








## MEMORANDUM

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

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

**MEETING DATE:** March 16, 2023

**SUBJECT:** **ZBA 23-01: 327 S. Lombard Avenue**

Please find the following items for Village Board consideration as part of the March 16, 2023, Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 23-01; and
3. An Ordinance granting approval of the requested variations.

The Zoning Board of Appeals made the recommendation of approval by a 4-3 vote. Please place this petition on the March 16, 2023, Board of Trustees agenda for first reading.



## VILLAGE OF LOMBARD

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March 16, 2023

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**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 23-01 – 327 S. Lombard 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 grant a variation from Section 155.407(H) of the Lombard Code of Ordinances to allow for forty-five percent (45%) of the lot area to be preserved in open space, where a minimum of fifty percent (50%) lot area preserved in open space is required in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on February 22, 2023. Greg Kula and Marshall Subach, petitioners, Jennifer Ganser, Assistant Director, and Anna Papke, Senior Planner were sworn in by Chairperson DeFalco to offer testimony.

Mr. Subach said he is the attorney for the petitioner. He said the petitioner and his wife are longtime residents of Lombard. They installed the paver patio for their children so they could play outside and be seen while playing outside. Mrs. Kula owns Prairie Honey Floral Studio on Main Street. He said they are seeking a variance for reduced open space. The patio was installed in March 2021. The contractor said a permit was not needed. Mr. Subach said a mistake was made by not obtaining a permit. If the variance is not approved the patio will need to be removed. Mr. Subach referenced the standards of variance. He said the hardship is that if not granted the patio will need to be removed and there will be a loss of expenses. He said there is a detached garage and two porches. He said it's not an issue with impervious surface. The driveway is very long and setback far away. If the garage was further up there could be additional open space behind the garage. He said there is not a financial gain, just a financial cost to be removed. He said this was not directly caused by



the petitioner, it was caused by their contractor who said permits were not required. He said no harm has been caused since the patio was installed for the two years. The property has two private storm sewer inlets and the patio is pitched towards the inlets. He said the petitioner has no objection in obtaining the engineering review in the conditions. He said this is an upgrade to the property and is not visible from the front yard. Lastly, he said this has no impact to light or air on the property.

Mr. Kula said we made a mistake and trusted a recommendation and the contractor. He noted his wife's business obtained permits for her business buildout. He said his wife's business donates flowers for the Lilac Princess program, the high school prom, and the historical society. He said the patio was installed for additional space for their children. He said they asked the contractor if permits were needed and were told no. They learned later that summer a permit was required. He said no neighbors complained about water or flooding. He said it was raining all day and there is no water in their yard. They have not had problems with snow melting. He noted the petition of support from neighbors.

Mr. Subach said the property owners looked at cutting down the driveway for additional open space or removing the porches. Nothing would work except to ask for the variance. They have no issues with the conditions in the staff report if approved. He noted that variances were granted in the past and asked for a recommendation of approval.

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

Ms. Ganser presented the staff report, which was entered into the record in its entirety. The subject property is developed with a single-family home. The property owner installed a four hundred and seventy-seven (477) square foot brick paver patio in their rear yard in 2021 without a permit. As a result, the property exceeds the maximum lot coverage of 50%. Fifty percent of a lot in the R2 district can be covered and the other 50% needs to remain open. She referred to the open space calculation in the staff report on page 3. To be granted a variation, petitioners must show that they have affirmed each of the standards for variations. Staff offered commentary in the staff report on the standards. A hardship was not made by the petitioner. Staff finds that there are no conditions related to the property that prevent compliance with the established regulations. The property does not have physical surroundings, shape, or topographical features that differ substantially from other lots in the neighborhood. The conditions of a detached garage and longer driveway are also not unique to the neighborhood or the Village. As noted, a permit was not applied for which would have given staff the opportunity the review and alert the homeowner and contractor about lot coverage. Staff was notified of the patio without a permit by a service request to Code Enforcement. Neighbors may be concerned about flooding and how the additional lot coverage could impact neighborhood flooding. The property does have separated sewers; however, they lead into a combined sewer area.

She noted that lot coverage is a planning Code. It doesn't matter if the coverage is permeable pavers or concrete, it is considered coverage either way.



The Private Engineering Division of Community Development reviewed the petition. Should the petition be approved by the Village Board, they added a comment on an engineering analysis of the existing storm sewer pipe.

