

August 17, 2006

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

Subject: ZBA 06-11; 415 Manor Hill Lane

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 a variation to Section 155.406 (F)(4) to reduce the rear yard setback to twenty-eight feet (28') where thirty-five feet (35') is required to allow for the construction of three season room within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on June 28, 2006. Al Kennedy, owner of the subject property, presented the petition. He stated that his neighbors were in support of his variation request to allow him to construct a three season room. He submitted a petition signed by several of his neighbors. He noted that he felt he had met the standards for variations and submitted a new summary of his variation request.

Mr. Kennedy stated that there is precedent in the neighborhood for properties with three season rooms set back less than the required thirty five feet (35'). He distributed pictures of these properties as well as an aerial photo showing where they were located in the neighborhood. He stated that he felt there was a hardship associated with the shape of the lot and the location of his house on the property. He noted that 334 Colleen Drive had approximately the same lot width and depth and the house was approximately the same size and dimensions. He distributed an overlay drawing comparing the lot layout of the two properties. He noted that the same twelve foot (12') by sixteen foot (16') three season room could be built meeting the rear yard setback because the house is located on a rectangular lot and is not positioned at an angle. He stated that his property is unique because other identical houses in the subdivision are able to meet the rear yard setback with a three season room.

Mr. Kennedy noted that there were sixteen rear yard variances granted between 2001 and 2006. He stated that the problem is with the Ordinance changing the rear yard setback from thirty feet (30') to thirty-five feet (35'). He noted that his neighbor to the south has a three season room that is only fourteen feet (14') to the property line.

He also mentioned that his neighbor to the rear has a deck enclosed with an eight foot (8') fence which is only fifteen feet (15') from the rear property line. He distributed pictures of the two properties. Mr. Kennedy noted that three season rooms are very popular in the neighborhood and that the proposed three season room would not alter the character of the neighborhood. He distributed several pictures of three season rooms on properties in the neighborhood.

Mr. Kennedy stated that safety issues also create a hardship. He stated that he and his wife are unable to enjoy their backyard because of mosquitoes. He noted that they are particularly concerned about the West Nile Virus as the elderly are more susceptible to the virus. He mentioned that in Illinois there have been 1250 cases of West Nile Virus and 84 deaths.

Peter Gash with National Energy Contractors stated that he has been working with Mr. and Mrs. Kennedy for quite some time. He noted that they are frustrated because so many of their neighbors have grandfathered three season rooms. He noted his company is located in Lombard and does high quality work. He mentioned that the Kennedy's have the best intention of improving their home.

Chairperson DeFalco then opened the meeting for public comment. No one spoke in favor of or against the petition. He then requested the staff report.

Michelle Kulikowski, Planner I, presented the staff report. She stated that the subject property is approximately seventy feet (70') wide at the front property line and approximately fifty feet (50') wide at the rear property line with an average depth of the property is one hundred twenty-one and sixty-one hundredths feet (121.61'). She noted that the house is positioned on an angle so that none of the exterior walls are parallel to the front or rear property line. She mentioned that the existing residence maintains a thirty foot (30') front yard setback and a thirty seven foot (37') rear yard setback. She stated that the property owner is requesting a rear yard variation to allow the construction of a three season room setback twenty-eight feet (28') from the rear property line where a patio currently exists. She noted that the residence on the subject property currently complies with the Zoning Ordinance setback regulations, as the patio is a permitted encroachment in the rear yard.

Ms. Kulikowski stated that the purpose of setbacks is to control bulk on property, and provide adequate space for health and safety. She noted that setbacks also preserve the suburban character of the area and help ensure that lots do not have the appearance of being overbuilt. She mentioned that staff usually does not support setback variations unless a hardship can be shown that pertain to the physical attributes of the property. She stated that staff finds that the hardship presented is of a personal nature, not one based on the physical attributes of the property, and that the lot is similar to many R2 single-family lots in terms of size and the presence of mosquitoes.

Ms. Kulikowski stated that the petitioner has noted other non-conforming properties in the neighborhood relative to rear yard setbacks. She noted the neighborhood was developed prior to the adoption of the current Zoning Ordinance when the rear yard setback was only thirty feet (30'). She mentioned that a comprehensive review of Zoning Board of Appeals cases revealed that other rear yard variations have been granted in the neighborhood for the properties located at 320 Manor Hill

Ct. (ZBA 76-5), 410 Manor Hill Lane (ZBA 86-9), 1521 Hillcrest Ct. (ZBA 99-09), 418 Hillcrest Ct. (ZBA 01-18). She noted that for the two more recent cases (ZBA 99-09 and ZBA 01-18) staff recommend denial, finding that there was no unique physical hardship associated with the properties.

She stated that staff remains consistent in its interpretation for the standards for variations. She noted that there is no demonstrated physical hardship, nor are there any unique topographical conditions that would prevent compliance with the ordinance. She mentioned that there are not any unique differences between the petitioner's lot and others with the R2 Single Family District with respect to the depth of the property and the required front and rear yard setbacks. She noted that the 35-foot rear yard setback for R2 properties has been consistently applied throughout the Village. She stated that the hardship has not been created by the ordinance and the requested relief is needed due to a personal preference to add a three season room addition to the existing residence. She stated that the granting of the requested relief will set an undesirable precedent.

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

Mr. Young asked staff why there are so many non-conforming residences in that neighborhood that are closer than thirty feet (30').

Ms. Kulikowski stated that staff did not have a definitive answer. Some structures may have received variances and some may have additions that were constructed without permits.

Mr. Young stated that staff has remained consistent in their interpretation and the ZBA has also remained consistent. He noted that there is no hardship, but based on the neighborhood, he finds no compelling reason to deny the variance.

Dr. Corrado noted that in the past, the Zoning Board of Appeals has discussed the change in the rear yard setback and its intent to allow a clear view through the backyards. He mentioned in the past they have granted rear yard variances for properties located on cul-de-sacs because the houses weren't aligned and there was still a clear view through the backyards. He noted that this case is similar because the street is curved and the houses aren't all aligned. He stated that the addition would not interfere with a clear view through the back yards down the street.

Mr. Gash noted that if the addition were to meet the setback, it could only be five feet (5'), which is essentially a hallway.

Chairperson DeFalco referred to sixteen pictures that the petitioner submitted of properties in his neighborhood. He noted that some of the properties may be grandfathered or illegal. The petitioner clarified that the sixteen referred to rear yard variations that have been granted from 2001 to the present. Chairperson DeFalco noted that some of those variances were granted because they were maintaining an existing nonconforming building line and were not proposing to reduce the setback.

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Chairperson DeFalco mentioned that he has a screened enclosure that he bought at a home improvement store, and he puts it up during the summer months and then takes it down. He stated that a this type of temporary enclosure would be permitted in the rear yard. Jennifer Backensto, Planner II, confirmed that it would be permitted as long as the screened enclosure was not permanent. She noted that it would be considered similar to a tent or recreational equipment.

Chairperson DeFalco referenced the petition signed by the neighbors. He noted that the current neighbors may not object, but there may be different neighbors in the future.

Chairperson DeFalco noted other structures that are permitted in rear yards such as sheds and detached garages.

Mr. Bedard stated that while staff has been consistent in its interpretation, the Board of Trustees has also been consistent in granting rear yard variations. He noted that he would be hard pressed to deny this variation.

Chairperson DeFalco noted the Zoning Board of Appeals recommendation should reflect what they think is proper.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested rear yard variation complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Dr. Corrado and a second by Mr. Bedard, the Zoning Board of Appeals recommended approval of the requested rear yard variation associated ZBA 06-11 by a roll call vote of 4 to 2.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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