

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


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

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : July 12, 2022, 2022 **(BOT) Date:** July 21, 2022

SUBJECT: ZBA 22-01: 809 S. Elizabeth Street

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)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20') to fourteen feet (14'), and a variation from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6') to five and seven tenths feet (5.7'), for the subject property located within the R2 Single-Family Residence Zoning District. The requested relief is for a second-story addition to an existing nonconforming single-family residence located on the subject property.

The Zoning Board of Appeals made the recommendation of approval by a 7-0 vote. Please place this petition on the July 21, 2022, 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 

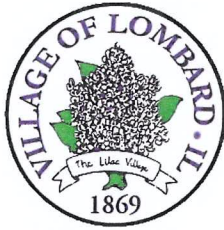
MEETING DATE: July 21, 2022

SUBJECT: **ZBA 22-01: 809 S. Elizabeth Street**

Please find the following items for Village Board consideration as part of the July 21, 2022, Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 22-01; and
3. An Ordinance granting approval of the requested variations.

The Zoning Board of Appeals made the recommendation of approval by a 7-0 vote. Please place this petition on the July 21, 2022, Board of Trustees agenda with a waiver of first reading.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

July 21, 2022

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 22-01 – 809 S. Elizabeth Street

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)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20') to fourteen feet (14'), and a variation from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6') to five and seven tenths feet (5.7'), for the subject property located within the R2 Single-Family Residence Zoning District. The requested relief is for a second-story addition to an existing nonconforming single-family residence located on the subject property.

The Zoning Board of Appeals conducted a public hearing on June 22, 2022. Anthony Lupo, petitioner, and Anna Papke, Senior Planner, were sworn in by Chairperson DeFalco to offer testimony.

Mr. Lupo presented the petition. He explained that he is requesting a variance to be able to build a second story addition onto his house. He noted that the second story will cantilever out a bit from the wall of the first story, but the second story would not encroach into the corner side yard any more than the existing bay window on the first floor. He said the addition is necessary because the existing house is small and he and his family require more space.

Chairperson DeFalco asked if anyone from the public had any 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. The existing single-family home does not meet the required twenty-foot corner side yard setback or the six-foot interior side yard setback. The property owner would like to build a second-story addition onto the residence. The second story addition will maintain the existing fourteen-foot corner side yard setback and 5.7-foot interior side yard setback. A variance is required.

The property owner also intends to build a new attached garage. The attached garage will meet all required setbacks.

In consideration of the petition, staff notes that the subject property is 51 feet wide and was platted in 1924, before the Village adopted the current minimum lot width requirement of 60 feet in the R2 District. Similarly, the house was built prior to the adoption of the current setback regulations. Staff recognizes that this development sequence creates a hardship for the property owner attempting to modify a home that was constructed prior to current zoning requirements.

The proposed second-story addition will maintain the existing side setbacks 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 opened the meeting up for discussion among the ZBA members.

Mr. Conway asked if the petitioner had been aware that the existing house does not conform to required setbacks when he purchased the property. Mr. Lupo said he had not been aware of this at time of purchase.

Chairperson DeFalco observed that there were many properties in the Village that had existing legal nonconforming developments on them.

Mr. Bartels asked if any of the examples of previous cases noted in the staff report were for variances to build additions to single-family homes in the corner side yard setback. Ms. Papke said the previous cases noted were all for interior side yard setback variances. However, she noted that the circumstances of the current petition were similar to the examples in that all were seeking to maintain an existing nonconforming side setback. She noted that there had been other cases for variances for the corner side yard setback, though the circumstances of those variances were slightly different than the present case (e.g. a variance for a porch in the corner side yard). Mr. DeFalco mentioned several examples he was aware of from petitions over his tenure on the ZBA.

Mr. Meadows asked if the deck on the west side of the house, in the corner side yard, meets Code. Ms. Papke said the deck is Code-compliant, and the petitioner received a permit for it within the last three years.

Mr. Meadows asked if the deck would be left as-is. Mr. Lupo said he has no plans to alter the deck.

Mr. DeFalco asked Mr. Lupo to clarify the garage layout. Mr. Lupo said the garage would be an attached three-car garage.

Mr. Tap said he had visited the property and did not perceive the requested variance would create any issues. He said the standard for variations had been met.

Mr. Bartels asked about the proposed condition of approval to require the property to come into compliance with Code in the event the structure sustains damage amounting to more than 50 percent of the fair market value of the structure. Mr. DeFalco said this was a common provision for ZBA cases, and provided some context for this provision.

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

Mr. Tap made a motion to recommend approval of the petition. Mr. Bartels seconded the motion. The Zoning Board of Appeals voted 7-0 that the Village Board approve the petition associated with ZBA 22-01, subject to the following five (5) 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 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 (F)(11);
5. 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

809 S. ELIZABETH STREET

June 22, 2022

Title

ZBA 22-01

Petitioner & Property Owner

Anthony Lupo
809 S. Elizabeth Street
Lombard, IL 60148

Property Location

809 S. Elizabeth Street

Zoning

R2 Single-Family Residence

Existing Land Use

Single-Family Home

Comprehensive Plan

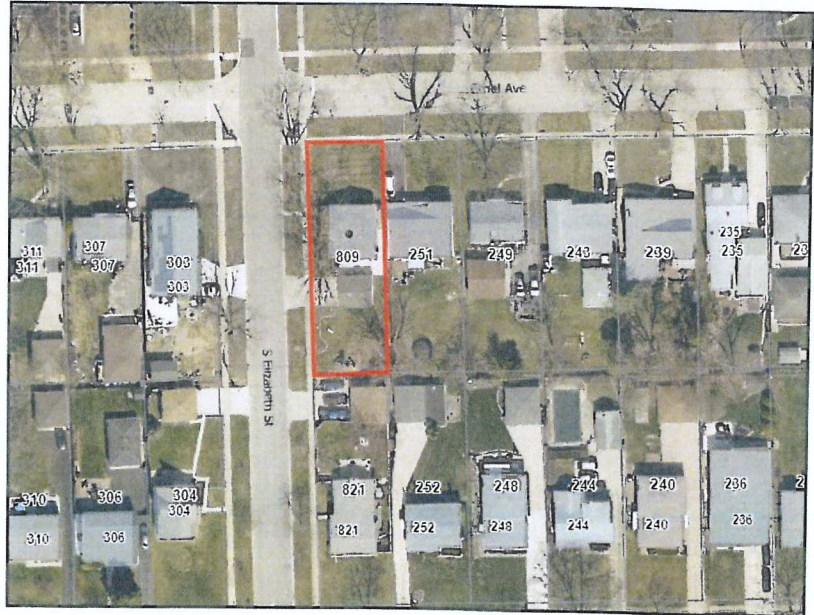
Low Density Residential

Approval Sought

A variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20') to fourteen feet (14'), and a variation from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6') to five and seven tenths feet (5.7'),

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 twenty-foot corner side yard setback or the six-foot interior side yard setback. The property owner would like to build a second-story addition onto the residence. The second story addition will maintain the existing fourteen-foot corner side yard setback and 5.7-foot interior side yard setback.

The property owner also intends to build a new attached garage. The attached garage will meet all required setbacks.

APPROVALS REQUIRED

The petitioner requests that the Village approve a variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20') to fourteen feet (14'), and a variation from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6') to five and seven tenths feet (5.7'), for the subject property located within the R2 Single-Family Residence Zoning District. The requested relief is for a second-story addition to an existing nonconforming single-family residence located on the subject property.

PROJECT STATS

Lot Size

Parcel Area: 8,007 SF

Parcel Width: 50.11 feet

Setbacks with proposed second-story addition

Front (north) 37.88 feet

Corner Side
(west) 14.09 feet

Side (east) 5.79 feet

Rear (south) 47.17 feet

Surrounding Zoning & Land Use Compatibility

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 Preferred Survey, Inc., dated 03/11/2014; and
4. Architectural plans, prepared by Jeffery J. Heaney, dated 5/30/2022.

EXISTING CONDITIONS

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

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) has no comments regarding the petition. Additional comments may be forthcoming during permit review.