Ms. Ganser referenced that other lot coverage variances were approved by the Village Board. However, in many of these cases the lot coverage was decreasing or remaining the same. Staff has generally not supported relief for lot coverage either through a variance or in a discussion with a property owner. As a result, many property owners do not apply for variances and instead meet Code.

The petitioner submitted a petition signed by four (4) neighbors in support of the variance. The petition is attached. A neighbor submitted a letter expressing concerns on the variance. The letter is attached.

Staff recommends denial.

Chairperson DeFalco opened the meeting up for discussion among the ZBA members.

Mr. Bartels asked about the storm sewers in the neighbor letter and Ms. Ganser said they were reviewed by the engineering division.

Mr. Conway asked if the Village received any flooding calls today and Ms. Ganser said not that she is aware of.

Ms. Johnson asked about neighborhood flooding. Ms. Ganser said those go to the engineering division, not planning, and she is unaware of neighborhood flooding issues.

Mr. Meadows asked what the definition of open space. Ms. Papke read from the Zoning Code "Open space is that portion of a lot or property maintained as lawn, garden, field, woods, wetland, or other natural landscape area and is free of buildings, structures and impervious surfaces." Mr. Meadows referenced the purpose statement in 155.407.

Mr. Tap asked the petitioner if there were any standing water issues prior to patio. Mr. Kula said no. He said the sewers were added prior to his purchase of the home.

Chairman DeFalco asked about the driveway portion that is closest to the grass area by the deck. Mr. Kula said they considered removing a strip, but the driveway is narrow. Mr. Kula noted it does open to the south, however, there would be a driveway, then mulch or grass, and then the patio. Chairman DeFalco said in other cases the petitioners removed coverage to get closer to the 50%. He referenced a past case on Wilson. Mr. Kula said it's a 2-car garage and they need to fit both cars in the garage. Chairman DeFalco asked about the area south of garage and the area by the deck stairs. Mr. Kula said that could be considered.

Mr. Bartels said the deck is raised. He asked if that matters for open space. Ms. Ganser said it does not.



Ms. Johnson asked if a balcony would be considered coverage and Ms. Ganser said yes.

Ms. Johnson noted the patio was constructed around the sewer. Mr. Kula said they needed to work with the sewer and installed the patio around that.

Mr. Conway asked if legal action was taken against the contractor. Mr. Subach said not yet. He said the contractor was made aware of the issue. Mr. Kula said the contractor did try to apply for a permit. Mr. Kula said they are unsure of all damages and unsure on legal action.

Chairman DeFalco asked if the attorney looked into the contractor. Mr. Subach said no.

Mr. Meadows asked what material is the patio and if it is stone. Ms. Kula said it's a natural stone. Mr. Meadows asked if they consider the patio landscaping and asked if they consider it decorative. The Kula's responded yes to both.

Chairman DeFalco asked if a patio is a structure and Mr. Meadows said he thinks its landscaping and decorative materials. Ms. Ganser read the definition of structure from the Zoning Ordinance and noted that staff considers it a structure.

"Structure is anything which is constructed or erected which requires permanent location on the ground or attachment to something having permanent location on the ground."

Chairperson DeFalco summarized the petition and asked for a motion.

Mr. Tap made a motion to recommend denial of the petition. Ms. Newman seconded the motion. The Zoning Board of Appeals voted 3-4 that the Village Board deny the petition associated with ZBA 23-01. The motion failed as it did not have four votes.

Mr. Conway made a motion to recommend approval of the petition. Mr. Bartels seconded the motion.

Mr. Meadows said if the lot was 5' wider the open space would be more than 50%. He said this is reasonable use of the owner's property. He said the petitioner did not adequately discuss the narrowness of the lot.

The Zoning Board of Appeals voted 4-3 that the Village Board approve the petition associated with ZBA 23-01, 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.
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report including:
  - a. the submittal of the engineering analysis to the Village ninety (90) days after Village Board approval, and
  - b. the completion of any potential improvements within ninety (90) days of the report submitted date.



