

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION

For Inclusion on Board Agenda

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

 X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: June 7, 2006 (B of T) Date: June 15, 2006

TITLE: ZBA 06-08: 512 S. Craig Place

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 47.1 percent where a minimum of 50 percent open space is required, to allow for the construction of a deck within the R2 Single Family Residential District. (DISTRICT #5)

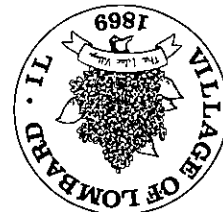
The petitioner is requesting a waiver of first reading.

The Zoning Board of Appeals recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:
Review (as necessary):

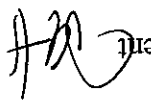
Village Attorney X
Finance Director X
Village Manager X W. T. Lichter
Date _____
Date _____
Date 6/7/06

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: William T. Lichter, Village Manager

FROM: David A. Huliseberg, AICP, Director of Community Development 

DATE: June 15, 2006

SUBJECT: ZBA 06-08: 512 S. Craig Place

Attached please find the following items for Village Board consideration as part of the June 15, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-08;
3. An Ordinance granting approval of the requested variation;
4. Plat of Survey; and
5. Plans associated with the petition.

The petitioner is requesting that the Village Board waive a first reading of the aforementioned Ordinance due to time constraints associated with the project.

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



VILLAGE OF LOMBARD
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William J. Mueller

Village Clerk
Britt O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Seby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Subject: ZBA 06-08; 512 S. Craig Place
Dear President and Trustees:

Village Manager
William T. Lichter

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 (H) to reduce the amount of open space on the subject property to 47.1 percent where a minimum of 50 percent open space is required, to allow for the construction of a deck within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on May 24, 2006. Michelle and Kevin Wesling, owners of the property, presented the petition. Mrs. Wesling stated that they bought the property in 1997. She noted that originally the property was a double lot, and a previous property owner sold one of the lots which reduced the size of the property in half. She stated that she understands the reasoning behind the open space requirement, but they just want to replace the deck that has been there for years.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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. Wesling stated that the existing deck is rotting and is deteriorated. He noted that they use the rear entrance from the deck as the primary entrance to their home. He mentioned that the roof over the deck was needed for protection from bad weather conditions. He also mentioned that the roof could serve as a fire escape from his child's bedroom on the second floor. He noted that the house was originally designed with an attached garage on the side. The previous property owner demolished the attached garage and constructed a detached garage on the property. Mrs. Wesling noted that the existing detached garage is twenty-two feet (22') by twenty-six feet (26'), and the garage with the long driveway account for a large portion of their lot coverage.

Mr. Wesling stated that he did not believe their proposed deck would decrease the degree of non-conformity. He mentioned that since they bought the property, they removed a ten foot (10') by twelve foot (12') shed and grassed in a small area of the

driveway. He stated that they have actually decreased the degree of non-conformity since buying the property. He noted that the roof over the deck will not change the use of the deck. Mr. Wesling submitted an aerial photo to the Zoning Board of Appeals. He stated the variance comes down to two issues - density and drainage. He mentioned that drainage would not be an issue because they currently do not have any water problems. He stated that their house is modest relative to the new homes being constructed in Lombard. He mentioned that they are trying to improve the property and make it look nice. He noted that the deck is not excessively large and is of a reasonable size.

Chairperson Defalco then opened the meeting for public comment. No one spoke for or against the petition. He then requested the staff report.

Michelle Kulikowski, Planner I, presented the staff report. She stated that the subject property currently maintains 47.1% open space and is considered legal non-conforming with respect to open space. She mentioned that the petitioners are proposing to remove an existing deck and replace it with a deck of approximately the same size and dimensions but also with a roof structure. She noted that once the existing deck is removed, any legal non-conforming rights associated with the deck are lost. She also noted that the removal of the deck would bring the property in compliance with the 50% minimum open space requirement. She stated that the petitioners request a variation to re-establish the legal non-conformity relative to open space, so that the deck can be replaced.

Mrs. Kulikowski provided some background information regarding the property. She stated that the original residence located at 512 S. Craig Place was built on Lot 44 with a small portion of the garage on Lot 45. In 1992, a previous property owner received a building permit to demolish the attached garage and construct a new detached garage on Lot 44. She noted that Lot 45 no longer had any structures (or portion thereof), and the property owner was able to sell Lot 45 as a buildable lot. She mentioned that in 1993, a single family residence was constructed on Lot 45, which is now known as 508 S. Craig Place. She noted that when the building permit was issued for the detached garage in 1992, the zoning lot for the subject property consisted of all of Lot 44 and the Lot 45. The total area of the property (known as 512 S. Craig Place) and was used to calculate the open space requirement. She stated that at the time, the property far exceeded the minimum open space requirement. However, the sale of Lot 45 reduced the area of the property known as 512 S. Craig Place from 16,000 square feet to 8,000 square feet, and the property no longer met the 50% minimum open space requirement.

