






## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**MEETING DATE:** July 18, 2024

**SUBJECT:** **ZBA 24-02: 1144 E. Woodrow Avenue**

Please find the following items for Village Board consideration as part of the July 18, 2024, Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 24-02; and
3. An Ordinance granting approval of the requested variation.

The Zoning Board of Appeals made the recommendation of approval by a 5-0 vote. Please place this petition on the July 18, 2024, Board of Trustees agenda with a waiver of first reading requested by the petitioner.



## VILLAGE OF LOMBARD

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July 18, 2024

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Liz Brezinski

**Trustees**  
Brian LaVaque, Dist. 1  
Anthony Puccio, Dist. 2  
Bernie Dudek, Dist. 3  
Andrew Honig, Dist. 4  
Daniel Militello, Dist. 5  
Bob Bachner, 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 24-02 – 1144 W. Woodrow 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 approve a variation from Section 155.212 to allow a partially covered deck to encroach into the rear yard setback on the subject property located in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on June 26, 2024. Tom and Sue Lotter, petitioners, and Anna Papke, Planning and Zoning Manager, were sworn in by Chair DeFalco to offer testimony.

Mr. Lotter presented the petition. He said his property is an unusual property that is a corner lot with a change in elevation along the rear property line. He said there had been a previous deck on the property that he and his wife wanted to rebuild. The previous deck had a small gazebo covering part of it. The proposed deck would include a gazebo and a screen for privacy from the neighboring property. Mr. Lotter said the proposed partially covered deck would be in conflict with the wording of the Zoning Ordinance. An open deck is allowed in the rear 25-foot setback but a deck with a pergola is not allowed. He noted that if the gazebo were not attached to the deck, it could be constructed.

Mrs. Lotter said that they have begun construction on the open deck, with the intention to add the covered gazebo area later if approved.

Chair DeFalco asked if anyone from the public or the ZBA had any additional questions or comments. Hearing none, he asked for the staff report.

Ms. Papke presented the staff report, which was entered into the record in its entirety. The subject property is developed with a single-family home with a deck attached to the rear of the house. The petitioner proposes to replace the existing deck with a new deck, a portion of which will be covered by a gazebo-style roof. The proposed deck will encroach into the 25-foot rear yard setback. Village Code permits decks to encroach into rear yard setbacks if they are open. The roofed-over area that the petitioner is proposing for the rear of the deck is not a permitted encroachment. Therefore, the petitioner is requesting a variance to permit a partially covered deck to encroach into the rear yard setback.

Staff finds the request for the variance is due to the unique circumstances on the subject property as well as the particular wording of the Zoning Ordinance as it relates to permitted encroachments. The Zoning Ordinance only permits decks to encroach into the 25-foot rear yard setback if the deck is uncovered. However, the Ordinance permits standalone pergolas with a six-foot rear yard setback on residential properties. The Ordinance would permit the petitioner to construct the proposed improvement as an open deck and a separate pergola next to one another in the location where the petitioner proposes to construct the partially covered deck. Ms. Papke said that there would be very little difference in the visual impact of constructing the deck as proposed or as two separate structures; this similarity was demonstrated by Figures 2 and 3 in the staff report. There is a grade change in the rear portion of the property that would present practical difficulties for constructing two adjacent structures in this area. Finally, Ms. Papke noted that the subject property is significantly shallower than most other residential lots. Were the lot a typical depth, the petitioner could likely meet the 25-foot rear yard setback required for roofed-over decks. Staff found these circumstances meet the standards for variances and recommends approval of the request subject to the conditions in the staff report.

Chair DeFalco asked if there were any questions or comments on the staff report.

Mr. Tap asked if the deck was already under construction. Mr. Lotter said that they had received a permit for an open deck, which is permitted by Code. If the variance is approved, they will add the gazebo cover to the deck.

Mr. DeFalco asked staff about the nature of the Engineering Division comments in the staff report noting that the deck covering would be considered impervious surface. Ms. Papke explained that for the purposes of engineering regulations, decks are considered pervious because of the gaps between the floorboards. The Engineering Division wanted to make the petitioner aware that having a roof over part of the deck would make that part an impervious improvement.

Chair DeFalco asked if there was additional discussion. Hearing none, he asked for a motion from the ZBA members.

Ms. Johnson made a motion to recommend approval of the petition with the added condition of approval that if more than 50% of the value of the entire structure (house and deck) were damaged or destroyed, it could not be restored unless the redevelopment met all standards in place at that time. Mr. Tap seconded the motion. The Zoning Board of Appeals voted 5-0 that the Village Board approve the petition associated with ZBA 24-02, subject to the following four (4) 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 deck;
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
4. This approval shall be subject to the construction commencement time provisions as set forth within Sections 155.103(C)(10); and
5. That in the event that the structure on the property (which includes the deck and the house) is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such structure (including the deck and the house) immediately prior to such damage, such structure shall not be restored unless such structure shall thereafter conform to all regulations of the zoning district in which such structure and use are located.

Respectfully,

VILLAGE OF LOMBARD  
John DeFalco  
Chairperson  
Zoning Board of Appeals

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.212 OF THE LOMBARD VILLAGE CODE TO ALLOW A PARTIALLY COVERED DECK TO ENCROACH INTO THE REAR YARD SETBACK ON A PROPERTY LOCATED WITHIN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT**

**(ZBA 24-02: 1144 E. Woodrow 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 3 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 155.212 to allow a partially covered deck to encroach into the rear yard setback on the subject property located in the R2 Single-Family Residence District; and

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on June 26, 2024, 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 Section 155.212 to allow a partially covered deck to encroach into the rear yard setback on the subject property located in the R2 Single-Family Residence District.

**SECTION 2:** This ordinance shall be granted subject to compliance with 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 deck;
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
4. This approval shall be subject to the construction commencement time provisions as set forth within Sections 155.103(C)(10); and
5. That in the the event that the structure on the property (which includes the deck and the house) is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such structure (including the deck and the house) immediately prior to such damage, such structure shall not be restored unless such structure shall thereafter conform to all regulations of the zoning district in which such structure and use are located.

**SECTION 3:** This Ordinance is limited and restricted to the property located at 1144 E. Woodrow Avenue, Lombard, Illinois, and legally described as follows:

LOT 2 IN DUDCZAK'S RESUBDIVISION OF LOT ONE IN KETTEL CONSTRUCTION'S RESUBDIVISION OF LOT ONE (EXCEPT THE NORTH 554.66 FEET AND EXCEPT THE WEST 75.0 FEET THEREOF) IN COUNTY CLERK'S ASSESSMENT DIVISION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION NINE, TOWNSHIP THIRTY-NINE NORTH, RANGE ELEVEN EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, RECORDED AS DOCUMENT NO. 79-03227.

PIN: 06-09-309-048

**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 \_\_\_\_\_, 2024.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024, pursuant to a roll call vote as follows:

Ordinance No. \_\_\_\_\_  
Re: ZBA 24-02  
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Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Keith Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Elizabeth Brezinski, Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Elizabeth Brezinski, Village Clerk