- c. In the event the aforementioned engineering analysis and/or potential improvements is not completed in the timeframe approve, the patio shall be removed and the zoning relief shall be null and void.
4. The variance is for the current patio only and shall not be used for purposes such as a home addition or additional structures.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson  
Zoning Board of Appeals



**February 22, 2023**

**Title**

ZBA 23-01

**Petitioner & Property Owner**

Greg Kula  
327 S. Lombard Avenue  
Lombard, IL 60148

**Property Location**

327 S. Lombard Avenue

**Zoning**

R2 Single-Family Residence

**Existing Land Use**

Single-Family Home

**Comprehensive Plan**

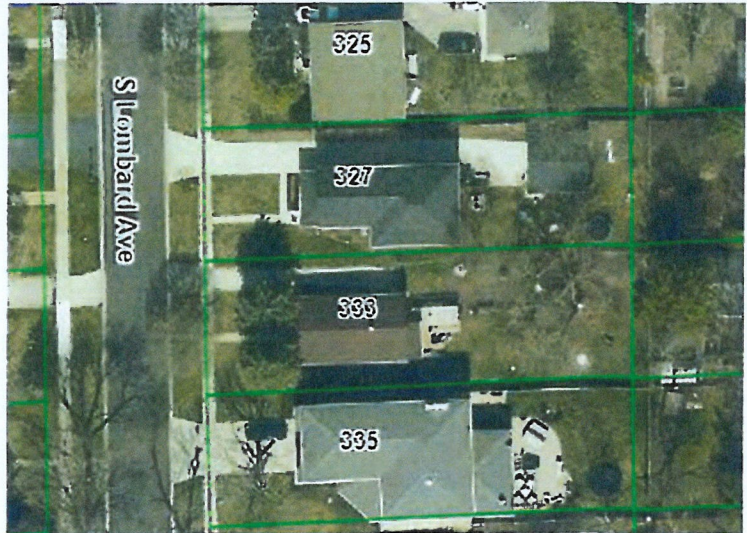
Low Density Residential

**Approval Sought**

A variation from Section 155.407(H) of the Lombard Code of Ordinances to allow for forty-five percent (45%) of the lot area to be preserved in open space, where a minimum of fifty percent (50%) lot area preserved in open space is required in the R2 Single-Family Residence District

**Prepared By**

Jennifer Ganser, AICP  
Assistant Director



**LOCATION MAP**

**PROJECT DESCRIPTION**

The subject property is developed with a single-family home. The property owner installed a four hundred and seventy-seven (477) square foot brick paver patio in their rear yard in 2021 without a permit. As a result, the property exceeds the maximum lot coverage.

**APPROVALS REQUIRED**

The petitioner requests that the Village grant a variation from Section 155.407(H) of the Lombard Code of Ordinances to allow for forty-five percent (45%) of the lot area to be preserved in open space, where a minimum of fifty percent (50%) lot area preserved in open space is required in the R2 Single-Family Residence District.

**EXISTING CONDITIONS**

The property contains an existing house with detached garage, driveway, front and back decks, and the patio.



## PROJECT STATS

### Lot Size

Parcel Area: 0.18 acres  
8,000 square feet  
Parcel Width: 50 feet

### Surrounding Zoning

North, east, south and west:  
R-2, Single Family Residential

### Submittals

1. Petition for public hearing;
2. Response to standards for variation;
3. Plat of survey prepared by Taurus Engineering, LLC, dated September 3, 2016;
4. Pictures of deck and sewer;
5. Petition of approval submitted by the petitioner, signed by neighbors; and
6. Email from neighbor.

## INTER-DEPARTMENTAL REVIEW

### **Building Division:**

The Building Division has no comments regarding the petition. Additional comments may be forthcoming during permit review.

### **Fire Department:**

The Fire Department has no comments regarding the petition. Additional comments may be forthcoming during permit review.

### **Private Engineering Services:**

Private Engineering Services (PES) notes that should the petition be approved, as a condition for approval, the petitioner will need to have an engineering analysis completed on the existing storm sewer pipe that drains their property. The analysis would include:

- the total capacity of the pipes (in cubic feet per second [CFS]) in their as-built condition,
- the total flow to the private storm sewer before the addition of the patio,
- the total flow to the private storm sewer with the full patio, and
- the hydraulic grade line elevation of the storm sewer at each open-grate structure.

This information will allow the Village to verify that the addition of the patio will not negatively impact adjacent properties. Additional comments may be forthcoming during permit review.

### **Public Works:**

The Department of Public Works has no comments regarding the petition. Additional comments may be forthcoming during permit review.

### **Planning Services Division:**

In 2021 the petitioner had a contractor build a new patio. A permit was not obtained. Per the submitted plat of survey, the property is 50' and 8,000 square feet. Village Code currently requires a minimum lot area of 7,500 square feet in the R2 Zoning District. According to the York Township Assessor, the home on the subject property was built in 1921, prior to the 1950s when the Village began keeping permit records.

