

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

☒ Resolution or Ordinance (Blue) ☒ Waiver of First Requested
☐ Recommendations of Boards, Commissions & Committees (Green)
☐ Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : August 9, 2021

(BOT) Date: August 19, 2021

SUBJECT: ZBA 21-03: 114 N. Columbine Avenue

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

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 155.407(F)(1) of the Lombard Zoning Ordinance to reduce the required front yard setback from thirty feet (30') to twenty feet (20') for the subject property located within the R2 Single-Family Residence Zoning District.

The Zoning Board of Appeals made the recommendation of approval by a 4-0 vote. Please place this petition on the August 19, 2021 Board of Trustees agenda with a waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):


Finance Director _____ Date _____
Village Manager _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the agenda distribution.



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

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

MEETING DATE: August 19, 2021

SUBJECT: **ZBA 21-03: 114 N. Columbine Avenue**

Please find the following items for Village Board consideration as part of the August 19, 2021 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 21-03; and
3. An Ordinance granting approval of the requested variation.

The Zoning Board of Appeals made the recommendation of approval by a 4-0 vote. Please place this petition on the August 19, 2021 Board of Trustees agenda with a waiver of first reading.



VILLAGE OF LOMBARD

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August 19, 2021

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 21-03: 114 N. Columbine 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 155.407(F)(1) of the Lombard Zoning Ordinance to reduce the required front yard setback from thirty feet (30') to twenty feet (20') for the subject property located within the R2 Single-Family Residence Zoning District.

The Zoning Board of Appeals conducted a public hearing on February 24, 2021. Zubair Vhora, representative for the petitioner, and staff were sworn in by Chairperson DeFalco to offer testimony.

Mr. Vhora presented the petition. He said that the petitioner plans to build a second-story addition onto an existing single-family home. The second-story addition will stay within the footprint of the existing house. The house sustained storm damage in the winter of 2021, so repairs and work are needed. The home will be connected to the sanitary sewer system as well. [The home is presently connected to the Village's water system, but uses a septic field.]

Chairperson DeFalco asked if anyone from the public wanted to address the petitioner. Hearing none, he asked for the staff report.

Anna Papke, Senior Planner, presented the staff report, which was entered into the record in its entirety. The subject property was originally improved with a one-and-a-half-story single-family home. In March 2021, the Code Enforcement Division conducted an inspection and found that the property owner had torn the roof and top half story off the home without obtaining building permits. Upon submittal for a permit, the Planning Division reviewed the plat of survey and determined that the existing house is nonconforming with respect to the required front setback.

The existing house has a front setback of 20 feet, where a 30-foot front setback is required. The property owner intends to add a full second story plus attic space to the existing house, increasing the height of the house. The increased building height is considered an increase in the degree of the existing nonconformity. A variance is required.

In consideration of the petition, staff notes that the subject property was originally platted in 1906, and the house constructed in 1917. At the time of the original construction, the house was set back approximately 59 feet from the front property line. Subsequently, several right-of-way dedications altered the boundaries of the subject property, which in turn reduced the front setback of the existing house. Staff recognizes that the loss of part of the property through right-of-way dedication is a unique circumstance not generally applicable to properties in the Village. Further, staff recognizes that this development sequence creates a hardship for the property owner attempting to modify the existing home.

The proposed second-story addition will maintain the existing front setback of the house. The Village has previously approved setback variances for additions to existing homes in similar circumstances. Staff recommends approval of the request.

Chairperson DeFalco asked if there were any questions for staff or about the staff report.

Mr. Bartels noted the suggested conditions of approval did not note that if the house was damaged or destroyed in such a way that more than 50% of the value was lost, the property would need to be redeveloped to meet Village Code. Ms. Papke said the ZBA members could add such a condition to a motion for approval if desired.

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

Mr. DeFalco asked the petitioner's representative if the petitioner is aware that permits are required for this type of improvement. Mr. Vhora said the petitioner is now aware of the requirement for a permit.

Mr. DeFalco noted that going forward, the petitioner could consult the Village's website to determine if permits are required for any future work that may occur.

Mr. Vhora asked for clarification on the meaning of the proposed condition of approval that would require the property to be redeveloped to meet Village Code if the house sustained damaged greater or equal to 50% of the value of the house. Mr. DeFalco and Ms. Papke explained this provision as stated in the Village Code.

Chairperson DeFalco summarized the petition and asked for a motion from the Board.

