

August 19, 2010

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

Subject: ZBA 10-05; 208 S. Westmore-Meyers Rd.

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 from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on June 23, 2010.

Mohammed I. Mohiuddin, 208 S. Westmore-Meyers, presented the petition. Mr. Mohiuddin stated that he is requesting a variation for two existing air conditioning condensers. He stated that the location of the units is not a problem because the adjacent property is commercial and the business is setback roughly thirty-five (35) feet from the property that they share. Mr. Mohiuddin then stated that he called about five contractors to see what it would take to have the units moved. The contractors told him that the units would required to move about one hundred (100) feet away from the current location, which might not allow the units to function properly. He also added that the cost would be around \$2400 to have the units moved.

Mr. Mohiuddin stated that the commercial property to the north does not have an issue with the location of the air conditioning condensers. He added the adjacent business is unable to hear the units. He then stated that the neighbor to the south does not have a problem with the units. Lastly, Mr. Mohiuddin stated that he plans to erect a fence that would conceal the air conditioning condensers.

Michael Toth, Planner I, presented the staff report.

As part of the construction of a new single family residence, two (2) existing air conditioning condensers were placed three (3) feet from the northern property line

on the subject property, located within the interior side yard. As new air conditioning condensers are not listed as a permitted encroachment in the interior side yard, a variation is needed.

The petitioner purchased the home under construction on the subject property in 2009. The previous property owner had been advised by the Village that the placement of new air conditioning condensers was not permitted in the interior side yard. The air conditioning units were not depicted on the approved plans for the new residence. In conducting the final inspection for the Certificate of Occupancy, the Building Division noticed that the air conditioning units were placed in the interior side yard and notified the Planning Services Division. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department could not sign off on a final Certificate of Completion unless the new air conditioning condensers were relocated or a variation was granted.

The Zoning Ordinance lists new air conditioning condensers as permitted encroachments only within a certain portion of the rear yard, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The subject air conditioning condensers are located in the interior side yard along the northern side yard. The subject property shares the northern property line with a property in the B2 zoning district (Marberry Cleaners). The subject business is setback over thirty (30) feet from its southern property line (the northern property line of the subject property).

Pertaining to lots in the R2 zoning 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 (60') feet. The subject lot has a total lot area of 16,000 square feet; however, the lot width is only 50.00 feet. Because the lot width is smaller than most typical R2 lots, the efficient areas for the condensers to be located are significantly reduced. There is adequate space behind the residence, but the petitioner has indicated in the Standards to Variations that moving the units would be costly and would diminish the efficiency of the units.

Staff finds that the air conditioning condensers are in a suitable location as the property to the north is a commercially zoned property. While economic hardship does not constitute a hardship associated with the physical composition of a property, relocating the condensers to the rear yard would be costly and would not be recommended because the efficiency of the units could be greatly reduced.

Concluding, Mr. Toth stated that the Standards for Variations have been affirmed and staff is recommending approval of ZBA 10-05, subject to the three conditions outlined in the staff

report. Mr. Toth then made reference to the Private Engineering Service comment, which states that the air conditioning condensers are to be elevated out of the drainage swale.

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

Chairperson DeFalco asked how the units were placed in the interior sideyard when the Village had notified the homebuilder about the prohibited locations.

Mr. Toth stated that the specifics are outlined in the staff report. He added that the situation (as to how this issue came about) was put in the staff report to illustrate that the petitioner was not responsible for the location of the condensers.

Mr. Young asked about the status of the home purchase. He indicated that the plat of survey leads him to believe that the property is bank owned. He asked the petitioner if the home was in fact bank owned.

Mr. Mohiuddin replied, yes, it was bank owned.

Mr. Bartels asked if you need a permit to move an air conditioning unit.

Mr. Toth stated that you would need a permit to move an air conditioning unit as there is electrical work involved in such an undertaking.

Mr. Tap asked the petitioner had an issue with raising the air conditioning condensers.

Mr. Mohiuddin replied, no.

Mr. Tap asked how staff would handle this.

Mr. Toth stated that the raising of the air conditioning condensers would be addressed during the permit process.

Mr. Young asked the petitioner if he was residing in the home.

Mr. Mohiuddin replied, yes.

Mr. Young then asked whether the petitioner had a full occupancy license.

Mr. Toth stated that the petitioner has a conditional occupancy license, which will become a full occupancy license, once the air conditioning unit issue is resolved.

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On a motion by Bedard and a second by Corrado, the Zoning Board of Appeals recommended by a vote of 6 to 0 that the Village Board **approve** the variation associated with ZBA 10-05, subject to the following conditions:

1. The property owner shall obtain a building permit for the air conditioning condensers.
2. The variation shall be limited to the existing residence. Should the existing residence be damaged or destroyed by any means, any new air conditioning equipment shall meet any required Code provisions.
3. That the petitioner shall satisfactorily address all comments included within the IDRC report.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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