A previous homeowner did receive a permit in 2016 for an addition and new garage, permit number RB16-00000004. It was noted on the permit at that time, that with the new improvements, open space would be at 51%, where 50% is required. The raised front wood porch and raised back deck are counted as lot coverage, as is the house, garage, driveway, and patio.



Staff received a service request on the address regarding the patio in 2021. At that time, it was found that a permit was not applied for. Staff contacted the property owner to request a permit application and begun to review the project. Staff did an open space calculation which is below. This showed that the property was over the 50% lot coverage.

lot area (per Assessor)	8,000.0	
<b>Existing Improvements</b>		
house	1,495.0	
drive	1,700.0	
garage	402.0	
deck	216.0	
front walk	149.0	
patio (proposed)	477.0	
<hr/>		
lot coverage	4,439.0	55%
open space	3,561.0	45%
minimum required by Code (50%)	4,000.0	
<i>excess sq ft covered</i>	<i>(439.0)</i>	

To be granted a variation, petitioners must show that they have affirmed each of the standards for variations outlined in Section 155.407(F)(3). Staff offers the following commentary on these standards with respect to this petition:

- a. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.*

The property exceeds Code on lot area coverage. Staff finds that there are no conditions related to the property that prevent compliance with the established regulations. The property does not have physical surroundings, shape, or topographical features that differ substantially from other lots in the neighborhood.

- b. *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 petitioner notes the subject property has a detached garage and long driveway. This is not unique in Lombard, or to the block, and these circumstances are not specific to the subject property. The raised front wood porch and raised back deck are counted as coverage regardless as to whether the grade surface is pervious or impervious, as is the house, garage, driveway, and patio. Staff finds that the conditions are not unique to the subject property. Many other properties with a similar layout and design have been able meet the established regulations.

- c. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

The petitioner noted that it would cost \$10,000 to remove the patio. Staff notes that cost is not a hardship.



- d. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.*

The ordinance has not created a hardship. If a permit was applied for, the applicant would have been notified that the lot coverage exceeded Code. The difficulties were created by not applying for a permit before the patio installation and by not removing the patio after they were notified of the violation.

- e. *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.*

Per comments from the Private Engineering Services Division, the petitioner will be required to complete an engineering analysis on the existing storm sewer pipe, should the petition be approved. Staff will review the analysis. Should staff find that a negative impact has occurred the property owner will be required to mitigate the problem. Permits may be required for additional work, depending on the scope and nature of the project. This would be memorialized in a potential ordinance of approval.

Staff notes that there is no hardship for the additional lot coverage. The property is located within a block of single-family homes, many with detached garages. Regardless of the lot width and area of an individual lot, the lot coverage of 50% stays the same.

Staff was notified of the patio without a permit by a service request to Code Enforcement. Neighbors may be concerned about flooding and how the additional lot coverage could impact neighborhood flooding.

The property has a separated sewer system at the house, that leads into a combined system. A combined sewer system has sewers that carry sanitary waste as well as rainfall runoff. The majority of the Village has separate sewer systems for sanitary and storm. Roughly one third of Lombard has combined sewers that continue to drain into a downstream combined sewer. Combined sewer areas have a higher chance of reaching capacity since the sewer carries flow from two sources, as opposed to one.

- f. *The granting of the variation will not alter the essential character of the neighborhood.*

Staff notes that there is no hardship for the additional lot coverage. The property is located within a block of single-family homes, many with detached garages. Regardless of the lot width and area of an individual lot, the lot coverage of 50% stays the same.

- g. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood*

Per comments from the Private Engineering Services Division, the petitioner will be required to complete an engineering analysis on the existing storm sewer pipe as noted in standard c.

In recent years there have been eight (8) other ZBA petitions requesting relief from the 50% open space requirement. However, in numerous cases the lot coverage was remaining the same or decreasing. As an example, ZBA 16-02 started over the 50% lot coverage. The improvements decreased the amount of lot



coverage; however, it was still over 50%. Therefore, a variance was requested and ultimately approved bringing the property closer into compliance.

Staff has generally not supported relief for lot coverage either through a variance or in a discussion with a property owner. As a result, many property owners do not apply for variances and instead meet Code.