Mrs. Kulikowski noted that the previous property owner was able to sell Lot 45 for development as a matter of right because it was a platted lot of record. She mentioned that the Village does not have any authority over the private sale of land and cannot deny a property from being developed on the basis of a nonconformity on an adjacent lot. She stated that at the time, the

Village did not have any regulations to prevent this situation from occurring. She noted that the current Zoning Ordinance regulates that certain construction activity can only occur on a single lot of record. Homes built on two lots would be required to consolidate the lots in order to build an addition or large accessory structure.

Ms. Kuilikowski stated that staff typically has recommended approval for open space variations when there is an existing legal nonconforming situation and the improvements will not increase the degree of nonconformity. She mentioned that the proposed deck includes a roof structure, and that the roof structure would increase the degree of nonconformity. She mentioned that even though the calculated percent of open space would essentially remain the same, staff finds that the roof element increases the visual impact of the structure. She stated that the intent of the 50% minimum open space requirement is to limit bulk and density as well as the volume of stormwater runoff. The roof structure would be completely impervious, whereas the deck would allow some stormwater to reach the ground through the spaces between the wood planks.

Ms. Kuilikowski reviewed the standards for variations as they apply to the proposed improvements. She noted that staff did not find any hardship for the roof over the deck. Staff did mention as an alternate consideration, that the Zoning Board of Appeals could chose to approve the open space variation so that the deck could be replaced without a roof structure.

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

Mr. Polley asked whether the roof would also serve as a second story balcony. Mrs. Westling stated that it will be a gable roof and will only serve as a covering for the deck.

Mrs. Newman asked whether they considered covering just a portion with a roof rather than the entire deck. Mrs. Westling noted that the roof will not cover the stairs. She also stated that reducing the area of the deck covered by the roof would make it would look awkward because they were trying to tie in with the roof pitch of the house.

Chairperson DeFalco asked whether about using a retractable awning or pergola and whether that would be allowed. Jennifer Backensto, Planner II, stated that a retractable awning would be allowed if it was not permanent. Mrs. Westling stated that the problem with using an awning is that they are meant to provide shade from the sun, not protection from the weather.

Chairperson DeFalco referred to the aerial photo that was submitted by Mr. Westling. He stated that it is easy to distinguish which property belongs to the petitioners because of the large pavement area in the aerial.

Mr. Westling stated that they would consider removing a sidewalk in the front yard to come closer in compliance, but he wasn't sure if they could actually reduce it to fifty percent (50%).

Chairperson Defalco asked whether they considered reducing the dimensions of the deck. Mr. Wesling stated that they wanted the peak of the gable under the second story window, and they needed the deck to extend to the entrance door.

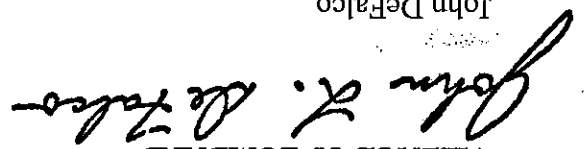
Chairperson Defalco discussed the percent of open space that would result from the removal of the sidewalk. For the purposes of calculating the lot area and amount of open space, Mrs. Kulikowski explained the discrepancy between the "measured" lot depth and the "recorded" lot depth. She noted that the recorded number is always used for consistency purposes, and in this case, using the recorded lot depth results in a smaller lot area.

After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested open variation complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mr. Polley, the Zoning Board of Appeals recommended approval of the requested open space variation associated ZBA 06-08 by a roll call vote of 5 to 0, subject to the following conditions:

1. That the petitioner shall construct the deck in accordance with the plans submitted as part of the petition.
2. That the deck shall remain unenclosed.
3. The petitioner shall remove one hundred twenty (120) square feet of pavement area in the front yard.
4. That 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, then any new structures shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD



John Defalco

Chairperson

Zoning Board of Appeals

att-

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals **HEARING DATE:** May 24, 2006
FROM: Department of Community Development **PREPARED BY:** Michelle Kulikowski Planner I

TITLE

ZBA 06-08; 512 S. Craig Place: The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 47.1 percent where a minimum of 50 percent open space is required, to allow for the construction of a deck within the R2 Single Family Residential District.

GENERAL INFORMATION

Petitioner/Property Owner: Kevin and Michelle Westling
512 S. Craig Place
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District
Existing Land Use: Single Family Residential
Size of Property: Approximately 8,000 Square Feet

Surrounding Zoning and Land Use

North: R2 Single Family Residential District; developed as Single Family Residences
South: R2 Single Family Residential District; developed as Single Family Residences
East: R2 Single Family Residential District; developed as Single Family Residences
West: R2 Single Family Residential District; developed as Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on April 7, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by LSCI Land Surveyors, dated November 14, 1995.
4. Drawings of the proposed deck.

