

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

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

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : November 5, 2020 **(BOT) Date:** November 19, 2020

SUBJECT: ZBA 20-05: 235 S. Brewster Avenue

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development *WH*

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 grant a variation from Section 155.407(F)(3) of the Lombard Village Code to reduce the required interior side yard setback from six feet (6') to two feet (2.0') for the subject property located within the R2 Single-Family Residence Zoning District.

The Zoning Board of Appeals made the recommendation of approval by a 6-0 vote. Please place this petition on the November 19, 2020 Board of Trustees agenda with a waiver of first reading

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____
Village Manager _____ 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 *WH*

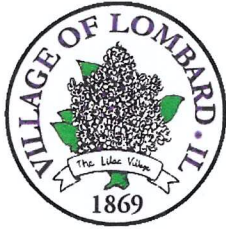
MEETING DATE: November 19, 2020

SUBJECT: **ZBA 20-05, 235 S. Brewster Avenue**

Please find the following items for Village Board consideration as part of the November 19, 2020 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 20-05; and
3. An Ordinance granting approval of the requested variation.

The Zoning Board of Appeals made the recommendation of approval by a 6-0 vote. Please place this petition on the November 19, 2020 Board of Trustees agenda with a waiver of first reading.



VILLAGE OF LOMBARD

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

November 19, 2020

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees

Dan Whittington, Dist. 1
Anthony Puccio, Dist. 2
Reid Foltyniewicz, Dist. 3
Andrew Honig, Dist. 4
Daniel Militello, 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 20-05 – 235 S. Brewster Avenue

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)(3) of the Lombard Village Code to reduce the required interior side yard setback from six feet (6') to two feet (2.0') for the subject property located within the R2 Single-Family Residence Zoning District.

The Zoning Board of Appeals conducted a public hearing on October 28, 2020. Pursuant to Governor Pritzker's Executive Order No. 2020-07 which suspends the requirement of the Illinois Open Meetings Act requiring in-person attendance by members of a public body during the duration of the Gubernatorial Disaster Proclamation, multiple members of the Zoning Board of Appeals participated in the meeting through a virtual meeting platform.

The petitioners (Steve Flint, architect and Sarah Stanley, property owner) and staff were sworn in by Chairperson DeFalco to offer testimony.

Mr. Flint presented the proposed site plan and architectural elevations. He said the property owner planned to extend the existing attached garage toward the rear of the property. The garage will be subdivided into a space to park a car and a space for the property owner's pottery studio. Mr. Flint described the architectural features of the house and the garage addition, noting they will match one another. He said the garage, which is constructed of brick, will be clad with siding to match the rest of the house.

Chairperson DeFalco asked if anyone from the public wanted to address the petitioner.

Chairperson DeFalco asked for the staff report.

Anna Papke, Senior Planner, presented the staff report, which was entered into the record in its entirety. The subject property is developed with a single-family home and an attached garage. The attached garage does not meet the required six-foot interior side yard setback. The property owner would like to expand the garage toward the rear of the property. The addition will maintain the existing two-foot side yard setback. A variance is required.

In consideration of the petition, staff notes that the subject property is 50 feet wide and was platted in 1873, before the Village adopted the current minimum lot width requirement of 60 feet in the R2 District. Similarly, the house and attached garage were built prior to the adoption of the current setback regulations. Staff recognizes that this development sequence creates a hardship for the property owner attempting to modify a home that was constructed prior to current zoning requirements.

The proposed addition to the rear of the garage will maintain the existing side setback of the garage. The Village has previously approved setback variances for additions to existing homes in similar circumstances. Staff recommends approval of the request.

Staff did receive one email of support for the petition from the property owner at 236 S. Elizabeth Street. The email was distributed to the ZBA members prior to the meeting.

Chairperson DeFalco opened the meeting up for discussion among the ZBA members.

Ms. Newman asked if the garage would require a variance if it needed to be rebuilt in the future. Ms. Papke said the Village Code standards for nonconforming development would apply. If the building sustained damage amounting to more than 50% of the value of the building, it would need to be rebuilt to meet Village Code, or the property owner would need to seek another variance.

Mr. Tap asked for clarification on the Engineering comment in the staff report. Ms. Papke said that the Village Code requires properties that add more than 500 square feet of impervious surface area after a certain date to provide stormwater mitigation. The Village Engineer had noted that the subject property was approaching the 500 square foot threshold.

Chairperson DeFalco asked if there will be a kiln in the pottery studio, and if a fire wall would be required. Mr. Flint said there will be a kiln, and the entire outside wall of the garage will be a fire wall, per Building Code.

Chairperson DeFalco noted that the conditions suggested in the staff report did not mention the 50% provision for reconstruction. He and Ms. Papke discussed that the ZBA could make a motion that included adding that item as a fifth condition of approval.

Chairperson DeFalco summarized the petition and asked for a motion from the Board.

On a motion by Mr. Bartels, and a second by Mr. Tap, the Zoning Board of Appeals voted 6-0 that the Village Board approve the petition associated with ZBA 20-05, subject to the following five (5) conditions:

1. The addition shall be constructed in substantial conformance to the plans submitted by the petitioners as noted in this IDRC report;
2. The petitioner shall apply for and receive a building permit for the proposed addition;
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; and
5. In the event that the building or structure on the subject property is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

October 28, 2020

Title

ZBA 20-05

Petitioner & Property Owner

Sarah Stanley
235 S. Brewster Avenue
Lombard, IL 60148

Property Location

235 S. Brewster Avenue

Zoning

R2 Single-Family Residence

Existing Land Use

Single-Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

A variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the required interior side yard setback from six feet (6') to two feet (2') for the subject property.

Prepared By

Anna Papke, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

The subject property is developed with a single-family home and an attached garage. The attached garage does not meet the required six-foot interior side yard setback. The property owner would like to expand the garage toward the rear of the property. The addition will maintain the existing two-foot side yard setback.

APPROVALS REQUIRED

The petitioner requests that the Village approve a variation from Section 155.407(F)(3) of the Lombard Village Code to reduce the required interior side yard setback from six feet (6') to two feet (2.0') for the subject property located within the R2 Single-Family Residence Zoning District.

EXISTING CONDITIONS

The property contains an existing two-story single-family residence with an attached garage.

PROJECT STATS

Lot Size

Parcel Area: 8,550 SF

Parcel Width: 50 feet

Setbacks with proposed garage addition

Front (west) 32.61 feet

Side (north) 2.32 feet

Side (south) 13.72 feet

Rear (east) 80+ feet

Surrounding Zoning & Land Use Compatibility

North, east, south and west:

R-2, Single Family Residential

Submittals

1. Petition for public hearing;
2. Response to standards for variation;
3. Plat of survey prepared by William M. Wingstedt, dated 8/5/2016; and
4. Architectural plans, prepared by Flint Architects.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has the following comment regarding the petition. Additional comments may be forthcoming during permit review.

1. The garage would be considered attached by building code. The Building Code requires buildings on single family lots are to be 5 feet from the property line unless the building is sprinklered, or the outside wall is one hour rated. So, the proposed addition could be built with a one hour rated wall, soffit, roof, openings, etc. and still take place if a zoning variance were to get approved.

Fire Department:

The Fire Department has no comments regarding the petition. Additional comments may be forthcoming during permit review.

Private Engineering Services:

Private Engineering Services (PES) has the following comment regarding the petition. Additional comments may be forthcoming during permit review.

1. This property is 40 SF away from requiring a drywell consistent with Section 151.04. This project would make this property right on the edge, unless they comply with the side yard slope requirement.

Public Works:

The Department of Public Works has no comments regarding the petition. Additional comments may be forthcoming during permit review.

Planning Services Division:

The Zoning Ordinance requires single-family residences with an attached garage in the R2 District to maintain a minimum setback of six feet from the interior side property line. The existing garage is not meeting the six-foot setback requirement relative to the north side property line. The petitioner proposes to build a small addition on to the rear of the garage (toward the east). The proposed addition will hold the existing side setback of the garage at approximately two feet from the side property line.

The subject property is 50 feet wide, and is part of a subdivision of 50-foot wide lots platted in 1873 (West Lombard Subdivision). Village Code currently requires a minimum lot width of 60 feet in the R2 Zoning District, though the subject property is a buildable lot under the 80% provision in Section 155.209. According to the York Township Assessor, the home on the subject property was built in 1911. The attached garage appears to have been added on after the house was constructed. Staff finds no records of building permits issued for the garage addition, and therefore concludes that the garage was built prior to the 1950s when the Village began keeping permit records.

The current Village Code went into effect after the subject property was developed, and contains lot width and setback requirements that the subject property does not meet. Staff recognizes that this development sequence creates a hardship for the property owner attempting to modify a home that was constructed prior to current zoning requirements.