ZBA Case	Request	ZBA Action	BOT Action
117 W. Windsor Avenue (ZBA 20-01) Staff recommended approval	Variation to allow for 49% of a nonconforming lot of less than 7,500 square feet to be preserved in open space; petitioner wished to extend a deck and install an ADA ramp	Approval	Approved
511 N. Lombard Ave (ZBA 16-02) Staff recommended approval	Variation to reduce open space to 48.5%; at preexisting conditions, the property had 46.52% open space; improvements brought the property to 48.5% open space	Approval	Approved
418 W. Wilson (ZBA 09-10) Staff recommended denial	Variation to reduce open space to 42.55%; for improvements in excess of what was permitted by Code, and some without a permit	Approval	Approved *
125 S. Stewart (ZBA 06-12) Staff recommended denial	Variation to reduce open space to 45.6%; for a three-seasons room addition over a portion of the existing deck	Approval	Approved
345 S. Stewart (ZBA 04-09) No staff recommendation	Variation to reduce open space to 47.4%; to construct a new garage	Approval	Approved
342 N. Martha (ZBA 02-27) Staff recommended denial	Variation to reduce open space to 46%; to construct a new deck addition that increased the non-conformity by 313 square feet	Approval	Approved
112 N. Main (ZBA 02-11) Staff recommended approval	Variation to reduce open space to 42%; to replace an existing garage; the new garage increased the non-conformity by 42 square feet	Approval	Approved
528 S. Lalonde (ZBA 01-14) Staff recommended approval	Variation to reduce open space to 43%; petitioner wished to replace pool with same dimensions as previous structure	Approval	Approved

(\*418 W. Wilson was ultimately approved by the Village Board. However, this case discussed many issues including, but not limited to, a deck built without a permit, a variation for the deck setback, property grading, drainage issues, and open space. The original petition requested approximately 36.5% of open space. The petitioner worked with staff to make changes and ultimately receive a variance for 42.55% open space.)



The petitioner submitted a petition signed by four (4) neighbors in support of the variance. The petition is attached.

A neighbor submitted a letter expressing concerns on the variance. The letter is attached. The letter asks if the two storm inlets and one storm sewer are allowed by the Village. Per the Private Engineering Division those inlets are connected with pipes leading to Village storm sewer and is considered a standard design. The as-builts (from 2018) indicate that there are swales at each side of the house directing runoff to the inlets. The inlets are actually collecting runoff from the neighboring properties as well, based on the elevations.

### **FINDINGS & RECOMMENDATIONS**

The Department of Community Development has determined that the information presented **has not 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 **denial** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation does not comply with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-departmental Review Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities denial of ZBA 23-01.

#### **Alternate Recommendation**

Should the ZBA wish to make a motion of approval, staff has written an alternate motion with suggested conditions:

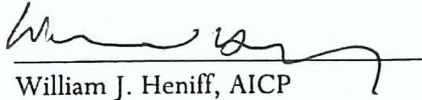
Based on the submitted petition and the testimony presented, the requested variation does comply with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings as discussed at the public hearing, and those findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities approval of ZBA 23-01 subject to 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.
3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report including:
  - a. the submittal of the engineering analysis to the Village ninety (90) days after Village Board approval, and
  - b. the completion of any potential improvements within ninety (90) days of the report submitted date.
  - c. In the event the aforementioned engineering analysis and/or potential improvements is not completed in the timeframe approve, the patio shall be removed and the zoning relief shall be null and void.



4. The variance is for the current patio only and shall not be used for purposes such as a home addition or additional structures.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

# Hunt Subach Ltd.

ATTORNEYS AT LAW

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MARSHALL J. SUBACH  
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Philip D. Blomberg

December 29, 2022

William J. Heniff  
Director of Community Development  
Village of Lombard  
255 E. Wilson Avenue  
Lombard, IL 60148

RE: Petitioner: Gregory Kula, Petition for Variance  
Property Address: 327 S. Lombard Ave, Lombard, IL 60148  
Our File No.: 22-0600

Dear Mr. Heniff,

Please be advised my office represents the Petitioner, Gregory Kula, who is seeking a variance for his residential real estate located at 327 S. Lombard Ave, Lombard, IL 60148.

The requested variance is to allow an existing installed brick paver patio in the rear of my client's property to remain. Based upon the above, the Petitioner is seeking a variance of the minimum required open space in the R-2 District from fifty percent (50%) to fifty-five percent (55%), or a five percent (5%) variance.

In the way of background, the Petitioner, Gregory Kula, is a longtime resident of Lombard. He married and raising his children with his wife at their residence at 327 S. Lombard Ave, Lombard, IL 60148. The property is zoned as R-2 and is an improved single family home with a detached garage. The paver brick patio was installed by the Petitioner to improve the outside space of the residence, but also to allow his minor children a place to play outside where they can still be observed from the rear of the home by the Petitioner and his wife.

In March of 2021, the Petitioner entered into a contract with Beaumont Landscape to install a brick paver patio in the rear yard of the property. The patio installation was completed in 2021. Under the contract, the contractor, Beaumont Landscape, was responsible to obtain all required permits. Mike Beaumont of Beaumont of Beaumont Landscaping advised my client that permits were not required for the project.



After installation, the Petitioner determined that permits were not pulled and required for the paver patio. Beaumont Landscape subsequently applied for the permit and it was determined that the Petitioner was over the open space limits by 5%.

The existing paver patio is four hundred and seventy-seven (477) square feet. If the variance is denied, all of the brick paver patio will need to be removed other than thirty-eight (38) square feet, which is simply not functional.

In response to Section 155.103.C.7 of the Lombard Zoning Ordinance, the Petitioner submits this in response to support his request for the requested 5% variance of the open space requirements:

1. Based upon the existing size of the Petitioner's lot and the existing improvements, there is a hardship to the Petitioner that without the granting of the variance, the Petitioner would be required to remove the entire brick paver patio. The Petitioner and his wife have evaluated the removal of part of the existing walkways or a portion of the driveway in order to come into compliance, however those will not gather enough square footage to have the existing patio meet code. In addition, the existing driveway is already narrow and would become less functional for ingress/egress to the garage if the width was reduced. The hardship to Petitioner is also the fact he paid over ten thousand dollars (\$10,000.00) to the Contractor to install the brick paver patio. The Petitioner understands that he is responsible for their contractor; however, the contract required the contractor to pull all necessary permits. In conversations with Village staff, the Petitioner determined that the Village of Lombard has had problems with the contractor, Beaumont Landscape not pulling permits on other similar jobs in Lombard. The Petitioner was unaware of the problems with Beaumont Landscape prior to entering into the contract.
2. There are certain conditions that are unique to this property that may not be applicable to other property in the R-2 district. First, the existing home has a raised front wood porch that has open permeable space underneath. The property also has a two hundred and sixteen (216) square foot raised wood deck in the rear of the property that also has impervious surface underneath. Second, the property has a very long driveway with a detached garage that is set back to the far rear of the property. All of these improvements were all in existence when the Petitioner purchased the home.
3. The purpose of the variation is not primarily based upon an increase in financial gain, but to allow the Petitioner to retain the existing brick paver patio, which has not caused any harm to any of the Petitioner's neighbors or surrounding properties as a result of the installation, as the brick paver patio has been in existence since 2021.
4. The hardship was not caused by the Petitioner but was caused by the Petitioner's contractor, Beaumont Landscape, who installed the patio without pulling proper permits. The Petitioner was not aware that the contractor failed to obtain required permits and that the Contractor would exceed the open space requirement by five percent (5%).
5. The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the R-2 district or the adjoining properties. The paver patio has been



installed for approximately two (2) years with no known issues of flooding or other water issues the surrounding properties. The Petitioner's property is unique in the fact that it has two (2) storm inlets already installed at the rear of the property. One 24-inch storm sewer is installed as part of the paver patio. The patio is pitched towards that drain so that most of the water that accumulates from the patio runs to the 24-inch drain. There is also a second 30-inch drain at the rear (North side) of the property for drainage. The Petitioner has not been contacted by any of his adjacent neighbors as to any issues with water runoff since the patio has been installed.

6. The granting of the variation will not alter the essential character of the neighborhood. The brick paver patio is actually an improvement to the existing property and the property's value. The neighborhood is a great mix of houses and the granting of the variance will not alter the essential character of the neighborhood. The paver patio is located in the rear of the Petitioner's property and not visible from the street.
7. The proposed variation will not impair the supply of light or air to adjacent properties and will not increase congestion of public streets, or impair natural drainage or create drainage problems for adjacent properties. As stated above the Petitioner has two (2) larger storm drains installed on his property and the installed paver patio has not created any known flooding issues over the last two years since installation.

Please contact my office with any additional required information. I have also enclosed pictures of the existing patio and drains. Thank you for your consideration.

Respectfully Submitted,



Marshall J. Subach  
Attorney for Petitioner  
Hunt & Subach, Ltd.

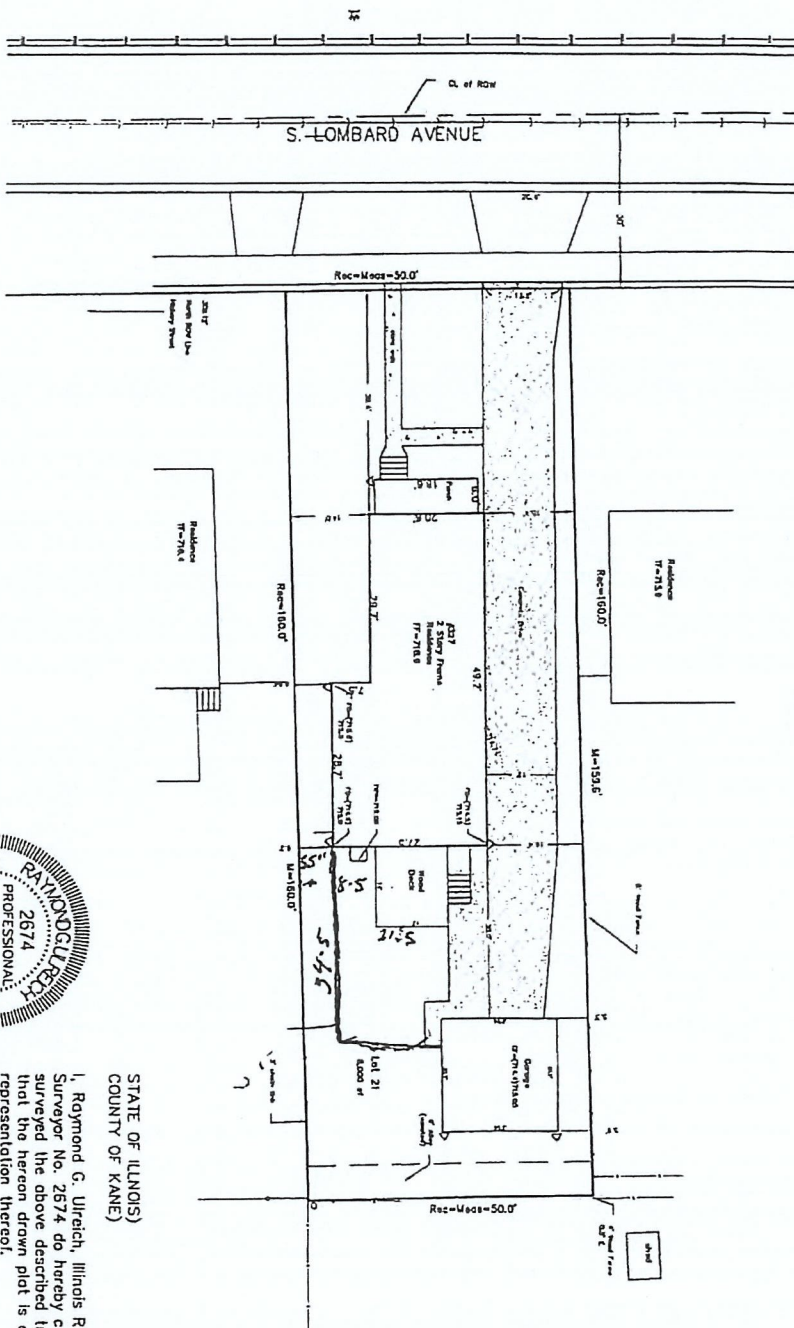


# Plat of Survey

Lot 21 in block 9 of Tower Park Subdivision, at Lombard, being a subdivision in Section 8, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded August 1, 1892 as Document 49334, in DuPage County, Illinois.

Legend  
 P.U.E. = Public Utility Easement  
 D.E. = Drainage Easement

Basis of Bearing:  
 The east line of Lombard Avenue was assumed as due North.



Taurus Engineering, L.L.C.

JNG55 E. Laura Ingalls Wilder Road  
 St. Charles, IL 60175  
 630-377-3997  
 Fax(630) 377-3998

Prepared For:	Property Address:	Scale: 1" = 20'
Blawie Home	327 S. Lombard	Date:
1712 Pershing Avenue	Revisions:	
Downers Grove, IL 60515		

All dimensions are in Feet and Decimals Thereof.



STATE OF ILLINOIS  
 COUNTY OF KANE

I, Raymond G. Ulrich, Illinois Registered Land Surveyor No. 2674, do hereby certify that I have surveyed the above described tract of land and that the hereon drawn plat is a true and correct representation thereof.