DESCRIPTION

The subject property is currently maintains 47.1% open space and is considered legal non-conforming with respect to open space. The petitioners proposed to remove an existing deck and replace it with a deck of approximately the same size and dimensions but also with a roof structure. Once the existing deck is removed, any legal non-conforming rights associated with the deck are lost. Also, the removal of the deck would bring the property in compliance with the 50% minimum open space requirement. Therefore, the petitioners request a variation to re-establish the legal non-conformity relative to open space, so that the deck can be replaced.

INTER-DEPARTMENTAL REVIEW COMMENTS

Fire and Building

Fire and Building have no comments on this petition.

Public Works Engineering

Public Works has no comments on this petition.

Private Engineering

The Private Engineering Services Division has the following comment on the subject petition:

The Code requirement of 50% open space serves both to limit the density on lots as well as the volume of stormwater runoff. Decks are typically pervious since rainfall passes between the planks. However, the proposed roof over the deck would make the lot more than 50% impervious. Therefore, the Private Engineering Services Division recommends that the proposed roof be denied.

Planning

Background

The original residence located at 512 S. Craig Place was built on Lot 44 with a small portion of the garage on Lot 45. In 1992, a previous property owner received a building permit to demolish the attached garage and construct a new detached garage on Lot 44. Lot 45 no longer had any structures (or portion thereof), and the property owner was able to sell Lot 45 as a buildable lot. In 1993, a single family residence was constructed on Lot 45, which is now known as 508 S. Craig Place.

When the building permit was issued for the detached garage in 1992, the zoning lot for the subject property consisted of all of Lot 44 and the Lot 45. The total area of the property (known as 512 S. Craig Place) and was used to calculate the open space requirement. At that time, the property far exceeded the minimum open space requirement. However, the sale of Lot 45 reduced the area of the property known as 512 S. Craig Place from 16,000 square feet to 8,000 square feet, and the property no longer met the 50% minimum open space requirement.

The previous property owner was able to sell Lot 45 for development as a matter of right because it a platted lot of record. The Village does not have any authority over the private sale of land and cannot deny a property from being developed on the basis of a non-conformity on an adjacent lot. At the time, the Village did not have any regulations to prevent this situation from occurring. The current Zoning Ordinance regulates that certain construction activity can only occur on a single lot of record. Homes built on two lots would be required to consolidate the lots in order to build an addition or large accessory structure.

Standards for Variations

Staff typically has only recommended approval for open space variations when there is an existing legal nonconforming situation and the proposed improvements will not increase the degree of non-conformity. The proposed deck includes a roof structure covering the deck. Staff finds that the roof structure would increase the degree of non-conformity. Even though the calculated percent of open space would essentially remain the same, staff finds that the roof structure increases the visual impact of the structure. The intent of the 50% minimum open space requirement is to limit bulk and density as well as the volume of stormwater runoff. The roof structure would be completely impervious, whereas the deck would allow some stormwater to reach the ground through the spaces between the wood planks covering the deck.

To be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation". The following standards have not been affirmed:

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that the petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The subject property (Lot 45) is

8,000 square feet in size, which exceeds the minimum lot size of 7,500 square feet in the R2 District.

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.* Staff finds that the conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 Single Family Residential lot in the Village. While the sale of the Lot 44 portion of the property created the nonconformity, staff finds that there is nothing inherently unique about the subject property that warrants the open space relief.

3. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.* Staff finds that the hardship has not been caused by the ordinance and has instead been created by the extent of the existing and proposed improvements to the property. It was the actions of previous property owners that created the existing nonconformity. The ordinance has been consistently applied throughout the Village.

4. *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 the property is located.* Staff finds that granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

Additional Considerations

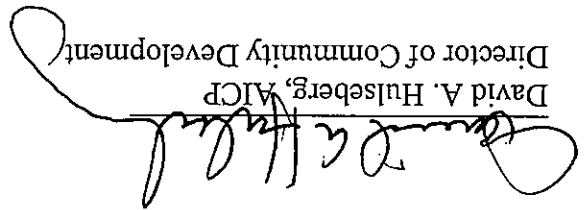
If the Zoning Board of Appeals finds that the existing deck, but not the proposed roof-over deck would meet the standards for variations, the ZBA could grant approval of a variation from the open space requirements in order to allow the deck to remain on the property as a legal conforming structure. This action would allow the petitioner to replace the existing deck with a new deck of the same size if desired. Staff would not object with this request.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has not affirmed the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending denial of the variation:

Based on the submitted petition and the testimony presented, the requested variation does not comply with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities denial of ZBA 06-08.

