

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

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: William T. Lichter, Village Manager

DATE: February 23, 2006 (B of T) Date: March 2, 2006

TITLE: ZBA 06-02: 44 S. Columbine Avenue

SUBMITTED BY: Department of Community Development *[Signature]*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation to Section 155.415(F)(4) to reduce the rear yard setback from thirty-five feet (35') to five feet (5') to allow for the construction of a deck over three feet (3') above average grade in the R2 Single Family Residential District. (DISTRICT #1)

The petitioner and staff is requesting a waiver of first reading. The petitioner is also requesting a waiver of fees associated with the petition.

The Zoning Board of Appeals recommended approval subject to conditions.

Fiscal Impact/Funding Source:

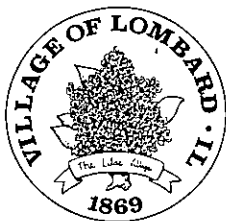
Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

William Village Manager X *Leonard J Flood* _____ Date 02/23/06

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. Hulseberg, AICP, Director of Community Development *Dett*

DATE: March 2, 2006

SUBJECT: ZBA 06-02: 44 S. Columbine Avenue

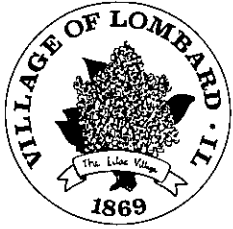
Attached please find the following items for Village Board consideration as part of the March 2, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-02;
3. An Ordinance granting approval of the requested variation;
4. Plat of Survey; and
5. Plans associated with the petition.

The basis for the petition is the fire that occurred on the property last January. The proposed deck for which the petitioner is seeking a variance is part of the fire restoration of the home. As such, the petitioner is requesting that the Village Board waive a first reading of the aforementioned Ordinance so the proposed deck can be constructed in a timely manner.

Given the hardship presented in this situation, the petitioner is also requesting the Village Board to consider a waiver of the fees associated with the petition. Staff does not object to this request. Please find the written request attached.

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



VILLAGE OF LOMBARD

255 E. Wilson Avenue
Lombard, IL 60148-3926
(630) 620-5700 FAX: (630) 620-8222
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Village President
William J. Mueller

March 2, 2006

Village Clerk
Brigitte O'Brien

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

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

Subject: ZBA 06-02; 44 S. Columbine Ave.

Village Manager
William T. Lichter

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation to Section 155.415(F)(4) to reduce the rear yard setback from thirty-five feet (35') to five feet (5') to allow for the construction of a deck over three feet (3') above average grade in the R2 Single Family Residential District.

"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 Zoning Board of Appeals conducted a public hearing on February 22, 2006. William Soldwisch, owner of the subject property, presented the petition. He stated that last January his home suffered a fire. He noted that the original back deck was protected by grandfather provisions, but after the deck was removed, the deck was not protected anymore. He mentioned that with the improvements to the house as part of the fire restoration, he would also like to rebuild a deck that was slightly larger than the original deck.

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

"The *Mission* of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Michelle Kulikowski, Planner I, presented the staff report. She noted that the subject property is a triangular shaped lot that abuts Route 53 to the east and Interstate 355 to the south and west. She stated that the property is currently improved with two structures, and the structure to the south is the principal structure where the petitioner resides. She mentioned that in January 2005, the residence was damaged from a fire, and prior to the fire, there was an attached deck in the rear which was setback three feet ten inches (3'10") from the rear property line. She stated that the deck on the subject property was more than three feet (3') above grade and was considered legal nonconforming. Ms. Kulikowski noted that decks are only a permitted encroachment in the rear yard if they are less than three feet (3') above average grade, and decks over three feet (3') must meet

the thirty-five foot (35') rear yard setback. She mentioned that the deck remained intact after the fire, but in order to work on the foundation, the deck had to be removed. She noted that once the deck was removed, any legal non-conforming rights associated with the deck were lost. She stated that the petitioner is proposing to reconstruct a similar deck with an additional expansion to the south of the residence, but because the proposed deck will be more than three feet (3') above grade and setback only five feet four inches (5'4") from the rear property line, a variation is needed.