Dated this 3rd Day of September, 2016.

*Raymond G. Ulrich*  
 Raymond G. Ulrich  
 Expires 11-30-2018

This professional service conforms to the current Illinois minimum standards for a boundary survey.





















February 10, 2023

Department of Community Development

255 E. Wilson Avenue

Lombard, IL 60148

Re: Case No. ZBA 23-01

Location of Subject Property: 327 S. Lombard Avenue, Lombard, Illinois

PIN: 06-08-305-003

Attn: Jennifer Ganser, AICP

Assistant Director

Thank you for the information on the request for variance by the owner of 327 S. Lombard Avenue and the opportunity to submit comments.

It is regrettable that property owner, Gregory Kula, didn't confirm their contractor had the proper permit. But it is the homeowners' responsibility to do so. Seeing as how they lived in Lombard for many years, it seems to stretch believability that they wouldn't have asked not only to see the permit but to have it displayed in a window of their house during construction.

Now that the lack of permit has been pointed out, they are asking for a variance. I disagree that one should be granted. It is the homeowner's responsibility to ensure a proper permit is applied for and approved before work is begun, even though their contract with Beaumont Landscape specified that Beaumont Landscape was responsible to obtain all required permits.

The attorney's letter states that Mr. Kula determined after installation that permits were not pulled and (were) required. The questions arise: why did he wait and how long did he wait? The Village staff indicated that there have been previous problems with the contractor; even though Mr. Kula was "unaware of the problems with Beaumont Landscape prior to entering into the contract," this doesn't provide a reason for lack of due diligence, especially with a job with that large an expenditure.

The attorney's letter indicates in #3 that the patio..."has not caused any harm or any of the Petitioner's neighbors or surrounding properties as a result of the installation..." This statement is based on very little history, as the patio was installed in March 2021. So there are only two years of precipitation on which to base that statement. The years in question – 2021 and 2022 – had average or slightly below average precipitation.

The attorney's letter also states in #5 that two storm inlets and one storm sewer are installed on the Petitioner's property. Given the situation, I would like to ask if those drains are allowed by the Village. Further, the letter states in #7 that the variation will not "create drainage problems for adjacent properties" and my concern is that property maps and existence of swales haven't been examined and again, this is based on only two years of having this patio in place.

I would also like to comment on the claim that this variance would only be a "5% change." Increasing the size of the patio from 50% to 55% of the property is a 10% change from the allowed footprint to the current footprint.

Thank you for reviewing my comments and including them with information being distributed to the Plan Commission and the Petitioner.

Sincerely,

Sharon Rakowski

309 S. Stewart Avenue



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

**AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.407(H) OF THE LOMBARD VILLAGE CODE TO REDUCE THE REQUIRED OPEN SPACE FOR A PROPERTY LOCATED WITHIN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT**

**(ZBA 23-01: 327 S. Lombard 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 155.407(H) of the Lombard Zoning Ordinance to reduce the required open space for the subject property located within the R2 Single-Family Residence Zoning District to 45%, and;

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on February 22, 2023, 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 with a 4-3 vote 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 variations are hereby granted from the provisions of Section 155.407(H) of the Lombard Zoning Ordinance to reduce the open space for the subject property located within the R2 Single-Family Residence Zoning District to 45%.

**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.

Ordinance No. \_\_\_\_\_

Re: ZBA 23-01

Page 2

3. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report including:
  - a. the submittal of the engineering analysis to the Village ninety (90) days after Village Board approval, and
  - b. the completion of any potential improvements within ninety (90) days of the report submitted date.
  - c. In the event the aforementioned engineering analysis and/or potential improvements is not completed in the timeframe approve, the patio shall be removed and the zoning relief shall be null and void.
4. The variance is for the current patio only and shall not be used for purposes such as a home addition or additional structures.

**SECTION 3:** This Ordinance is limited and restricted to the property located at 327 S Lombard Avenue, Lombard, Illinois, and legally described as follows:

LOT 21 IN BLOCK 9 OF TOWER PARK SUBDIVISION, AT LOMBARD, BEING A SUBDIVISION IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 1, 1892 AS DOCUMENT 49334, IN DUPAGE COUNTY, ILLINOIS.

PIN: 06-08-305-003

**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 \_\_\_\_\_, 2023.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2023, pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

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

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



Ordinance No. \_\_\_\_\_

Re: ZBA 23-01

Page 3

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

ATTEST:

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

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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