

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


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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: June 9, 2014 (B of T) Date: June 19, 2014

TITLE: ZBA 14-05; 113 S. Westmore-Meyers Road

SUBMITTED BY: Department of Community Development 

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 the following variation for the above referenced address and within the R2 Single Family Residential Zoning District:

A variation from Section §155.210 (A)(2)(a.) of the Lombard Zoning Ordinance to reduce the minimum interior side setback, when the entire structure is located within the rear twenty-five percent (25%) of the lot, from three feet (3') to two feet (2') and for the same accessory structure reduce the minimum interior side setback, when the structure is located within the front seventy-five percent (75%) of the lot, from six feet (6') to two feet (2'); all for an existing pool and deck. (DISTRICT #5)

The Zoning Board of Appeals recommended approval of this petition by a vote of 6 to 0.

The petitioner requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):
Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ 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 *WJH*

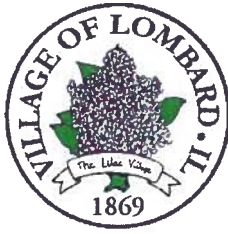
DATE: June 19, 2014

SUBJECT: ZBA 14-05; 113 S. Westmore-Meyers Road

Please find the following items for Village Board consideration as part of the June 19, 2014 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 14-05;
3. Response to Standards for a Variation;
4. An Ordinance granting approval of a requested variation to reduce the minimum interior side setback, when the entire accessory structure is located within the rear twenty-five percent (25%) of the lot, from three feet (3') to two feet (2') and for the same accessory structure reduce the minimum interior side setback, when the accessory structure is located within the front seventy-five percent (75%) of the lot, from six feet (6') to two feet (2').

The Zoning Board of Appeals unanimously recommended approval of this petition, subject to conditions. Please place this petition on the June 19, 2014 Board of Trustees agenda. The petitioner requests a waiver of first reading of the Ordinance.



VILLAGE OF LOMBARD

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

June 19, 2014

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, 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 14-05; 113 S. Westmore-Meyers Road

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 the following variation for the above referenced address and within the R2 Single Family Residential Zoning District:

A variation from Section §155.210 (A)(2)(a.) of the Lombard Zoning Ordinance to reduce the minimum interior side setback, when the entire structure is located within the rear twenty-five percent (25%) of the lot, from three feet (3') to two feet (2') and for the same accessory structure reduce the minimum interior side setback, when the structure is located within the front seventy-five percent (75%) of the lot, from six feet (6') to two feet (2'); all for an existing pool and deck.

The Zoning Board of Appeals conducted a public hearing on May 28, 2014.

Mr. Gallt presented the petition stating that he has lived in the home for nine years. As a practicing landscape architect he has improved the home considerably from when it was purchased. He also owns the property to the south and has made improvements there as well. He noted you could see a former pool in the aerial photograph. He said he was unaware that any pool over twenty-four inches needed a permit. When the new pool was constructed it was placed in the same location as the old inflatable pool. In December 2013 he was notified by the Village that he needed a permit for the pool and that the pool was in the required setbacks. He noted only a small portion

Re: ZBA 14-05
June 19, 2014
Page 2

of the pool is in the setback due to his large lot size. If the lot was smaller the pool would not be encroaching into the setbacks. He asked staff about redrawing his property lines, but it would not be permitted per the Subdivision and Development Ordinance.

Chairman DeFalco questioned if there was anyone present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.

Tami Urish, Planner I, stated that the IDRC report is to be entered into the public record in its entirety. Ms. Urish stated that a portion of the pool falls into the front 75% of the lot. Staff supports this variation based on the minimal encroachment of the overall structure.

Chairman DeFalco then opened the meeting for discussion by the ZBA members.

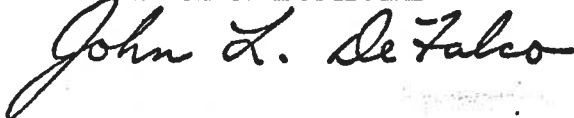
Mr. Tap asked how this was discovered and Ms. Urish stated an anonymous complaint. Mr. Young said that re-subdividing the lots may have cost more money than the ZBA hearing. Though the standards have not been met, since the property owners own both lots it can be approved. Ms. Ganser clarified with Mr. Galt that there is a home on the property to the south and Mr. Galt said yes.

A motion was made by Mr. Young, seconded by Mr. Tap, that the Zoning Board of Appeals recommends the variations for approval by a vote of 6 to 0 to the Village Board, subject to one condition:

1. That the requested relief is limited to the existing deck and pool currently located on the subject property. In the event that the pool and/or deck are damaged or destroyed by fifty-percent (50%) or more, the new structures shall meet the underlying setback requirements.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

MAY 28, 2014

Title

ZBA 14-05

Petitioner & Property Owner

Kenneth Galt
113 S. Westmore-Meyers
Road Lombard, IL 60148

Property Location

113 S. Westmore-Meyers
Road (06-09-109-005)
Trustee District: #5

Zoning

R2 Single Family Residence
(Home Acres Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

A variation to reduce the minimum interior side setback, when the entire accessory structure is located within the rear twenty-five percent (25%) of the lot, from three feet (3') to two feet (2') and for the same accessory structure reduce the minimum interior side setback, when the accessory structure is located within the front seventy-five percent (75%) of the lot, from six feet (6') to two feet (2').

Prepared By

Tami Urish
Planner I



LOCATION MAP

PROJECT DESCRIPTION

The petitioner's existing pool and deck which was constructed without a permit, is two feet (2') from the interior side yard property line located in both the rear twenty-five percent (25%) of the lot where three feet (3') from the property line is required and in the front seventy-five percent (75%) of the lot where six feet (6') from the property line is required. In order for the permit to be approved a variance is required.

APPROVALS REQUIRED

Section §155.210 (A)(2)(a.) requires a minimum interior side setback of three feet (3') when the entire structure is located within the rear twenty-five percent (25%) of the lot and a minimum interior side setback, when the structure is located within the front seventy-five percent (75%) of the lot, of six feet (6').

EXISTING CONDITIONS

The property contains an approximately 1,151 square foot two-story frame single family residence with an approximately 538 square foot detached garage and associated driveway. In addition, the petitioner also owns the property directly to the south adjacent to the pool and deck.

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size: 22,425 sq. ft.
Building Footprint: 1,151 sq. ft.
Lot Coverage: 19%

Reqd. Setbacks & Actual Dimensions (in parens.)

Front (west) 30' (45')
Side (north) 6' (16')
Side (south) 6' (30.7')
Rear (east) 35' (210')

Submittals

1. Petition for Public Hearing
2. Response to Standards for Variation
3. Site Plan, prepared and submitted by homeowner, dated February 13, 2014.
4. Plat of Survey, prepared by Marchese Surveying, Inc., dated June 5, 2005.

Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2	Single Family Home
South	R2	Single Family Home
East	R2	Single Family Home
West	CR	Westmore Woods Park

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments regarding the project.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:

PES has no comment on this petition.

Public Works:

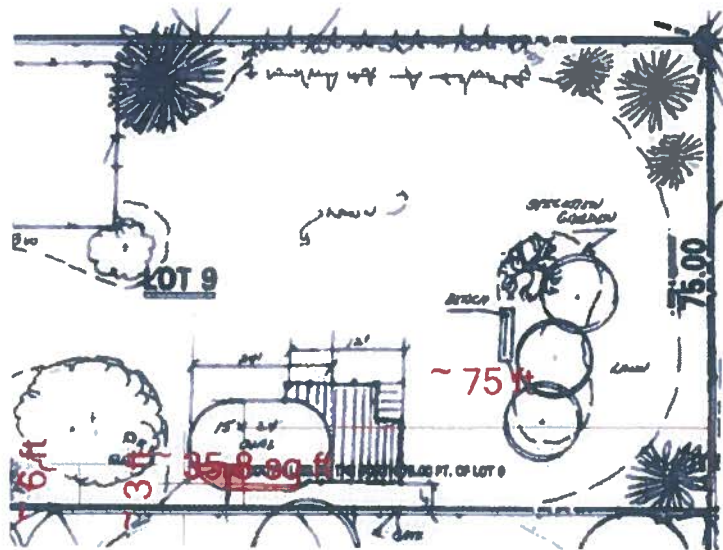
The Department of Public Works has no comment on the subject petition. However, the plat of survey should be checked to see if there may be a utility and drainage easement that the structures encroach into. If so, there may be private underground utilities that may be affected.

Staff reviewed the plat of survey and it does not show any utility easement.

Planning Services Division:

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Within their response to the Standards for a Variation, the petitioner cites design and aesthetic views in addition to ownership of the property directly to the south adjacent to the location of the pool and deck as the reason the existing site was chosen to build pool and deck, thus necessitating the variation request. While staff recognizes that the chosen location is unfortunate, staff does support the side yard setback variation for the following reasons:

1. The lot meets the minimum 7,500 square foot lot area requirement and staff finds that three-hundred foot (300') lot depth is sufficient to construct a single family home and associated accessory structures. Staff does not find any unique geographic characteristics of the site that would prevent the location of an accessory structure three feet (3') or six feet (6') from the interior side yard property line. However, the pool and deck exists at the current location and accordingly, the petitioner is not willing to incur the expense and inconvenience of moving the structures; and



2. The portion of the pool encroaching into the interior side yard setback is minimal. As the exhibit illustrates, less than half of the pool is located in the front 75% of the property necessitating the six foot (6') side yard setback. Also, the portion of the pool located in the rear 25% of the property encroaches by approximately one foot (1'). In total, 36 square feet encroaches into the required side yard setback or 14% of the total pool area of approximately 265 square feet. The entire deck structure, while connected to the pool, does not encroach within the required side yard setback.

In order to be granted a variation the petitioner must show that they have affirmed each of the Standards for a Variation. Staff finds that the majority of the standards have been affirmed for the interior side yard setback variation. Staff finds that standards three, five, six, and seven have been affirmed; however the following standards have not been affirmed:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

Staff finds that there are no unique physical surroundings, shape, or topographical conditions specific to the subject property that results in a hardship to the owner. The petitioner had the ability to locate the pool and deck within over 10,700 square feet of open space in the rear yard. There was substantial space to avoid the interior side yard setback.

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.*

With approximately 80% of open space and the majority of this open space being the rear half, the property does not have unique characteristics limiting the location of an accessory structure. The request for an interior side yard setback is not related to these issues, but rather the preference for a pool and deck to be located in the interior side yard setback area.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that the alleged difficulty or hardship is not the result of the Zoning Ordinance as it allows for significant space for accessory structures, but rather the alleged difficulty or hardship is the result of a petitioner's preference for a specific size, features, and design.

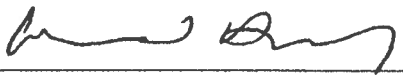
FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the majority of the Standards for Variations for the interior side yard setback. 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 interior side yard setback variation:

Based on the submitted petition and the testimony presented, the requested variation to reduce the interior side yard setback **does comply** with the Standards for Variations in the Lombard Zoning Ordinance, therefore, I move that the Zoning Board of Appeals find that the 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 14-05, subject to the following conditions:

1. That the requested relief is limited to the existing deck and pool currently located on the subject property. In the event that the pool and/or deck are damaged or destroyed by fifty-percent (50%) or more, the new structures shall meet the underlying setback requirements.

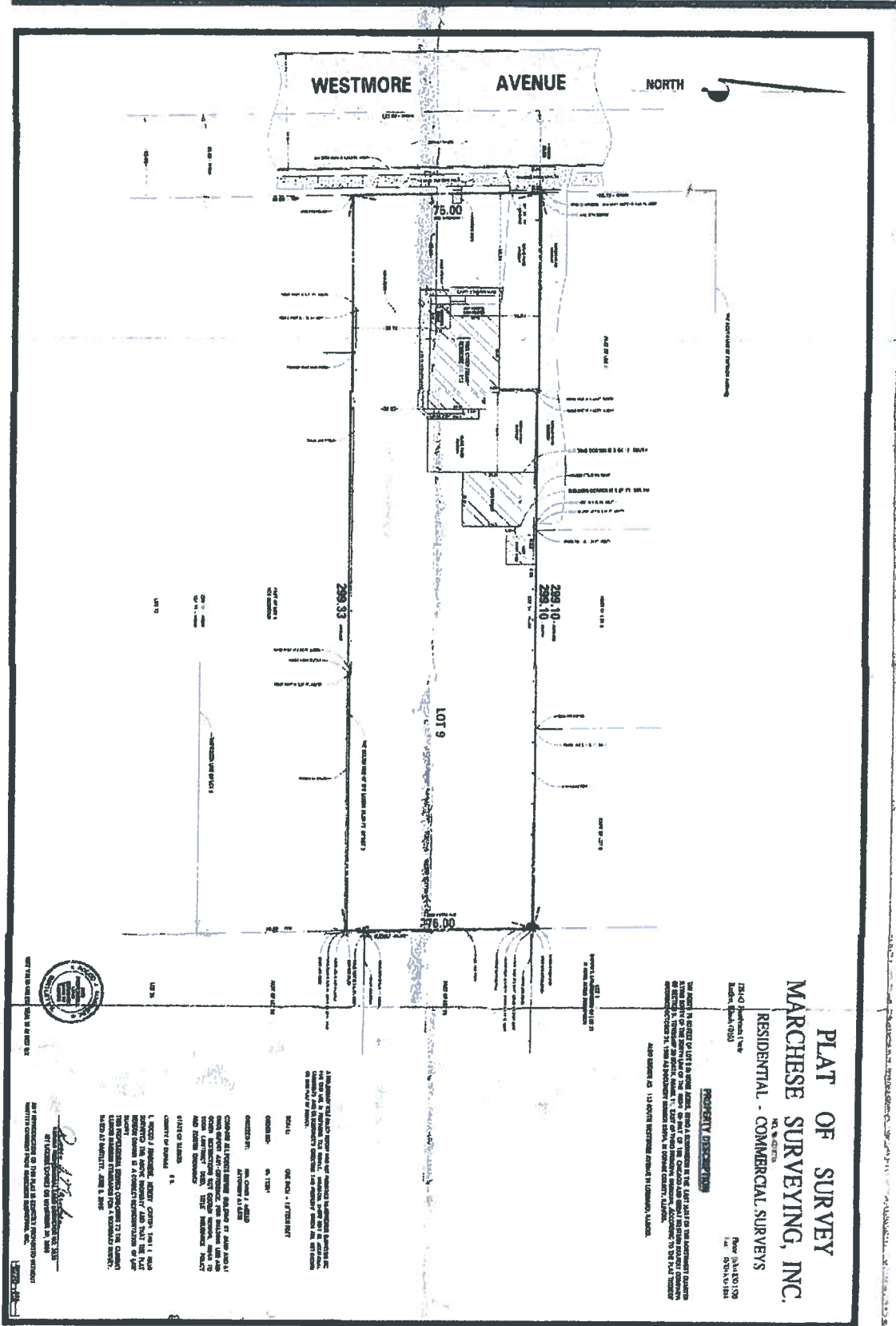
Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT A: PLAT OF SURVEY



PLAT OF SURVEY
MARCHESE SURVEYING, INC.
 RESIDENTIAL - COMMERCIAL SURVEYS
 No. 01713
 28140 Highway 146
 Baton Rouge, LA 70809
 Phone: 225-333-0159
 Fax: 225-333-1881

PROPERTY DESCRIPTION
 THE ABOVE IS A PLAT OF SURVEY FOR THE PARTIAL SURRENDER OF THE EAST HALF OF THE UNDIVIDED QUARTERS OF SECTION 29, TOWNSHIP 12N, RANGE 10E, MERIDIAN 10W, PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 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990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

CONVEYANCE
 BY
 MARCHESE SURVEYING, INC.
 A PROFESSIONAL CORPORATION
 28140 Highway 146
 Baton Rouge, Louisiana 70809
 FOR AND IN BEHALF OF THE SURVEYOR
 DATE: 08/11/2014
 SCALE: ONE INCH = 17.38 FEET
 JOB NO.: 14-0018
 PROJECT: LOT 9, WESTMORE AVENUE, BATON ROUGE, LA
 DRAWN BY: J. M. MARCHESI
 CHECKED BY: J. M. MARCHESI
 APPROVED BY: J. M. MARCHESI
 LICENSE NO.: 14-0018
 EXPIRES: 08/11/2015

STANDARDS FOR VARIATIONS

of the Lombard Zoning Ordinance and Lombard Sign Ordinance

The following is an excerpt from the Lombard Zoning Ordinance. A **detailed response** to all of

these standards should be provided for all variations of the Lombard Zoning Ordinance and

Lombard Sign Ordinance.

SECTION 155.103.C.7 OF THE LOMBARD ZONING ORDINANCE:

The regulations of this ordinance shall not be varied unless findings based on the evidence

presented are made in each specific case that affirms each of the following standards:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.

There was a pool in this location for many years. It is flat and away from all our neighbors on all sides by 65 feet. It is located in the middle of our two properties. When the new pool was installed we located it so that it would be hidden. It makes sense where it is from a design and aesthetic view.

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.

Several years ago we purchased free and clear the south portion of Lot 9. It has a house on it and we would love to add the back portion of this lot to the north portion of Lot 9. This would still allow the house to have all the requirements for standing alone. This was rejected by the planning department as a map amendment. The fact that we own both portions of the original lot 9 make this situation unique.

3. The purpose of the variation is not based primarily upon a desire to increase financial gain. **No this is primarily a visual and aesthetic issue. I am a practicing Landscape Architect for over 40 years and want my outdoor environment to be stunning. It is located so that it is away from all neighbors and that the visible site lines from the house are the most pleasing during all seasons.**

4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.

No

5. 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.

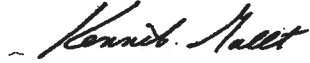
No, in fact moving it to where the pool is allowed impacts our neighbors.

6. The granting of the variation will not alter the essential character of the neighborhood; and, **No, the pool is invisible to all neighbors, and has a footprint of 300 square feet, on a total property area of 42,000 square feet. We are and have always been enhancing the character of our neighborhood.**

7. 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. **As stated this was done for landscape enhancement and enjoyment and in no way affects our neighbors.**

Sincerely:



Kenneth Gallt ASLA
Landscape Architect
Lic #157-000556

Property Owner: 113 South Westmore/Petitioner
Property Owner 117 South Westmore

Cell 630-669-1740

Description of Request

I am requesting one variance for a pool that encroaches approximately 1 foot from the Lombard Zoning Ordinance:

#155.210 Accessory Uses, Activities, Buildings, and Structures

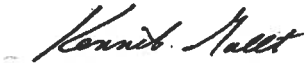
(A) General Requirements

(2) Yard Requirements

(a.) General Requirements

In all residential districts (R0 through R6), accessory structures shall be set back a minimum of (3) feet from the rear property line and, if the entire structure is located in the rear 25 percent of the lot, accessory structures shall be set back a minimum of (3) feet from an interior side property line. If any portion of the structure is not located within the rear 25 percent, then a minimum of (6) foot setback from the interior side property line must be maintained.

Sincerely:



Kenneth Gallt ASLA
Landscape Architect
Lic #157-000556

Property Owner: 113 S. Westmore ./.Petitioner

Property Owner: 117 S. Westmore

ORDINANCE NO. _____

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

(ZBA 14-05; 113 S. Westmore-Meyers Road)

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 Section 155.210(A)(2)(a) of the Lombard Zoning Ordinance to allow an existing pool and deck in the interior side yard; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on May 28, 2014 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variations; 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 variations.

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 155.210(A)(2)(a) of the Lombard Zoning Ordinance to allow a pool and deck to be two feet (2') from the interior side yard property line located in both the rear twenty-five percent (25%) of the lot where three feet (3') from the property line is required and in the front seventy-five percent (75%) of the lot where six feet (6') from the property line is required.

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

1. That the requested relief is limited to the existing pool and deck currently located on the subject property. In the event that the pool and/or deck are damaged or destroyed by fifty-percent (50%) or more, the new structures shall meet the underlying setback requirements.

SECTION 3: This ordinance is limited and restricted to the property generally located at 113 S. Westmore-Meyers Road, Lombard, Illinois, and legally described as follows:

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THE NORTH 75.0 FEET OF LOT 9 IN HOME ACRES, BEING A SUBDIVISION IN THE EAST HALF OF THE NORTHWEST QUARTER (LYING SOUTH OF THE SOUTH LINE OF THE RIGHT OF WAY OF THE CHICAGO AND GREAT WESTERN RAILWAY COMPANY) OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 31, 1908 AS DOCUMENT 95054, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-09-109-005

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 _____, 2014.

First reading waived by action of the Board of Trustees this _____ day of _____, 2014.

Passed on second reading this _____ day of _____, 2014.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2014

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2014

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Sharon Kuderna, Village Clerk

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