

**MEMORANDUM**

**TO:** LOMBARD PLAN COMMISSION  
Donald Ryan, Plan Commission Chairperson

**FROM:** Stuart Moynihan, Associate Planner  
Department of Community Development

**DATE:** June 15, 2009

**SUBJECT:** DuPage County Public Hearing Z09-038- Johnson

DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 1.77 feet from the required 3 feet to allow for an existing shed and a variation to reduce the interior side yard setback to 3 feet from the required 7.7 feet to allow for an existing deck in an R-4 Single Family Residence District. The petition is for the property at 21W210 Canary Rd., in the Butterfield East Subdivision (DuPage County ZBA Case Z09-038). 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**

*Deck Variation*

According to discussions with County representatives, the existing deck on the property has recently been constructed. The deck encroaches into the required side yard; therefore relief is requested to allow the deck to remain at its present location. 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	3 feet	7.7 feet, 10% of lot width	6 feet, since the deck is greater than the 3 feet in height

*Shed Variation*

According to discussions with the County representatives, the existing shed on the property does not achieve code compliance concerning County and Village Codes. The shed's location is also

found within a public utility easement. Noted below are the proposed characteristics associated with the shed:

	Existing Setback	Required by DuPage County	Required by Lombard
Setbacks from interior side lot line	1.77 ft	3 feet	3 feet
Utilities Easement	3.2 feet into 10' easement; setback of 6.8' from the north lot line	May be located in easement provided that each utility company signs off	May be located in an easement if structure is not permanently fixed to a foundation (moveable)

**ANALYSIS**

As the petitioner’s plan shows, the property is 10,237 square feet in size (77’ wide by 133’ deep). 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.

In review of the petitioner’s request, staff considered the request relative to Village Codes. While staff recognizes that the Village’s setback requirement for decks in an interior side yard is less than the County standard, the Village would still not permit the deck in the interior side yard as it is over the maximum height of three feet above grade. If this deck was proposed to be constructed in the Village, it would have to meet the six foot interior side yard setback requirement. Regarding the shed’s location, if the structure is not permanently fixed to a foundation, the Village would permit it within an easement provided that it is moved to meet the three foot interior side yard setback requirement.

Staff finds that based upon the site plan, a great deal of flexibility exists for the property owner to construct a deck that meets County and Village Codes. The existing home is setback approximately 11 feet from the interior side lot line; therefore there would be 3.3 feet for a landing. The Building Code requires a minimum landing width of 3 feet to allow entrance/egress to the residence. The width of the existing deck landing is approximately eight feet.

Staff notes that the Village cannot approve any permanent structure within an easement. Based on discussions with the County, the existing shed is not on any foundation and is not a permanent structure. Therefore, the shed being in the easement is acceptable to the Village; however, as it is not a permanent structure, it can be moved to meet the three foot setback required by both the Village and the County.

Staff finds that both the shed 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 Z09-038.