Mr. Bartels made a motion to approve the petition with an added condition referencing that the structure would need to be built to Code if it sustained damage amounting to more than 50% of the value of the structure. Ms. Johnson seconded the motion. The Zoning Board of Appeals voted 4-0 that the Village Board approve the petition associated with ZBA 21-03, subject to the following seven (7) 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 addition;
3. The proposed addition shall comply with all applicable building codes;
4. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
5. Per the provisions of Section 50.11 of Village Code, the residence shall be connected to the existing sanitary sewer service line immediately to the south of the subject property;
6. This approval shall be subject to the construction commencement time provisions as set forth within Sections 155.103(C)(10) and (F)(11); and
7. In the event that the building or structure on the subject property is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

ZONING BOARD OF APPEALS

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

114 N. Columbine Avenue

July 28, 2021

Title

ZBA 21-03

Petitioner

Maaria Zamir Kothawala
6425 N. Longmeadow Ave.
Lincolnwood, IL 60712

Property Owner

Asma Khatun Zamir Kothwala
6425 N. Longmeadow Ave.
Lincolnwood, IL 60712

Property Location

114 N. Columbine Avenue

Existing Land Use

Single-Family Home

Comprehensive Plan

Estate Residential

Approval Sought

A variation from Section 155.407(F)(1) of the Lombard Zoning Ordinance to reduce the required front yard setback from thirty feet (30') to twenty feet (20') for the subject property located within the R2 Single-Family Residence Zoning District.

Prepared By

Anna Papke, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

The subject property is developed with a single-family home. The existing single-family home does not meet the required thirty-foot front yard setback. The property owner would like to build a second-story addition onto the residence. With the exception of a porch on the side of the house, the building footprint will not change. The addition will maintain the existing twenty-foot front yard setback.

APPROVALS REQUIRED

The petitioner requests that the Village approve a variation from Section 155.407(F)(1) of the Lombard Zoning Ordinance to reduce the required front yard setback from thirty feet (30') to twenty feet (20') for the subject property located within the R2 Single-Family Residence Zoning District.

EXISTING CONDITIONS

The property contains an existing one-and-a-half-story single-family residence with a detached garage.

PROJECT STATS

Lot Size

Parcel Area:	34,794 SF
Parcel Width:	151.81 feet (at front lot line)

Setbacks with proposed second-story addition

Front (east)	20.00 feet
Side (north)	78.34 feet
Side (south)	20.50 feet
Rear (west)	100+ feet

Surrounding Zoning & Land Use Compatibility

North: R2 (ComEd property)
East: R5 (apartments)
South: R2 (vacant)
West: DuPage County R-4 (ComEd property)

Submittals

1. Petition for public hearing, dated 6/21/21;
2. Response to standards for variation;
3. Plat of survey prepared by MM Surveying Co., Inc, dated 11/19/20; and
4. Architectural plans, prepared by Arlene Warda, AIA, dated 6/12/2021.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has the following comment regarding the petition. Additional comments may be forthcoming during permit review.

1. The Building Division sees no issue related to building codes, etc., pertaining to the proposed structure setback being 20 feet as opposed to the 30 feet required
2. The property appears to not be connected to the Village sanitary sewer system as required in Section 50.10. The property is within 250 feet of the available sanitary sewer. One trigger for the connection is the property transferring ownership, but the Village would not have known the various transfers of ownership. Separate from the Zoning matter, this connection will be noted on the plan review as required. If the sanitary sewer were to be more than 250 feet from the property, the plan set would have to go to DuPage County Health Department for a septic field review as the existing structure is being expanded in living space as well as plumbing fixtures. Even if this ordinance did not exist, the cost of replacing a existing septic system would likely be more than connecting to the available sanitary sewer.
3. A plumbing riser diagram was not included in the plans submitted, but the applicant should be aware a water service size increase may be required based on the new plumbing fixtures being added.

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) has no comments regarding the petition. 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:

The subject property was originally improved with a one-and-a-half-story single-family home. In March 2021, the Code Enforcement Division conducted an inspection and found that the property owner had torn the roof and top half story off the home without obtaining building permits. Upon submittal for a permit, the Planning Division reviewed the plat of survey and determined that the existing house is nonconforming with respect to the required front setback. The property owner intends to add a full second story plus attic space to the existing house, increasing the height of the house. The increased building height is considered an increase in the degree of the existing nonconformity. A variance is required.

The Zoning Ordinance requires single-family residences in the R2 District constructed before 2011 to maintain a minimum setback of thirty feet from the front property line. The residence is not meeting the thirty-foot setback requirement relative to the front (east) property line. The petitioner proposes to build a second-story addition onto the house. The petitioner also proposes a new porch on the south side of the house. With the exception of the porch, the building footprint of the existing house will not change. The proposed second-story addition will hold the existing front setback of the house at approximately twenty feet from the front property line.

The subject property is a portion of Lot 23 in E.W. Zander and Company's Addition to Lombard, a subdivision platted in DuPage County in 1906. According to the Milton Township Assessor, the house was built in 1917. Original construction occurred prior to adoption of the current setback requirements and prior to when the Village began keeping permit records in the 1950s. Staff found records of building permits issued for the following improvements to the house: a porch (1957); a garage (1977); an addition onto the rear of the house (1986); and a deck onto the rear of the house (2011). None of these permits would have altered the location of the front wall of the house. Staff therefore concludes that the location of the front wall of the existing house is consistent with the original construction in 1917.

Staff also notes that several right-of-way dedications have altered the boundaries of the subject property after original construction, which in turn reduced the front setback of the existing house. The plat of survey shows the location of the front lot line of Lot 23 as originally platted in 1906 (see Figure 1). The front setback of the house is approximately 59 feet from the original front property line of Lot 23. In 1934 and 1936, portions of Lot 23 were dedicated to the public for use as the Columbine Avenue right-of-way. As a result of these dedications, the front setback of the house was reduced from approximately 59 feet to the current 20 feet.

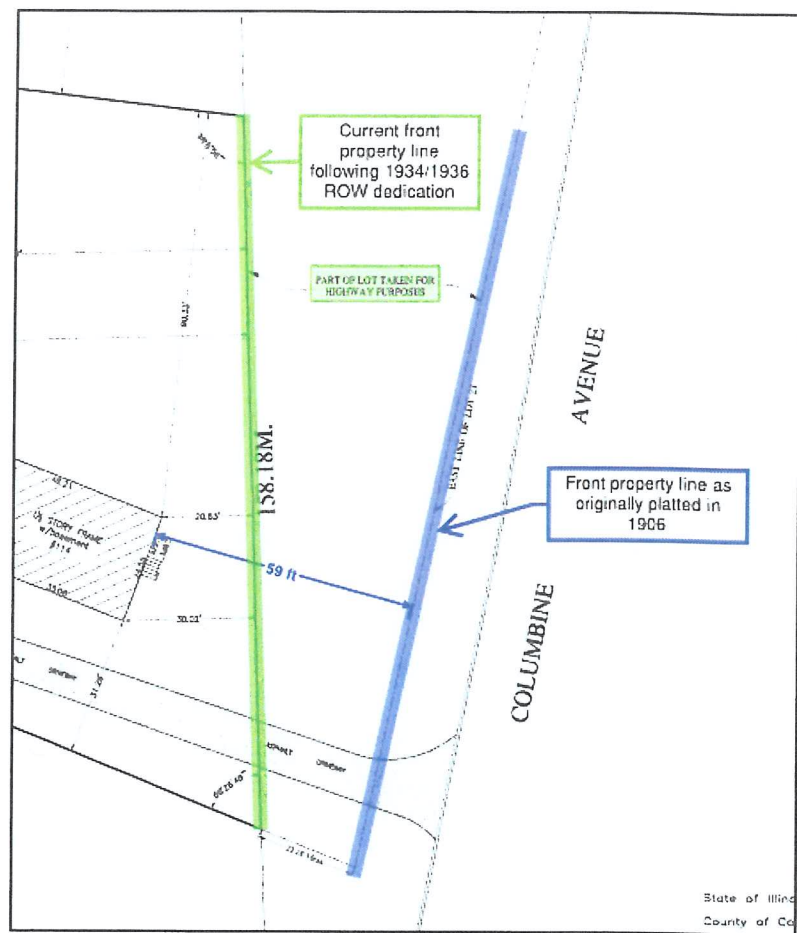


Figure 1. Annotated detail of plat of survey.

Staff recognizes that the loss of part of the property through right-of-way dedication is a unique circumstance not generally applicable to properties in the Village. Further, current setback requirements were adopted after the house was constructed and after the right-of-way dedication reduced the front setback. Staff recognizes that this development sequence creates a hardship for the property owner attempting to modify the existing home.

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.*

Following construction of the house in 1917, the boundaries of the subject property were altered by right-of-way dedications in 1934 and 1936. These dedications reduced the front yard setback of the house. Original construction and the right-of-way dedications occurred prior to adoption of the current front yard setback requirement. The resulting placement of the existing structure on the property limits the petitioner's ability to meet the intent of the ordinance.

- 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 house on the subject property is not currently meeting the required setback due to a dedication of right-of-way that altered the location of the front property line. These circumstances are specific to the subject property.

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

This standard is affirmed.

- 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.*

Staff finds that the hardship for this variation is due to the location of the existing structure in relation to the current front yard setback requirement. The existing house was built and the lot configuration altered via right-of-way dedication before the Village had adopted a Zoning Ordinance with setback requirements (1960). Presumably, the house met applicable standards at the time of construction. Current conditions on the property do not reflect the conditions under which the existing house was built.

- 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.*

This standard is affirmed. The existing house was built in 1917 with minor modifications made over the years. Since then, the existing house with a 20-foot front setback has not been detrimental to the public welfare or injurious to other properties. The proposed addition will hold the front setback of the existing house and will not further encroach into the requisite front yard. Staff also notes that the house maintains a deep setback from the improved portion of the Columbine Avenue right-of-way.

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

Staff finds that this standard is affirmed. The proposed improvement will maintain the existing front building line.

- d. *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*

The petitioner proposes to build the addition over the footprint of the existing house. The addition will hold the front setback line of the existing house. The addition is not expected to impact light or air supply to adjacent properties.

In consideration of precedent, staff has identified similar cases that appeared before the Zoning Board of Appeals in recent years. All of the cases listed below were requests to allow a reduced setback for an addition that held the setback of the existing residence.

Case No.	Address	Summary	ZBA Vote	BoT
ZBA 21-01	217 S. Brewster Ave.	4' Side Yard (6' Req'd.)	Approval	Approval
ZBA 20-05	235 S. Brewster Ave.	2' Side Yard (6' Req'd.)	Approval	Approval
ZBA 18-04	49 N. Garfield St.	3.5' Side Yard (6' Req'd.)	Approval	Approval
ZBA 14-09	317 N. Main St.	3' Side Yard (6' Req'd.)	Approval	Approval
ZBA 12-01	91 S. Chase Ave.	4.5' Side Yard (6' Req'd.)	Approval	Approval
ZBA 11-01	533 N. Columbine Ave.	4.5' Side Yard (6' Req'd.)	Approval	Approval
ZBA 10-11	148 W. Park Dr.	3' Side Yard (6' Req'd.)	No Recommendation	Approval
ZBA 09-04	126 S. Lombard Ave.	4.5' Side Yard (6' Req'd.)	Approval	Approval

Staff finds that the variation request meets the standards for variation.

FINDINGS & RECOMMENDATIONS

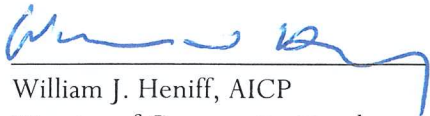
The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the aforementioned variation:

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 21-03 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 for the proposed addition;
3. The proposed addition shall comply with all applicable building codes;
4. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
5. Per the provisions of Section 50.11 of Village Code, the residence shall be connected to the existing sanitary sewer service line immediately to the south of the subject property; and

6. This approval shall be subject to the construction commencement time provisions as set forth within Sections 155.103(C)(10) and (F)(11).

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

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ORDINANCE NO. _____

AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.407(F)(1) OF THE LOMBARD VILLAGE CODE TO REDUCE THE REQUIRED FRONT YARD SETBACK IN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT

(ZBA 21-03: 114 N. Columbine 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(F)(1) of the Lombard Village Code to reduce the required front yard setback from thirty feet (30’) to twenty feet (20’) for the subject property located within the R2 Single-Family Residence Zoning District; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on July 28, 2021, 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 the provisions of Section 155.407(F)(1) of the Lombard Village Code to reduce the required front yard setback from thirty feet (30’) to twenty feet (20’) for the subject property located within the R2 Single-Family Residence Zoning 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 addition;
3. The proposed addition shall comply with all applicable building codes;
4. The petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report;
5. Per the provisions of Section 50.11 of Village Code, the residence shall be connected to the existing sanitary sewer service line immediately to the south of the subject property;
6. This approval shall be subject to the construction commencement time provisions as set forth within Sections 155.103(C)(10) and (F)(11); and
7. In the event that the building or structure on the subject property is damaged or destroyed, by any means, to the extent of more than 50 percent of the fair market value of such building or structure immediately prior to such damage, such building or structure shall not be restored unless such building or structure shall thereafter conform to all regulations of the zoning district in which such building or structure and use are located.

SECTION 3: This Ordinance is limited and restricted to the property located at 114 N. Columbine Avenue, Lombard, Illinois, and legally described as follows:

THAT PART OF LOT 23 LYING SOUTH OF A LINE WHICH IS 330 FEET SOUTHERLY OF (MEASURED AT RIGHT ANGLES) THE NORTHERLY LINE OF SAID LOT (EXCEPT THAT PART THEREOF TAKEN FOR HIGHWAY PURPOSES AS DESCRIBED IN DEEDS OF DEDICATION RECORDED AS DOCUMENT NOS. 348170 AND 368168), IN E.W. ZANDER AND COMPANY'S ADDITION TO LOMBARD, BEING A SUBDIVISION OF PARTS OF SECTIONS 1 AND 2, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PARTS OF SECTIONS 6 AND 7, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 20, 1906 AS DOCUMENT 88217, IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-01-407-002

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.

Ordinance No. _____

Re: ZBA 21-03

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Passed on first reading this _____ day of _____, 2021.

First reading waived by action of the Board of Trustees this _____ day of _____, 2021.

Passed on second reading this _____ day of _____, 2021, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2021.

Keith Giagnorio, Village President

ATTEST:

Elizabeth Brezinski, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2021

Elizabeth Brezinski, Village Clerk