Ms. Kulikowski stated that the subject property consists of a triangular portion of Lot 17. She noted that Lot 17 was originally platted as a more rectangular shape, but the southwestern portion of the lot was acquired for the construction of Interstate 355. She mentioned that the two structures on the property were constructed prior to the construction of the tollway. She stated that the acquisition of the southwestern portion of the lot for the tollway created nonconformities relative to the rear yard setback for the structure to the south. Ms. Kulikowski noted that both structures were originally constructed as residences, and the petitioner lives in the structure to the south and uses the structure to the north as an accessory structure for storage. She mentioned that the Zoning Ordinance only permits one principal structure, or residence, on a lot. She stated that since more than a year has passed since the structure to the north was used as a residence, there are no longer any legal nonconforming rights to allow two residences on the property. She noted that the property would have to be subdivided in order to use both structures as separate residences.

Ms. Kulikowski also noted that the petitioner is also replacing the stairs to the front entrance, which do not include a roof over the landing, and therefore are not considered a front porch. She stated that a front porch on the subject property would require a variation because the provisions for front porch encroachments would not be met. She noted that stairs are a permitted encroachment in the front yard, and therefore, no variation is necessary.

Ms. Kulikowski stated that the staff finds that the standards for variations have been affirmed. She stated that there are several factors that present a hardship unique to the subject property. She noted that the nonconforming rear yard is a result of the acquisition of the southwestern portion of the lot for Interstate 355. She also noted that the proposed deck would be a permitted encroachment if it were less than three feet (3') above grade, but because the property slopes substantially towards the rear of the property, the deck must be built at a height greater than three feet (3') above grade. She also mentioned that the triangular shape of the lot presents a unique condition for a property within the R2 District. Ms. Kulikowski stated that the proposed deck within the rear yard will not impact any properties to the rear as the property abuts Interstate 355, and there is also a sound wall between the tollway and the subject property. She noted that the only adjacent property is to the north, and the residence on the subject property is more than one hundred feet (100') from the shared property line. She mentioned that the two story accessory structure will also obstruct the view of the deck from the adjacent property. She stated that the proposed deck will not alter the essential character of the neighborhood, as there was already a

Re: ZBA 06-02
March 2, 2006
Page 3

similar deck on the subject property prior to the fire. She noted that the proposed deck will decrease the degree of nonconformity as it will be setback five feet four inches (5'4") from the rear property and the previous deck was setback three feet ten inches (3'10") from the rear property line.

Ms. Kulikowski stated that staff requested variation does comply with the standards for variations, and recommends approval of the petition. She also noted the two conditions of approval outlined in the IDRC report.

Chairperson DeFalco opened the meeting for discussion among the members.

Mr. Bedard noted that staff did a wonderful job with the research for this petition.

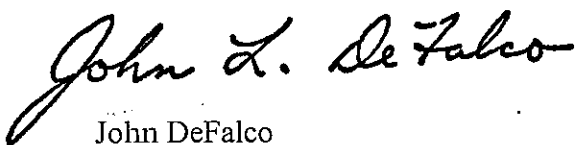
Chairperson DeFalco read the two conditions of approval outlined in the staff report.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals submits this petition to the Corporate Authorities with a recommendation of approval of ZBA 06-02 by a roll call vote of 5-0, subject to the following conditions:

1. That the petitioner shall apply for and receive a building permit for the deck.
2. 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

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on January 20, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by Preferred Survey, Inc., dated February 1, 2001
4. Site Plan
5. Drawings of Proposed Improvements

DESCRIPTION

The subject property is a triangular shaped lot that abuts Route 53 to the East and Interstate 355 to the south and west. The property is currently improved with two structures. The structure to the south is the principal structure where the petitioner resides. In January 2005, the residence was damaged from a fire. Prior to the fire, there was an attached deck in the rear which was setback three feet ten inches (3'10") from the rear property line. The deck on the subject property was more than three feet (3') above grade and was considered legal nonconforming. Decks are only a permitted encroachment in the rear yard if they are less than three feet (3') above average grade. Decks over three feet (3') must meet the thirty-five foot (35') rear yard setback. The deck remained intact after the fire, but in order to work on the foundation, the deck had to be removed. Once the deck was removed, any legal non-conforming rights associated with the deck were lost. The petitioner is proposing to reconstruct a similar deck with an additional expansion to the south of the residence. Because the proposed deck will be more than three feet (3') above grade and setback only five feet four inches (5'4") from the rear property line, a variation is needed.

ENGINEERING

Private Engineering Services

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

- The rear yard is in the 100-year floodplain. The floodplain elevation is 692 feet, as shown on the Village topographic map. Per discussion with the Fire Department, the fire damage repair to the house was not a "substantial improvement", as defined by the Village Code (i.e. greater than 50% of the value of the structure, not including improvements required solely to comply with current health and safety codes). Therefore, the porch and deck may be constructed as shown on the petitioner's plans provided that no fill be placed in the floodplain.

Public Works Engineering

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments.

PLANNING

Background

The subject property consists of a triangular portion of Lot 17. Lot 17 was originally platted as a more rectangular shape, but the southwestern portion of the lot was acquired for the construction of Interstate 355. The two structures on the property were constructed prior to the construction of the tollway. The acquisition of the southwestern portion of the lot for the tollway created nonconformities relative to the front yard and rear yard setbacks for the structure to the south. Both structures were originally constructed as residences. The petitioner lives in the structure to the south and uses the structure to the north as an accessory structure for storage. The Zoning Ordinance only permits one principal structure (or residence) on a lot. Since more than a year has passed since the structure to the north was used as a residence, there are no longer any legal nonconforming rights to allow two residences on the property. The property would have to be subdivided in order to use both structures as separate residences.

The petitioner is also replacing the stairs to the front entrance. The stairs do not include a roof over the landing, and therefore are not considered a front porch. A front porch on the subject property would require a variation because the provisions for front porch encroachments would not be met. Stairs are a permitted encroachment in the front yard, and therefore, no variation is necessary.

Standards for Variations

In order to grant a variation, the petitioner must show that they have affirmed each of the "Standards for Variation". The following standards have 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.*

There are several factors that present a hardship unique to the subject property. The nonconforming rear yard is a result of the acquisition of the southwestern portion of the lot for Interstate 355. Also, the proposed deck would be a permitted encroachment if it were less than three feet (3') above grade. Because the property slopes substantially towards the rear of the property, the deck must be built at a height greater than three feet (3') above grade.

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.*

The triangular shape of the subject property is not typical for properties located within the R2 District.

3. *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.*
The proposed deck within the rear yard will not impact any properties to the rear as the property abuts Interstate 355. There is also a sound wall between the tollway and the subject property. The only adjacent property is to the north, and the residence on the subject property is more than one hundred feet (100') from the shared property line. The two story accessory structure will also obstruct the view of the deck from the adjacent property.
4. *The granting of the variation will not alter the essential character of the neighborhood.*
The proposed deck will not affect the character of the neighborhood, as there was already a similar deck on the subject property prior to the fire. The proposed deck will decrease the degree of nonconformity as it will be setback five feet four inches (5'4") from the rear property and the previous deck was setback three feet ten inches (3'10") from the rear property line.

FINDINGS AND 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 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 accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 06-02 subject to the following conditions:

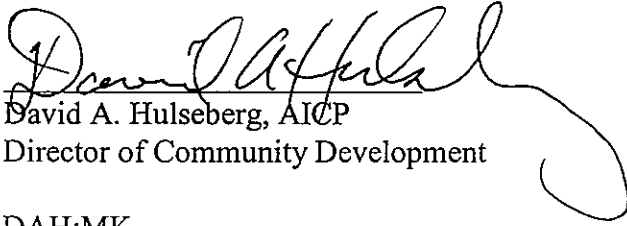
1. That the petitioner shall apply for and receive a building permit for deck.
2. That the variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, to the extent of more than fifty percent (50%) of the fair market value of the residence, than any new structures shall meet the full provisions of the Zoning Ordinance.

Inter-Departmental Review Group Report Approved By:

Zoning Board of Appeals

Re: ZBA 06-02

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A handwritten signature in black ink, appearing to read "David A. Hulseberg", with a long, sweeping flourish extending to the right.

David A. Hulseberg, AICP

Director of Community Development

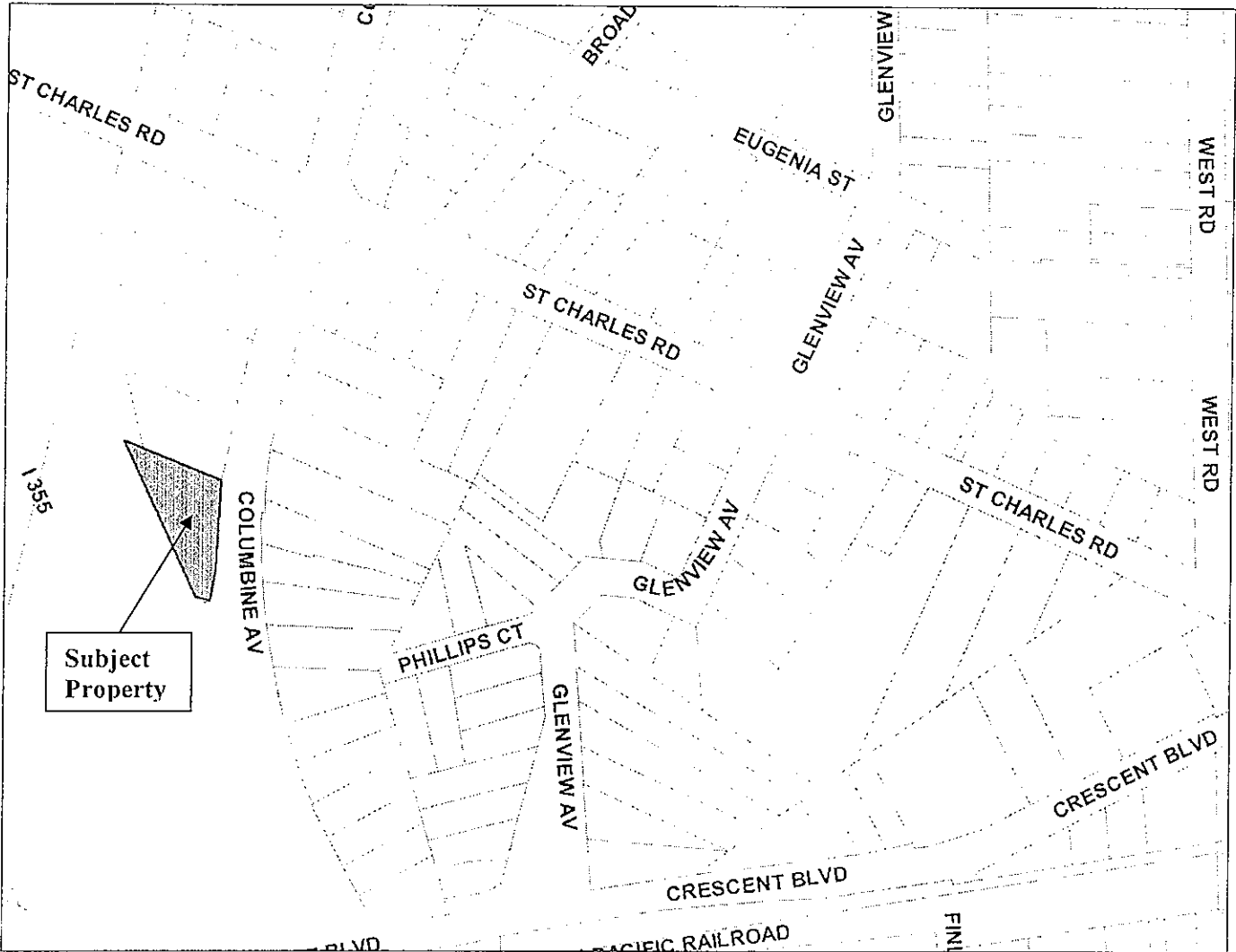
DAH:MK

att-

c: Petitioner

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Location Map
ZBA 06-02
44 S. Columbine Avenue



January 20, 2006

Hello, zoning board of appeals members we are seeking variations to allow us to put our home and lives back together following the house fire we suffered January 10, 2005. The reason we do not and cannot meet any of the current zoning provisions is due to both the Illinois toll way authority and Illinois department of transportation slicing off a lot of the lot in the back and a little off the lot in the front, essentially turning our .55 acre lot into a triangle as can be seen on the plat of survey. The lot in its inception back in 1908 was rectangular and much larger and did meet the zoning nearly 100 years ago.

However about 25 years ago the State of Illinois through its wants re-sized and re-shaped this lot. Short of tearing down both structures and putting my house on the northern lot line as shown by the 8.5" x 11" drawing is the only way we would meet the current zoning. (This annotation that was provided me in 2003 by the Village of Lombard pending the IDOT road widening prospect) currently IDOT has decided to move their road East and re-radius the curve moving it away from our lot, and so it will likely not be changing. This can be verified with David Dratnol the Village Engineer with the public works department in conjunction using the IDOT supplied engineering plans currently holding a phase 1 approval.

As you can see we have the Illinois Toll way authority as our permanent neighbors to the South and West, and the Church from our lot line North to St. Charles Rd. We would like to build a new front and rear porch/ deck as shown on the supplied drawings. The front porch adds a landing and rotates the stairs from pointing east to north instead. The rear deck before the fire was 12' X 16' and was approximately 4' to 4.5' from the fence that is on the west lot line as shown on the plat of survey. The new porch merely extends south an additional 9' that is completely behind the house and I will radius and taper the West porch railing East away from that same fence, creating approx. 7' to 8' of clearance.