Public Works:

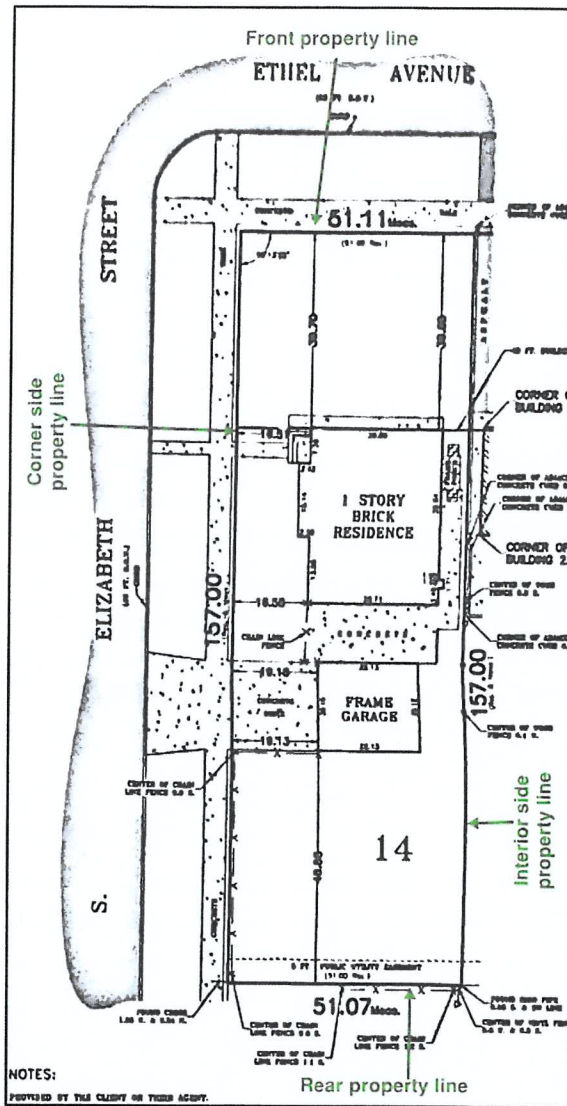
The Department of Public Works has no comments regarding the petition. Additional comments may be forthcoming during permit review.

Planning Services Division:

The Zoning Ordinance requires single-family residences in the R2 District to maintain a minimum corner side yard setback of 20 feet and a minimum interior side yard setback of six feet from property line. The residence is not meeting the required 20-foot corner side yard setback relative to the west property line, and is not meeting the required six-foot interior side yard setback relative to the east property line. The petitioner proposes to build a second-story addition onto the house. The second-story addition will hold the existing side setbacks of the house.

The property owner also proposes to construct an attached garage on the south end of the house. The garage will meet the required corner side, interior side, and rear yard setbacks.

The subject property is 51 feet wide, and is part of a subdivision of lots with widths ranging from 50 to 52 feet. The subdivision was platted in 1924 (Lombard Park Manor Subdivision). Village Code currently requires a minimum lot width of 60 feet in the R2 Zoning District, though the subject property is a buildable lot under the 80% provision in Section 155.209.



Subject property



*Subject property viewed from corner side yard
(Elizabeth Street)*



Subject property viewed from front yard (Ethel Avenue)

According to the York Township Assessor, the home on the subject property was built in 1956. The Village issued a permit for the construction of the house in 1955. The site plans for the original house are not available in Village records, but the existence of a permit suggests the house met all applicable development regulations in place at the time. Staff finds no records of building permits issued for an addition to the house, and therefore concludes that the footprint of the existing house is consistent with the original construction in 1956. The existing detached garage received a building permit in 1966.

The current Village Code went into effect after the subject property was developed, and contains lot width and setback requirements that the subject property does not meet. Staff recognizes that this development sequence creates a hardship for the property owner attempting to modify a home that was constructed prior to current zoning requirements.

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 subject property is 51 feet wide, and is part of a subdivision platted in 1924. The current minimum lot width in the R2 Zoning District is 60 feet, though the subject property is a buildable lot under the 80% provision of Village code. A 51-foot lot width could be considered unique when compared to the overall Village housing stock. Further, the existing structure was constructed in 1956, prior to current yard setback provisions. The substandard lot width, combined with the placement of the existing structure on the property, limits the petitioner's ability to meet the current zoning requirements.

- 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 subject property is a 51-foot wide lot of record in a legally established subdivision. The second-story addition will hold the side setback lines of the existing house. 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 and area of the existing structure in relation to the current corner side and interior side yard setback requirements. The existing house was built before the Village had adopted a Zoning Ordinance with setback and lot width

requirements (1960). Presumably, the house met applicable standards at the time of construction. Current setback and lot width requirements 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 prior to 1960. Since then, the house has not been detrimental to the public welfare or injurious to other properties. The proposed second-story addition will hold the side setbacks of the existing house and will not further encroach into the requisite yards. The garage addition will meet all applicable setbacks.

