

August 17, 2006

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

Subject: ZBA 06-12; 125 S. Stewart Avenue

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of a variation to Section 155.406 (H) to reduce the amount of open space on the subject property to 45.6 percent where a minimum of 50 percent open space is required, to allow for the construction of a residential addition within the R2 Single Family Residential District.

The Zoning Board of Appeals conducted a public hearing on June 28, 2006. Paul Bojan, 125 S. Stewart, presented the petition. He stated that he was not asking to decrease the amount of open space. He purchased the home in 1994 and now wishes to enclose a portion of the existing deck.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition. Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The petitioner is requesting a variation to decrease the required open space from 50 percent of the lot area to 45.6 percent of the lot area. The property is currently nonconforming with 45.6 percent open space. The petitioner wishes to construct a three-season room addition over a portion of the existing deck. The addition is considered an expansion to the existing nonconformity and therefore requires a variation.

The Code requirement of 50 percent open space serves both to limit the density on lots as well as the volume of stormwater runoff. Decks are typically pervious since rainfall passes between the planks. However, the proposed addition over the deck would make the lot more than 50% impervious. Therefore, the Private Engineering Services Division recommends that the proposed addition be denied.

The 50 percent minimum percent open space requirement was added to the Zoning Ordinance in 1990. At that time, the subject property was improved with a single-family home, one-car garage, and driveway. In 1990, a permit was issued for a deck that met the open space requirement. In 1991, a permit was issued for a two-car garage and driveway extension that left the property with the 45.6 percent open space that exists today. In 1999, the current property owner received a permit for and constructed a second-story addition over the existing home. The nonconforming open space was noted in April of this year when the petitioner applied for a building permit to construct a one-story three-season room addition.

The standards of the Zoning Ordinance are set for the provision of open space, to preserve green space, and maintain the aesthetics of a suburban setting. The Village's Comprehensive Plan states "the existing visual and environmental character of Lombard's various residential neighborhoods should be preserved and enhanced." The open space standards within the R2 District help to achieve that goal by ensuring that lots do not have the appearance of being overbuilt and that a more intensive use of the property is prevented. Staff typically has only recommended approval for open space variations when there is an existing legal nonconforming situation and the proposed improvements will not increase the degree of nonconformity. Even though the proposed addition would not change the calculated open space percentage, the building addition is an expansion that would increase the visual impact of the structure and the overall bulk on the property.

Although the previous property owners created the existing nonconformity with regard to open space, the fact that the property does not currently meet code cannot be considered a hardship in and of itself. The necessary 352 square feet of open space could be created by removing pavement to create a ribbon driveway, installing grasscrete, or making other modifications.

To be granted a variation the petitioners must show that they have affirmed each of the "Standards for Variation." The petitioner's property does not have unique physical limitations that limit the owner from meeting the intent of the ordinance. The subject property is 8,000 square feet in size, which exceeds the minimum lot size of 7,500 square feet in the R2 District.

Staff finds that the conditions are not unique to the subject property. The design and layout of the petitioner's property is typical of any R2 Single Family Residential lot in the Village and there is nothing inherently unique about the subject property that warrants the open space relief. The hardship has not been caused by the ordinance and has instead been created by the extent of the existing and proposed improvements to the property, and granting the request could be injurious to neighboring properties because overbuilding single-family lots contributes to a loss of the neighborhood's suburban character.

Accordingly, staff recommends that this petition be denied. However, if the Zoning Board of Appeals finds that the existing deck would meet the standards for variations but the proposed

addition would not meet the standards, the ZBA could grant approval of a variation from the open space requirements in order to allow the deck to remain on the property as a legal, conforming structure. This action would allow the petitioner to replace the existing deck with a new deck of the same size if desired. Staff would not object to this variation.

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

Mr. Young noted that the petitioner would not be reducing the amount of open space but would be building over an existing deck. He asked if the deck would be considered pervious. Ms. Backensto stated that while the spaces between the boards could be included in an engineering calculation of pervious surface, pervious surface is not the same as open space and is not a factor in the petitioner's variation request.

Mrs. Newman asked why the garage permit was issued in 1991. Ms. Backensto stated that she did not know as the permit did not meet the open space requirements at that time. Chairperson DeFalco noted that another permit, for a second-story addition, was issued in 1999.

Mr. Polley stated that the proposed addition would add bulk to the property. Mr. Young stated that the added bulk would be in the rear of the property and not directly visible from the street.

Chairperson DeFalco noted that in a recent, similar case at 512 S. Craig Place (ZBA 06-08), the petitioner was requesting the variation in part to allow the rear entrance to be covered as it was considered the primary entrance to the home. He asked if this would be the case for the subject property. The petitioner stated that the primary entrance is currently the door on the side of the house. If constructed, the new addition could serve as a mudroom and become the primary entry.

Mrs. Newman asked if the open deck would be considered pervious versus the proposed addition. Ms. Backensto stated that although the spaces between the boards of the deck could be considered pervious, the addition would be completely impervious.

Chairperson DeFalco asked about the proposed dimensions of the addition. The petitioner stated that it would be 16 feet by 18 feet, or approximately 288 square feet.

Mr. Young noted that the open space nonconformity currently exists, regardless of the addition. Chairperson DeFalco stated that it was a question of bulk.

Mrs. Newman asked how high the deck was. The petitioner stated it was roughly five feet high.

Mr. Bedard noted that although they would not be decreasing green space, they would be increasing the bulk on the property.

Chairperson DeFalco stated that part of the hardship was the 1991 garage permit that created the nonconformity. The petitioner stated that he was still not clear why this issue did not come up in 1999. Ms. Backensto stated that staff's interpretation at that time considered the second story addition to be in compliance as it was over an existing permanent structure, but the proposed new addition would be over a more temporary type of structure. Mr. Young stated that he disagreed with staff's differentiation between permanent and nonpermanent structures.

Mr. Bedard asked about the proposed construction. The petitioner stated that it would be frame.

Mr. Bedard stated that he was not generally in favor of adding to the bulk on the property, but it would be difficult to deny the variation given the previous permits that had been issued in past years.

Mr. Polley asked if the addition would be used as an apartment. The petitioner stated that it would not be an apartment, but rather an extension of his single-family home.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 4-1, submits this petition to the Corporate Authorities with a recommendation of approval for the requested variation, subject to the following condition:

1. The open space variation shall apply only to the existing and proposed improvements shown on the Plat of Survey dated May 18, 1994 and construction drawings dated April 17, 2006, submitted as part of this petition. Should the principal structure be damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its fair market value, the property must thereafter conform to the minimum fifty percent (50%) open space requirement.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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