We would like to be able to pour concrete inside the pre-existing garage walls located adjacent the North lot line and just in front of the same existing structure that dates back to 1895 according to Milton township. We currently have no garage because there was never a floor inside the existing walls; subsequently we have no good place to put our belongings that are currently outside and in our yard.

The variations we are petitioning for are not going to negatively affect the current conditions nor the current neighbors or neighborhood. We believe that the improvements will not only allow us to return to a somewhat normal life following our miraculous survival of our personal disaster and improve the neighborhood by our return to our home. Usually there are never questions what homes that are not lived in look like. In Addition, people who enjoy their homes usually take better care of them which directly connect to the neighborhood and its benefit.

Respectfully,

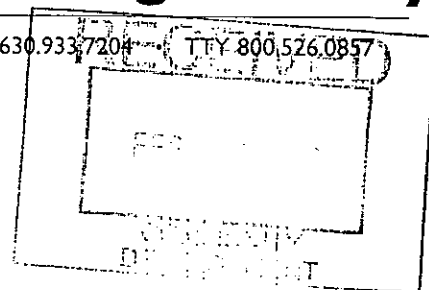
William T. Soldwisch

Mary A. Fitzgerald



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933.7200 • Fax 630.933.7204 • TTY 800.526.0857



February 6, 2006

Michelle Kulikowski
Planner
Village of Lombard
255 E. Wilson Avenue
Lombard, Illinois 60148

Re: Public Hearing Notice on Property at 44 S. Columbine Avenue

Dear Ms. Kulikowski:

The Forest Preserve District of DuPage County recently received notice of a proposed project on the property located at 44 S. Columbine Avenue. We appreciate receiving timely notification of such projects that may have an impact on our nearby property, and thank you for the opportunity to comment.

District Staff has reviewed the public hearing notice and the proposed project, and does not have any comments at this time. We hope you will allow us the opportunity to review and comment on any major revisions that may be proposed as this project moves forward.

Please call me at 933-7684 if you have any questions.

Sincerely,

Marcia Thomas
Land Acquisition Specialist

cc: Karen Zilly, Director of Land Preservation

February 23, 2006

Dear President and Trustees:

As you are probably aware, the basis for my variance petition is the fire that caused significant damage to my house last year. Currently, the back door to my house can not be used because there aren't any exterior stairs to access the door. I would like to request a waiver of the first reading so that I can construct my rear deck and stairs as soon as possible. This will allow me to finally complete my long and painstaking fire restoration project.

Due to the hardship that my situation presents, I would also like to request that the Board of Trustees consider a waiver of the fees for my variance petition. Thank you for your time and consideration.

Sincerely,

William Soldwisch

ORDINANCE NO. _____

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

(ZBA 06-02: 44 S. Columbine Avenue.)

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(F)(4) of the Lombard Zoning Ordinance to reduce the rear yard setback from thirty-five feet (35') to five feet (5') in the R2 Single-Family Residence District; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on February 22, 2006 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings without a recommendation to the Board of Trustees 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 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(F)(4) of the Lombard Zoning Ordinance for the property described in Section 2 below, as to reduce the rear yard setback from thirty-five feet (35') to five feet (5').

SECTION 2: This ordinance is limited and restricted to the property generally located at 44 S. Columbine Avenue, Lombard, Illinois, and legally described as follows:

OF THAT PART OF LOT OR BLOCK 17 IN E. W. ZANDER AND COMPANY'S ADDITION TO LOMBARD WHICH LIES NORTHEAST OF A LINE WHICH COMMENCES ON THE NORTH LINE OF SAID LOT 132.13 FEET SOUTHEAST OF THE NORTHWEST CORNER OF SAID LOT AND RUNS THENCE SOUTH, A DISTANCE OF 315.55 FEET TO A POINT ON A LINE WHICH CONNECTS A POINT ON THE EAST LINE OF LOT OR BLOCK 17, WHICH IS 110.0 FEET NORTHERLY OF THE SOUTHEAST CORNER OF LOT OR BLOCK 17 TO A POINT ON THE WEST LINE OF LOT OR BLOCK

Ordinance No. _____

Re: ZBA 06-02

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17, TO A POINT ON THE WEST LINE OF LOT OR BLOCK 17 WHICH IS 40.0 FEET NORTHERLY OF THE SOUTHWESTCORNER OF SAID LOT OR BLOCK 17, ALL IN SECTIONS 1 AND 12, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 05-12-202-028

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

1. That the petitioner shall apply for and receive a building permit for the deck.
2. 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