Staff does not believe the proposed second-story addition will have a negative impact on adjacent properties. The height of the house with the proposed addition will be 24.75 feet (Village Code defines building height as the mean level between the eaves and the peak of the roof). Maximum building height in the R2 District is 30 feet.

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

Staff finds that this standard is affirmed. The second-story addition will maintain the existing side building lines.

- 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*

The petitioner proposes to build the second-story addition over the footprint of the existing house. The second-story addition will hold the side setback lines of the existing house. The addition is not expected to impact light or air supply to adjacent property.

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 reduce an interior side yard setback for an addition that held the setback of the existing residence. Several of these cases involved 50-foot wide lots with circumstances similar to those on the subject property.

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 the variation request meets the standards for variation.

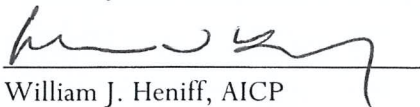
FINDINGS & RECOMMENDATIONS

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 22-01 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 for the proposed addition;
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 (F)(11);
5. 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.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

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PETITIONERS' GUIDE TO THE ZONING BOARD OF APPEALS

VIII. STANDARDS FOR VARIATIONS

The following is an excerpt from the Lombard Zoning Ordinance. A **detailed response** to all of these standards should be provided for all variations of the Lombard Zoning Ordinance and Lombard Sign Ordinance.

SECTION 155.103.C.7 OF THE LOMBARD ZONING ORDINANCE:

The regulations of this ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirms each of the following standards:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied. *It would cut down significant amount of living space for two of the bedrooms on the second floor.*
2. 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. *It applies to the side of the house that faces the street so no neighbors would be impacted.*
3. The purpose of the variation is not based primarily upon a desire to increase financial gain. *No, it is solely to increase living space.*
4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property. *Correct, the ordinance is the only thing causing this hardship.*
5. 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. *Correct, it will not be. This is only a slight extension to the second level towards the street, not an extension of the first level.*
6. The granting of the variation will not alter the essential character of the neighborhood; and, *this addition will only add to the character of the neighborhood, as it will bring a modern & more updated aesthetic.*
7. 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. *None of these concerns will apply, as it is only an additional 3 ft of living space towards the street.*

ORDINANCE NO. _____

AN ORDINANCE APPROVING A VARIATION FROM TITLE XV, CHAPTER 155, SECTION 155.407(F)(2) OF THE LOMBARD VILLAGE CODE TO REDUCE THE REQUIRED CORNER SIDE YARD SETBACK, AND A VARIATION FROM SECTION 155.407(F)(3) TO REDUCE THE INTERIOR SIDE YARD SETBACK, FOR A PROPERTY LOCATED WITHIN THE R2 SINGLE-FAMILY RESIDENCE DISTRICT

(ZBA 22-01: 809 S. Elizabeth Street)

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)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20’) to fourteen feet (14’), and a variation from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6’) to five and seven tenths feet (5.7’), 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 June 20, 2022, 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 variations are hereby granted from the provisions of Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty feet (20’) to fourteen feet (14’), and from Section 155.407(F)(3) to reduce the required interior side yard setback from six feet (6’) to five and seven tenths feet (5.7’), 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 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 (F)(11);
5. 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 809 S. Elizabeth Street, Lombard, Illinois, and legally described as follows:

LOT 14 IN BLOCK 7 IN LOMBARD PARKMANOR, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 39 NORTH RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDIGN TO THE PLAT THEREOR RECORDED OCTOBER 9, 1924, AS DOCUMENT 183452, IN DUPAGE COUNTY, ILLINOIS.

PIN: 06-18-212-001

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 _____, 2022.

First reading waived by action of the Board of Trustees this _____ day of _____, 2022.

Ordinance No. _____

Re: ZBA 22-01

Page 3

Passed on second reading this _____ day of _____, 2022, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2022.

Keith Giagnorio, Village President

ATTEST:

Elizabeth Brezinski, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2022

Elizabeth Brezinski, Village Clerk