To be granted a variation, petitioners must show that they have affirmed each of the standards for variations outlined in Section 155.407(F)(3). Staff offers the following commentary on these standards with respect to this petition:

- a. *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.*

The subject property is 50 feet wide, and is part of a subdivision of 50-foot wide lots platted in 1873. The current minimum lot width in the R2 Zoning District is 60 feet, though the subject property is a buildable lot under the 80% provision of Village code. A 50-foot lot width could be considered unique when compared to the overall Village housing stock. Further, the existing structure was constructed in 1911, prior to current yard setback provisions. The substandard lot width, combined with the placement of the existing structure on the property, limits the petitioner's ability to meet the intent of the ordinance.

- b. *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.*

The subject property is a 50-foot wide lot of record in a legally established subdivision. Previous owners of the subject property built an attached garage on the north side of the subject property that encroaches into the required six-foot interior side yard setback. The garage addition will hold the line of the existing garage. These circumstances are specific to the subject property.

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

This standard is affirmed.

- d. *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 for this variation is due to the location and area of the existing structure in relation to the current interior side yard setback requirement. The existing house and attached garage were built before the Village had adopted a Zoning Ordinance with setback and lot width requirements (1960). Presumably, the house and garage met applicable standards at the time of construction. Current setback and lot width requirements do not reflect the conditions under which the existing house and garage were built.

- e. *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.*

This standard is affirmed. The existing house and attached garage were built prior to 1950. Since then, the existing garage with a two-foot setback has not been detrimental to the public welfare or injurious to other properties. The proposed addition will hold the setback of the existing garage and will not further encroach into the requisite yard.

Staff further notes that the size of the addition is minimal, and therefore would be of minimal impact to the adjacent property. See Figure 1.

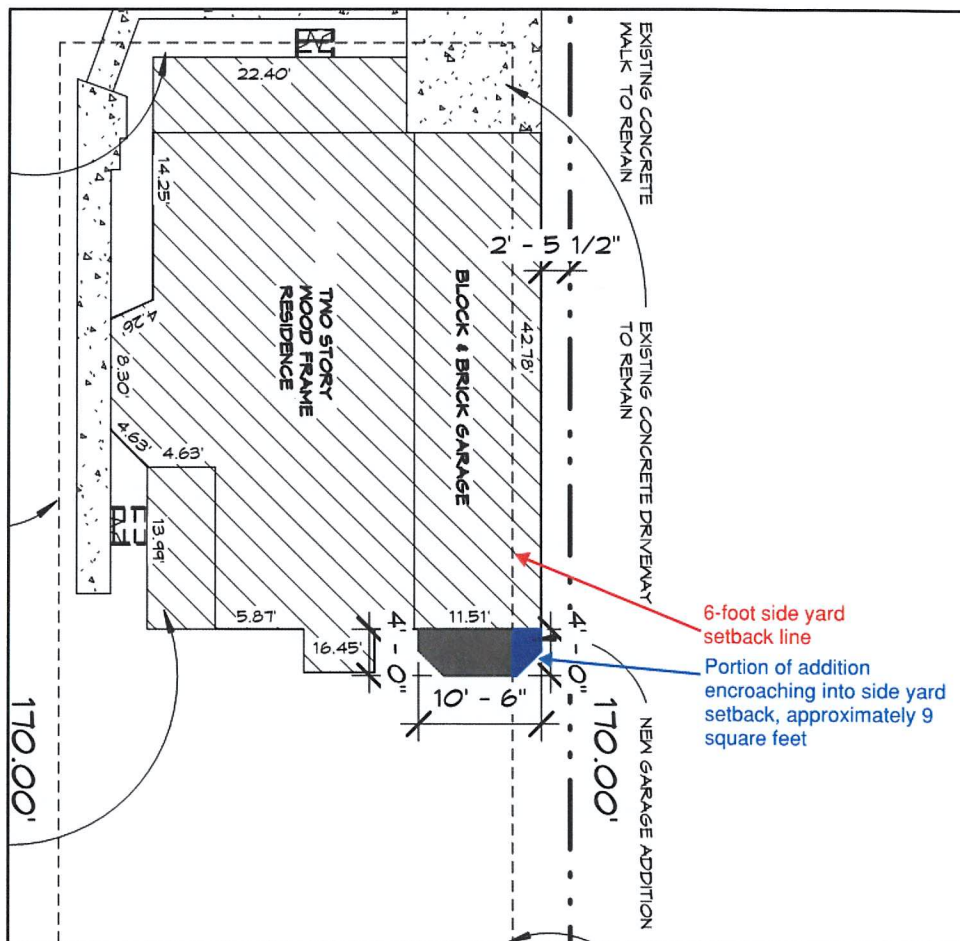


Figure 1. Detail of proposed site plan.

f. *The granting of the variation will not alter the essential character of the neighborhood.*

Staff finds that this standard is affirmed. The proposed improvement will maintain the existing building line and will not be visible from the street.

d. *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*

The petitioner proposes to build the addition to the rear of the existing attached garage. The addition will hold the side setback line of the existing garage. It will also angle away from the property line toward the rear of the addition, and is not expected to impact light or air supply to adjacent property. See Figure 1 above.

In consideration of precedent, staff has identified similar cases that appeared before the Zoning Board of Appeals in recent years. All of the cases listed below were requests to reduce an interior side yard setback for an addition that held the setback of the existing residence. Several of these cases involved 50-foot wide lots with circumstances similar to those on the subject property.

Case No.	Address	Summary	ZBA Vote	BoT
ZBA 18-04	49 N. Garfield St.	3.5' Side Yard (6' Reqd.)	Approval	Approval
ZBA 14-09	317 N. Main St.	3' Side Yard (6' Reqd.)	Approval	Approval
ZBA 12-01	91 S. Chase Ave.	4.5' Side Yard (6' Reqd.)	Approval	Approval
ZBA 11-01	533 N. Columbine Ave.	4.5' Side Yard (6' Reqd.)	Approval	Approval
ZBA 10-11	148 W. Park Dr.	3' Side Yard (6' Reqd.)	No Recommendation	Approval
ZBA 09-04	126 S. Lombard Ave.	4.5' Side Yard (6' Reqd.)	Approval	Approval

Staff finds that the variation request meets the standards for variation.

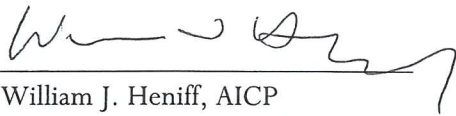
FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has 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 **approval** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation does comply with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings as discussed at the public hearing, and those 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 20-05 subject to the following conditions:

1. The addition shall be constructed in substantial conformance to the plans submitted by the petitioners as noted in this IDRC report;
2. The petitioner shall apply for and receive a building permit for the proposed addition;
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report; and
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.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

H:\CD\WORDUSER\ZBA Cases\2020\ZBA 20-05\ZBA 20-05_IDRC Report.docx

ORDINANCE NO. _____

AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.407(F)(3) OF THE LOMBARD VILLAGE CODE TO REDUCE THE REQUIRED INTERIOR SIDE YARD SETBACK IN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT

(ZBA 20-05; 235 S. Brewster Avenue)

WHEREAS, the President and Board of Trustees (the “Village Board”) of the Village of Lombard (the “Village”) have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Lombard Village Code (the “Village Code”); and,

WHEREAS, the property, as described in Section 4 below (the “Subject Property”), is zoned R2 Single-Family Residence Zoning District; and,

WHEREAS, an application has been filed with the Village requesting approval of a variation from Section 155.407(F)(3) of the Lombard Village Code to reduce the required interior side yard setback from six feet (6’) to two feet (2.0’) for the subject property located within the R2 Single-Family Residence Zoning District, and;

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on October 28, 2020, pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Village Board 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 Section 155.407(F)(3) of the Lombard Village Code to reduce the required interior side yard setback from six feet (6’) to two feet (2.0’) for the subject property located within the R2 Single-Family Residence Zoning District.

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

Ordinance No. _____

Re: ZBA 20-05

Page 2

1. The addition shall be constructed in substantial conformance to the plans submitted by the petitioners as noted in this IDRC report;
2. The petitioner shall apply for and receive a building permit for the proposed addition;
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; and
5. In the event that the building or structure on the subject property is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located.

SECTION 3: This Ordinance is limited and restricted to the property located at 235 S. Brewster Avenue, Lombard, Illinois, and legally described as follows:

LOT 10 IN BLOCK 6 OF WEST LOMBARD, A SUBDIVISION OF PARTS OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1873 IN BOOK 2 OF PLATS, PAGE 42 AS DOCUMENT 16718, IN DUPAGE COUNTY, ILLINOIS.

PIN: 06-07-215-028

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 _____, 2020.

First reading waived by action of the Board of Trustees this _____ day of _____, 2020.

Ordinance No. _____

Re: ZBA 20-05

Page 3

Passed on second reading this _____ day of _____, 2020, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2020.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2020

Sharon Kuderna, Village Clerk