Inter-Departmental Review Group Report Approved By:


David A. Hulseberg, AICP
Director of Community Development

DAH:MK

att-

c: Petitioner

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WASHINGTON BLVD

WASHINGTON BLVD

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STEWART AV



ZBA 06-08: 512 S. CRAIG PLACE

1 in. = 100.0 feet



April 7, 2006

To: Village of Lombard Board of Appeals

From: Kevin and Michele Wesling, owners

Re: Request of open space variation for 512 S. Craig Place (Parcel #06-08-313-018)

We are requesting an approval of building permit to remove our existing deck and replace it with a deck of comparable size. This request is of issue due to our current lot size and percentage of lot coverage. Originally, the lot was a double lot which accommodated a backyard deck and deep garage (22 X 26 feet). In 1992 the previous owners moved the garage to the rear of the lot and extended the driveway. The lot was then subdivided into two lots. Currently, our lot coverage surpasses 50% of the lot size by 232 square feet (53%). This lot coverage was documented on plats of survey and was approved by the Village of Lombard in 1992 when our lot was subdivided and in 2001 when the property was sold to us. Percentage of lot coverage was not recorded or disclosed as non-conforming to village ordinance at the sale of the property in either 1992 or 2001.

Presently, we are requesting a zoning ordinance variation so that we may replace our backyard deck. Our request for deck replacement does not add additional size to the deck currently in place and does not alter the plat of survey approved in 1992. Our proposed deck plan does not change the configuration of our house and backyard.

According to section 155.103.C.7 of the Lombard Zoning Ordinance, we are requesting variance on these seven points:

1. Hardship: The current deck was erected prior to 1987 when the previous owners had purchased this property. The decking and railing has loosened and rotted with several broken boards. The deck is not structurally sound in its current condition. We propose replacing the deck rather than simply removing it in that it provides a graduated entrance into the main door of our house rather than a steep incline of several steps and is ultimately safer for our small children and visitors entering our house.
2. Conditions unique to this property: As previously stated, this configuration of house, driveway, garage and deck was previously approved by the Village of Lombard and in code with zoning ordinance until the property was divided in 1992. There is no proposal to expand the ground coverage of these structures on our lot.
3. Financial gain: The variance requested is in order to replace the existing deck due to structural damage and wear. There are no financial gains to be made by this variance.
4. Cause of difficulty or hardship: Zoning ordinance violation resulted in 1992 when the property was divided and sold by the previous owners. The present owners were unaware of the ordinance violation upon purchasing the property.

5. Public welfare: The granting of this variance is not detrimental to the public welfare or injurious to neighboring properties.
6. Neighborhood: The neighborhood will not be altered by replacing our backyard deck; the character of the neighborhood will be unchanged.
7. Light, air and drainage: These variables will remain the same for our house and our neighbors' houses as the percentage of lot coverage remains the same with the variance granted.

We are seeking variance approval and issue of a building permit so as to replace the existing backyard deck with safer, new material. Of further request is permit issuance for covering our deck. This will not alter the light, air or drainage to our neighboring houses and would permit a covered entry into the main door of our house for foul weather conditions.

Also note we are requesting a waiver of the first meeting.

ORDINANCE NO. _____

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

(ZBA 06-08: 512 S. Craig Place)

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 155.406 (H) of the Lombard Zoning Ordinance to reduce the required open space on a lot from fifty (50) percent to forty-seven (47) percent; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on May 24, 2006 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 variation; 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 subject to conditions.

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 155.406 (H) of the Lombard Zoning Ordinance to reduce the required open space on a lot from fifty (50) percent to forty-seven (47) percent.

SECTION 2: This ordinance is limited and restricted to the property generally located at 512 S. Craig Place, Lombard, Illinois, and legally described as follows:

LOT 44 IN H.W. ELMORE AND COMPANY'S RIDGE VIEW RESUBDIVISION, BEING A RESUBDIVISION OF LOTS 1 TO 50, INCLUSIVE, IN H.W. ELMORE AND COMPANY'S RIDGE VIEW, A SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID RESUBDIVISION RECORDED JUNE, 26, 1925 AS DOCUMENT 195309, AND RE-RECORDED AUGUST 8, 1925 AS DOCUMENT 197568, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-08-313-018

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. That the petitioner shall construct the deck in accordance with the plans submitted as part of the petition.
2. That the deck shall remain unenclosed.
3. The petitioner shall remove one hundred twenty (120) square feet of pavement area in the front yard.
4. That 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, then any new structures shall meet the full provisions of the Zoning Ordinance.

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 _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk