

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Minutes

Wednesday, June 24, 2009

7:30 PM

Village Hall Board Room

Zoning Board of Appeals

*John DeFalco, Chairperson
Mary Newman, Eugene Polley,
Greg Young, Val Corrado, Ed Bedard
and Keith Tap
Staff Liaison: Michael Toth*

Call to Order

Chairperson DeFalco called the meeting to order at 7:30 p.m.

Roll Call of Members

Present: Chairperson John DeFalco, Val Corrado, Mary Newman and Keith Tap

Absent: Eugene Polley, Greg Young and Ed Bedard

Also present: Michael S. Toth, Planner I, and Stuart Moynihan, Associate Planner.

Public Hearings

090236

ZBA 09-03: 1221 S. Main Street (Lux Chateau)

Requests an appeal of an administrative decision of the Lombard Director of Community Development, pertaining to the denial of an issuance of a Certificate of Occupancy/Zoning Certificate. The Director's decision states that a hookah lounge/establishment, and its ancillary entertainment use, is not a tobacco shop and is therefore not a permitted land use within the B4A Roosevelt Road Corridor District as set forth within the Lombard Zoning Ordinance. (DISTRICT #6)

Mr. Toth noted that the petitioner has filed a petition with the Plan Commission to seek approval of a text amendment and conditional use. As that petition will be heard at the July 20 Plan Commission meeting, the petitioner has requested that this case be continued to the July 22 ZBA meeting. Mr. Toth stated that subsequent action on the part of the ZBA may be required.

It was moved by Corrado, seconded by Newman, that this matter be continued to the July 22, 2009 Zoning Board of Appeals meeting. The motion carried by the following vote:

Aye: 4 - Chairperson John DeFalco, Corrado, Newman and Tap

Absent: 3 - Polley, Young and Bedard

090376

ZBA 09-06: 736 Hammerschmidt Avenue

Requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to four and one-half feet (4.5') where six feet (6') is required within the R2 Single-Family Residence District to allow for the installation of a generator unit. (DISTRICT #6)

The petitioner, Bob Sarocka, property owner, presented the petition. Mr. Sarocka, began by stating that they would like to install a gas generator to run their sump pump if the power were to fail. He added that in the past they have used a temporary generator for a two-day time period, but when they are not home they cannot run that generator.

Mr. Sarocka stated that they are seeking a variance to place the generator in the side yard. He stated that they neighbors have no problem with the request and there is a

wood privacy fence located between themselves and the neighbors to the north. Mr. Sarocka added that the generator would meet Code if placed in the rear yard; however, the rear yard is prone to flooding. He also mentioned that placing it in the side yard would place it closer to the gas meter.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, presented the staff report. Mr. Toth stated staff has drafted this IDRC Report to submit to the public record in its entirety. The petitioner applied for a building permit to install a permanent natural-gas-operated generator unit in the northern interior side yard. The house on the subject property is located approximately 8.14' from the northern property line. According to the generator's specification manual, which was submitted as part of this petition, the generator is required to maintain at least eighteen inches (18") of clearance from the house. The generator unit is twenty-five inches (25") wide; as such, the remaining setback from the northern property line would be four and one-half feet (4.5'). The R2 - Single Family District requires a minimum side yard of six feet (6'). According to the Zoning Ordinance, generators are not specifically listed as a type of structural encroachment within any required yard.

Mr. Toth stated that staff notes that there are no recorded easements of the subject property.

Mr. Toth stated staff finds that there are reasonable alternatives for relocating the generator unit in compliance with the Zoning Ordinance. Pertaining to lots in the R2 - Single Family District, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty feet (60'). The subject lot has a total lot area of 12,804 square feet and a lot width of sixty-six feet (66'). The rear yard requirement for the R2- Single Family Residential District is thirty-five feet (35'). As such, the proposed generator unit could be located up to thirty-five feet (35') from the rear property line. According to the plat of survey submitted as part of this petition, the house is located (at its closest point) ninety-seven feet (97') from the rear property line, which leaves an estimated 3,300 square feet of buildable area in the rear of the property for the placement of a generator unit. The 3,300 square foot area includes the side yard setback requirement and any accessory structures.

Mr. Toth stated that staff believes that there is adequate space in the rear of the property to locate the proposed generator unit. As there are no hardships associated with the physical characteristics of the subject property, staff is not supportive of the setback variation for the generator unit at its proposed location.

Mr. Toth stated that the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make a motion recommending denial of the side yard setback variation.

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

Dr. Corrado asked if there would be any noise associated with the generator.

Lori Sarocka, property owner, stated that the noise levels would be similar to that of a lawnmower. She added that they would need to run the generator once a week for twelve minutes. She stated that they would most likely run it for twelve minutes on a Tuesday when the sirens are tested.

Mr. Tap discussed some of the specific sound levels discussed in the specification

manual.

Mr. Sarocka stated that he had reviewed the sound levels and he had discussed the issue with his neighbors.

Lori Sarocka stated that her neighbors also have a similar flooding problem and their sump pumps are always required to run as well. She added that the generator would have a "good neighbor plug" so the neighbors could use the generator if needed.

Mrs. Newman asked if the generator would only run during power outages.

Lori Sarocka replied yes, but the generator would still need to run for twelve minutes per week.

Mrs. Newman asked if the sump pump ran constantly and what the effects of the standing water in the back yard.

Lori Sarocka stated that there is lots of standing water in the back yard after a rainfall.

Bob Sarocka stated that even if the generator were to be placed in the back yard it would only be eighteen inches further from the property line.

Chairperson DeFalco asked if the generator is to be located behind the garage.

Bob Sarocka replied; no, the generator would be located on the north side of the property.

Mr. Tap asked if there is flooding in the area where the air-conditioning condenser is located.

Lori Sarocka stated that water comes right up to the air-conditioning condenser and it is located on a slab.

Chairperson DeFalco asked if a concrete slab could be poured for the generator.

Bob Sarocka replied; yes, but the further away from the house the higher off the ground it would need to be.

Chairperson DeFalco asked staff if they knew of any flooding issues and whether or not the generator could be placed on a raised slab.

Mr. Toth stated that this is the first time he was made aware of any flooding issues on the subject property. He stated that he would need to discuss any flooding issues with the Engineering Department and the question of whether or not the generator could be placed on a raised slab would need to be discussed with the Building Department.

Mr. Tap asked the petitioner if there are additional costs associated with locating the generator in the rear yard and if that is one of the reasons for the variation.

Lori Sarocka replied, yes. She added that the generator would be blocked from the neighbors to the north by a wood privacy fence and it would be blocked from the street view by large trees.

Chairperson DeFalco stated that the neighbor's house to the north is fourteen feet from the property line, but if a new house were to be built, it could be built six feet from the property line.

Bob Sarocka stated that the house to the north is a very nice house and only five years old so it is unlikely that it would be rebuilt any time soon.

Chairperson DeFalco stated that the ZBA cannot consider finance as a hardship; however, flooding would be considered a hardship. He then mentioned that the ZBA has recommended approval of some replacement a/c units in the past. He added that the proposed generator would be a new unit. Chairperson DeFalco then stated that similar to Lombard Pharmacy, conditions could be added to address the time of day that the generator could be run.

Mr. Tap stated that there are too many other areas where the generator could be located that would not require a variance.

It was moved by Tap, seconded by Corrado, that this matter be recommended to the Corporate Authorities for denial. The motion failed by the following vote:

Aye: 3 - Chairperson John DeFalco, Corrado and Tap

Nay: 1 - Newman

Absent: 3 - Polley, Young and Bedard

It was moved by Newman, seconded by Corrado, that this matter be recommended to the Corporate Authorities for approval. The motion failed by the following vote:

Aye: 2 - Corrado and Newman

Nay: 2 - Chairperson John DeFalco and Tap

Absent: 3 - Polley, Young and Bedard

Chairperson DeFalco noted that as there were neither four votes to deny or approve the petition, it would be forwarded to the Village Board with no recommendation.

090375

ZBA 09-05: 460 S. Main Street (Lombard Cemetery)

Requests a variation to Section 155.205(A)(1)(e)(4) of the Lombard Zoning Ordinance to allow supporting members of a fence in the clear line of sight area exceed six inches (6") in width. (DISTRICT #6)

Stuart Moynihan, Associate Planner, presented the staff report. The subject property is located at 460 S. Main Street, the intersection of West Washington Boulevard and South Main Street. The Public Works Department has recently replaced the deteriorated fencing at Lombard Cemetery with a new wrought iron-style fence four feet (4') in height. As part of this replacement, the existing brick pillars at the corners of the fence were reconstructed. As the two pillars at the corners of Washington Blvd. and Main St. are within clear line of sight areas, a variation is necessary to allow them to have a width greater than six inches (6").

On April 16, 2009, the Village of Lombard Board of Trustees approved a contract with Action Fence Contractors, Inc. to replace the fence at Lombard Cemetery. The execution of this contract was overseen by the Public Works Department. The fence was contracted and was constructed at four feet in height. It is an ornamental aluminum fence which meets the requirement for fencing to be of open construction when in a clear line of sight area.

As part of the replacement, six brick pillars were reconstructed at their original dimensions and locations. However, as these pillars were non-conforming structures, reconstruction would require that new pillars meet all code requirements. The new pillars are approximately nineteen and one half inches (19.5") in width with a stone cap at the top that is approximately two feet (2') in width. The Zoning Ordinance requires that supporting members of a fence within the clear line of sight area be no greater than six inches (6") in width. Two of the reconstructed pillars are within clear line of sight areas. These two pillars are located at the intersections of Washington Boulevard and Main Street, one at the northern intersection and one at the southern intersection. As the width of these pillars exceeds six inches (6"), a variation is necessary.

The Zoning Ordinance requires that fencing and walls within a front yard does not exceed four feet (4'). Staff notes that the height of the pillars along Main Street varies but currently can be measured as high at five and one half feet (5.5') from the grade at the Main Street sidewalk. However, in this case the grade of the cemetery and the grade of the Main Street sidewalk differ considerably. If measured from the grade of the cemetery, the pillars have a height of approximately four feet and three inches (4'3"). Section 155.205(c)(4) of the Zoning Ordinance, permits an additional three inches (3") of height for grade changes and decorative elements. The Public Works Department is currently exploring options for the final grading along the fence line. One option being considered is the construction of a retaining wall which would bring the measured height of the pillars into compliance with code.

The Public Works Department has expressed its reasons for replacing the deteriorated fence and pillars with the same features and location. Foremost among these reasons is the status of the cemetery as a historic site in the Village of Lombard. Public Works determined that the historical character of the cemetery would be best preserved by constructing a fence which matched the previous one. Another important consideration is that if the fence was to be moved out of the clear line of sight area, some grave sites could be at least partially outside of the fenced area. The Lombard Historical Commission also expressed its support for the fence replacement and recommended that the historical character of the fence be maintained.

Currently, the pillar on the northern side of the cemetery is of minimal concern regarding visibility as the northern side of Washington Boulevard allows only one way westbound traffic. The pillar on the southern side of the cemetery could block some visibility to and from Main Street as the southern side of Washington Boulevard allows only one way eastbound traffic. However, as the pillars previously existed, no additional reduction in visibility should occur.

Staff is supportive of the proposed variation due to the historic nature of the site, the previously existing fence and pillars, and necessity to fence in all existing burial plots.

Chairperson DeFalco opened the meeting for public comment.

Thomas M. Stuckey, 465 S. Park Road, stated that the post is unacceptable. He has lived in his home on Park for twenty-five years. He stated that he is glad the cemetery is being maintained, but he could see through the old fence and post. He stated that you are taking a chance turning onto Main Street. He doesn't see how the Village could have approved the brick wall. He stated that he was surprised he was the only one present to object. The variance should have been requested before it was built. He asked if there was any coordination between the Village and the builders of the fence.

Chairperson DeFalco stated they the ZBA does not examine the Village's dealings with contractors.

Mr. Stuckey stated that the workers don't have concern for the people in the neighborhood. He stated that he nearly hit a trailer left in the road by some workers at night because it had no reflectors. He stated that the project was poorly planned and no concern was shown for the neighborhood. The fence in its current state is an accident waiting to happen.

Rita Schweider, 5 E. View St., stated that she is the Chairperson of the Lombard Historical Commission and a member of the Lombard Cemetery Committee. She indicated that there was coordination between the Historical Commission, the Village, and the Cemetery Committee. She also stated that the Village is looking at finding a solution when pulling out at Washington and Main St.

Dr. Corrado asked if the Transportation Safety Committee has looked at this issue.

Mike Toth stated that to date it had not been examined by them.

Mr. Tap asked if the ZBA had the authority to send the item to the Transportation Safety Committee.

Chairperson DeFalco stated that the ZBA could approve the petition but recommend that the signage on the street be looked at. Maybe both lanes of Washington should be westbound only. However, if the ZBA recommends denial they are saying it should not be done regardless.

Mrs. Newman stated that the potential safety issue should be looked into.

Dr. Corrado stated that the Transportation Safety Committee should examine this.

Mr. Stuckey asked if there are many accidents at this intersection.

Mr. Toth stated that does not know of any study of this intersection.

Chairperson DeFalco stated that when he visited the site, he had to inch forward to turn onto Main. When he did so, he forgot to look for pedestrians on the sidewalk after the trouble of getting out. He stated that was even being mindful of what he was doing. Although the site is historical, there were fewer cars when the original post was built.

Mrs. Newman stated that Main Street also only had two lanes.

Mr. Stuckey stated that there was no column heading westbound on Washington.

Chairperson DeFalco stated that there was a column but it had partially deteriorated.

Mrs. Schweider stated that there was a concrete post and the Cemetery Committee asked that it be moved back six inches. However, they did not expect the light post and utility pole to be installed in the same area.

Mr. Stuckey stated that it is now worse and asked if the brick column can be moved back.

Chairperson DeFalco stated that this is a concern due to the grave sites at that corner.

Mr. Stuckey stated that he wants the post moved, not the fence itself.

Chairperson DeFalco stated that the post is currently supporting the fence.

Mr. Tap stated that he thinks the result of the construction looks fantastic and is a huge improvement. However, it seems like there was a push to get the work done. He has an issue with the sequence of events and the timing. Other options should be looked at rather than granting a variation.

Chairperson DeFalco stated that these items often arise as the result of a complaint and asked staff if this was the case.

Mr. Moynihan stated that it was caught as part of the permitting process.

Chairperson DeFalco asked when the permit was issued.

Mr. Moynihan stated that the permit was not issued due to the clear line of sight obstruction.

Chairperson DeFalco asked if the fence was then built without a permit.

Mr. Moynihan stated that it was built without a permit, before the clear line of sight issue could be resolved.

Mr. Tap stated that construction was on a fast track and that citizens would be treated differently. He would like to see some other options being looked at. He stated that he could not support the variation.

Chairperson DeFalco asked if this item should be tabled so that the clear line of sight issue could be looked at.

Mr. Tap stated that there has always been a problem at this intersection.

Dr. Corrado stated that they should deny the petition and ask for a regular post.

Mrs. Newman stated that recommendation for denial would give the Board their opinion.

Chairperson DeFalco stated that if both lanes of Washington were westbound only there would be no clear line of sight issues.

Dr. Corrado stated that the Lombard Historical Commission should not have suggested this.

Mrs. Schweider stated that it was the Cemetery Committee that made this decision. The two lamp posts were a surprise.

It was moved by Corrado, seconded by Tap, that this matter be recommended to the Corporate Authorities for denial. The motion carried by the following vote:

Aye: 4 - Chairperson John DeFalco, Corrado, Newman and Tap

Absent: 3 - Polley, Young and Bedard

Dr. Corrado recommended that the Village look into installing regular posts in the clear line of sight areas instead of the brick columns.

The Zoning Board of Appeals also recommended that the Transportation Safety Committee examine the possibility of making both sides of Washington Boulevard westbound only.

Business Meeting

Approval of Minutes

On a motion by Newman and seconded by Corrado the minutes of the May 27, 2009 meeting were unaimously approved with the following correction:

Page 3, second paragraph, change the sentence to read:

"The petitioner was asked if his boat will fit within the garage."

Planner's Report

New Business

Unfinished Business

Adjournment

The meeting was adjourned at 8:40 p.m.

*John DeFalco, Chairperson
Zoning Board of Appeals*

*Michael S. Toth, Planner I
Zoning Board of Appeals*