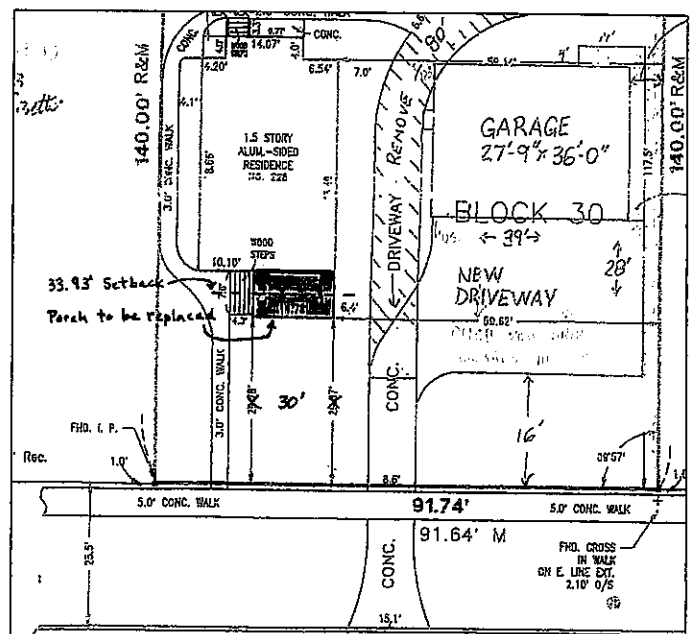
The petitioner is requesting this variation to replace a previously existing legal non-conforming enclosed front porch with a new porch that will have almost identical dimensions. The previous front porch had a front yard setback of 29.78 feet where thirty (30) feet was previously required. This corresponds to a front yard setback encroachment of approximately 2.5 inches. However, the porch would have been considered legal non-conforming as Section 155.801(E) of the Zoning Ordinance permits all "measured distances" to be rounded to the nearest whole foot. The petitioner has agreed to reduce the depth of the proposed porch in order to meet a setback of thirty (30) feet.

In October 2008, the Village Board approved text amendments to the Lombard Zoning Ordinance establishing average front yard setbacks for detached single-family dwellings on residentially zoned properties. For the subject property, these text amendments had the effect of increasing the required front yard setback from thirty (30) feet to 33.93 feet. This setback is formulated as the average of the front yard setbacks of the residence to the west, which is 37.78 feet, and the residence to the east, which is 30.07 feet.



• Previously existing front porch.

As a result of the aforementioned text amendments, the existing enclosed porch became legal non-conforming as it then encroached 4.15 feet into the front yard setback. After the new code was adopted, the petitioner submitted a permit application to replace the porch at the same dimensions, along with adding a second story addition on the home. The proposed second story addition does meet the setback requirements. However, in order to receive a permit to begin construction on the second story, the petitioner altered his plans to show an unenclosed front porch projecting seven (7) feet from the principal structure which is a permitted encroachment in the front yard. Following issuance of the permit, the existing front porch was demolished. If the Village Board were to act favorably upon the petitioner's request, the petitioner plans to amend this permit to show the proposed enclosed front porch.



• Site plan showing required and proposed setbacks.

The previously existing front porch had acted as the front entrance to the home. In order to meet the current setback requirement, the enclosed porch would have to project from

the home no more than four (4) feet. The petitioner has stated that such a reduction in the porch's size would be a detriment to both its functionality and the home's character. He states that it would also restrict access at the front entrance of the residence.

The petitioner has also indicated that he is proposing to construct essentially the same structure, adding new construction elements that will allow for greater efficiency and safety. In order to address the previous .22 feet encroachment, the new enclosed porch would be reduced to a width of approximately seven (7) feet, eleven (11) inches.

Within the PC 08-21 staff report, several reasons were identified for establishing average front yard setbacks. Among these reasons was the protection of the viewshed of neighboring properties by preventing new homes and additions from being built too far in front of existing homes. This concern does not seem to be applicable in this case. The front yard setback for the principal structure to the west, 230 W. Willow Street, is 37.78 feet. However, projecting from this residence is an unenclosed front porch which has a setback of thirty (30) feet and steps which project still further from the porch. The front yard setback for the principal structure to the east, 220 W. Willow Street, is 30.07 feet. These homes effectively have the same setback as is proposed as part of this variation and, therefore, are unlikely to experience a negative impact on their viewshed.

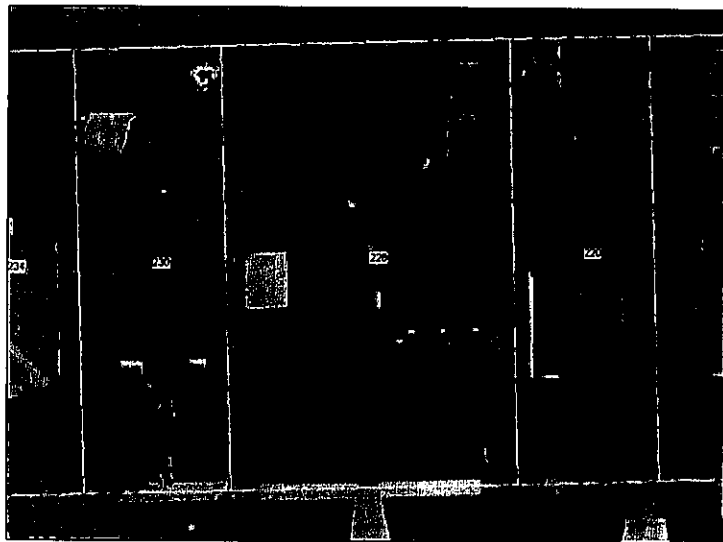
Staff also stated, "The intent of the proposed relative setback text is to maintain the character of existing neighborhoods and to establish status quo for any new developments."

It is staff's opinion that in this particular case, the variation would allow the petitioner to maintain the status quo and the character of existing neighborhood.

Staff notes that at least one neighbor has expressed concern over the height of the vertical addition being added to the residence. Though the height of the structure has no direct effect on this variation request, staff would like to address the resident's concern. Staff's review has shown that the submitted plans do meet the height requirements of the R2 zoning district:

No buildings or structures shall exceed two and one-half stories or 30 feet in height, whichever is less.

The proposed addition will have a height of 29.75 feet, taken as the mean between the eaves, twenty-three and one-half (23.5) feet, and the ridge of the roof, thirty-six (36) feet. Also, the portion of the residence above the second story meets the definition of a half-story. To be considered a half-story, two opposite exterior walls must not exceed four and one-half (4.5) feet



- Aerial photograph approximating the effect on neighboring viewsheds.
 - Red line: 30' Setback.
 - Blue box: Approximate location of proposed porch.

above the finished floor of the story immediately below. The proposed half-story has opposite exterior walls of one (1) foot in height on the east and west sides of the residence.

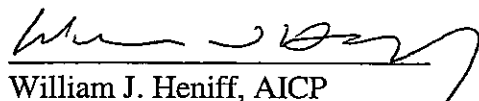
FINDINGS AND RECOMMENDATIONS

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

Based on the submitted petition and the testimony presented, the requested variation **does comply** with the Standards required for variations by 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 Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 09-08, subject to the following conditions:

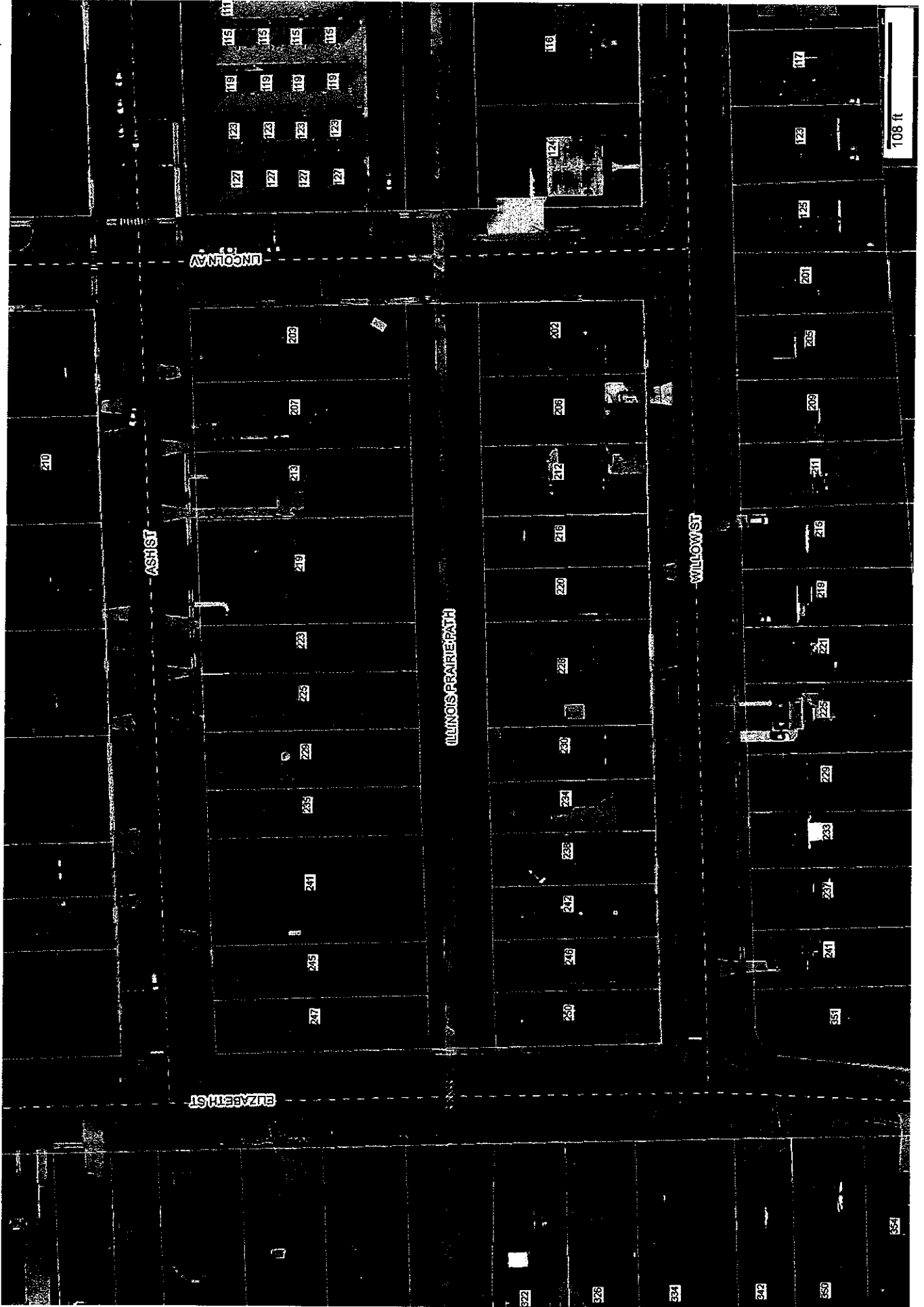
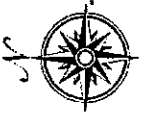
1. The variation shall be limited to the single-story enclosed front porch as depicted Plat of Survey, prepared by Lambert and Associates, dated June 23, 1994, with the stipulation that a front yard setback of thirty (30) feet be met.
2. The variation shall be limited to the existing residence. Should the existing residence be reconstructed due to damage or destruction by any means, any new buildings or structures shall meet the applicable underlying R2 Single Family Residential District setback requirements.

Inter-Departmental Review Group Report Approved By:


William J. Heniff, AICP
Director of Community Development

c: Petitioner

228 W. Willow



Standards for Variations Village of Lombard Illinois

August 30, 2009

RE: Required Detailed Response
Property Located @ 228 W. Willow Street.
Owner: Brian Weltyk

Variance: To allow replacement of the front porch of the property.

1. Because the variance being requested is to allow for an existing structure to be replaced with a 'like' structure; it would greatly impact the functionality and ascetics of the home if not allowed.
The Front Porch is the entrance to the home connecting the front walkway of the home to the front door of the home. If the new set back standard were to be imposed access to the home would be negatively altered.
2. The requested variation is unique to this property. The sole desire of the variance is to allow for an existing 85 year old structure to be replaced with a safer and more efficient structure.
3. The purpose of the variance is to improve the safety and efficiency of an existing structure.
4. The difficulty / hardship has been caused because of an ordinance which has been recently altered which now makes an existing structure noncompliant and therefore ineligible for replacement.
5. Since the request is to replace an existing structure essentially 'like for like' safety and public welfare will only be improved by the upgrading of a worn out structure.
6. The neighborhood character will only be improved by the replacement of this structure.
7. The replacing of the existing structure will not adversely impact the neighborhood in any fashion and would most definitely have many positive impacts.

Summary:

Approving of this variance would allow a 100% improvement to the Property without altering or negatively impacting the home or neighborhood. Not only preserving the original design and charm of the 85 year old home; but would also allow for a safer and more ascetically pleasing improvements to occur. The request for variance is not to

alter the structure but to simply bring it back to its original condition and actually improve it with modern efficiencies that were not available in the 1920's.

The ordinance which previously allowed the original porch to be about eight feet (8') was amended and would now restrict the porch to be about three feet (3'). A three foot (3') porch would not only destroy the functionality and character of the structure; but would also significantly restrict access to the front entrance to the home.

The intent of the ordinance in question was to preserve a uniform set-back within the neighborhood. However in the 200 Block of W. Willow Street every home is built to the previous Set-Back of 30'. Therefore imposing a 34' Set-Back on this home would actually cause a lapse in the uniformity of the neighborhoods existing Set-Back.

The simple conclusion is to allow this variation which would provide a 100% improvement to the neighborhood and a 0% negative impact.

Sincerely,

Brian Weltyk
Property Owner
228 W. Willow St.
Lombard, IL. 60148
8-30-09

In regards to
Petition No.ZBA 09-08
Parcel No: 06-07-401-007

About four years ago on the property located at 228 W. Willow Street, in Lombard, the village allowed construction of an intrusive two story three car garage. This garage is larger than a number of homes on the block. It is invasive and an eye sore. It has caused much controversy not only in the neighborhood but in the village as well I believe this controversy caused the Village to re think its Zoning codes although I do not know if anything was changed .

A few weeks ago construction began again on this same property. I am appalled to see yet another obscenely intrusive structure being built. A two story addition is being added to the existing small bungalow. This three story construction looks more like an urban three flat than a suburban home. It truly does not belong in a neighborhood of bungalows and small to modest dwellings.

I am deeply disappointed in this village government. To approve the construction of these two intrusive structures in this neighborhood is appalling. Because of the addition to this property our neighborhood is becoming even more of an eye sore. Already I have noticed cars slowing down, stopping, pointing and staring at the site. I am concerned for my own property value as well as my neighbors because of these intrusive structures.

I am now being allowing the opportunity to voice my opinion on additional construction of an enclosed front porch. I feel the village has gone too far in allowing the construction they have already allowed. If the Village will not say it, I will. Enough is enough and I say no to more construction. I do not approve of reducing the front yard setback to (30) feet where 33.93 feet is required on the property located at 228 W. Willow Street, Lombard IL.

Thank you for the opportunity to voice my opinion.

Lucinda Arendt
211 W Willow St
Lombard IL 60148

Lucinda Arendt
9-23-09

September 23, 2014

To the members of the Lombard Zoning Board;

As homeowners that live within sight of the house in question at 228 W. Willow St, we object to the variation that is being requested. We are questioning why this addition has been allowed as it now looks like a three flat and does not fit in with the surrounding homes. To allow the addition of a large front porch would only add to the intrusive nature of this structure.

We would ask that this be denied and the builder be restrained to the existing limits allowed by the current code.

Respectfully submitted,

David Ringgenberg

Debbie Ellis

209 W. Willow St

ORDINANCE NO. _____

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

(ZBA 09-08: 228 W. Willow Street)

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 155.407(F)(1)(a)(1) of the Lombard Zoning Ordinance to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on September 23, 2009 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 front yard setback; 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 155.407(F)(1)(a)(1) of the Lombard Zoning Ordinance to reduce the front yard setback to thirty (30) feet where 33.93 feet is required to allow for an enclosed front porch; and,

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

Ordinance No. _____

Re: ZBA 09-08

Page 2

1. The variation shall be limited to the single-story enclosed front porch as depicted Plat of Survey, prepared by Lambert and Associates, dated June 23, 1994, with the stipulation that a front yard setback of thirty (30) feet be met.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, any new structures shall meet the full provisions of the Zoning Ordinance.

SECTION 3: This ordinance is limited and restricted to the property generally located at 228 W. Willow Street, Lombard, Illinois, and legally described as follows:

LOT 13 (EXCEPT THE NORTH 58 FEET) IN BLOCK 30 OF TOWN OF LOMBARD, BEING A SUBDIVISION IN SECTIONS 5, 6, 7, 8, AND 18, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 23, 1868 AS DOCUMENT 9483, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-07-402-007

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 _____, 2009.

First reading waived by action of the Board of Trustees this _____ day of _____, 2009.

Passed on second reading this _____ day of _____, 2009.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2009.

Ordinance No. _____
Re: ZBA 09-08
Page 3

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me this _____ day of _____, 2009.

Brigitte O'Brien, Village Clerk