#100510
DISTRICT #6

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: David A. Hulseberg, Village Manager

DATE: September 29, 2010 (B of T) Date: October 7, 2010

TITLE: ZBA 10-11: 148 W. Park Dr.

SUBMITTED BY: Department of Community Development

BACKGROUND/POLICY IMPLICATIONS:
The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to three feet (3') where six feet (6') is required within the R2 Single-Family Residence District.

As the Zoning Board of Appeals was unable to obtain four votes either for approval or denial of the petition, it is being forwarded to the Board of Trustees with no recommendation.

The petitioner is requesting a waiver of first reading.

Please place this item on the October 7, 2010 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:
Review (as necessary):
Village Attorney X_____ Date _____
Finance Director X_____ Date _____
Village Manager X_____ Date 9/29/10

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: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP,
Director of Community Development WH

DATE: October 7, 2010

SUBJECT: **ZBA 10-11; 148 W. Park Dr**

Please find the following items for Village Board consideration as part of the October 7, 2010 Village Board meeting:

1. Zoning Board of Appeals referral letter;

2. An Ordinance granting approval of a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to three feet (3') where six feet (6') is required;

3. IDRC report for ZBA 10-11;

4. Letter from petitioner dated August 27 requesting a waiver of first reading; and

5. Plans associated with the petition.

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial of the petition. Therefore, this petition is being forwarded to the Village Board with no recommendation. Please place this item on the October 7, 2010 Board meeting under Items for Separate Action. The petitioner has also requested a waiver of first reading

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VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
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October 7, 2010

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

Subject: ZBA 10-11; 148 W. Park Dr

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(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to three feet (3') where six feet (6') is required within the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on September 22, 2010.

Bryan Rehfeldt, son of the property owner, presented the petition. Mr. Rehfeldt stated that a major portion of the home was destroyed by fire in February. He added that it was a total loss. Mr. Rehfeldt then stated that the insurance company required that the house be rebuilt to its original state. He then added that the family has decided to sell the house once it has been rebuilt, but he (personally) has no vested interest in the property. He stated that he was acting on behalf of his father who does not have the capacity to present the petition. Lastly, he stated that they plan to rebuild the home the way it was.

Michael Toth, Planner I, asked the petitioner to provide clarification on the carport/garage history as the permit history is unclear.

Bryan Rehfeldt stated that the original carport was converted into an attached garage about 25 years ago. He added that the work was done without a permit.

Mr. Toth stated that testimony has been provided, which indicates that the garage (that was destroyed by the fire) was never lawfully established in the first place. He added that the record should reflect this information. Mr. Toth also stated that the record should reflect that the carport was actually an attached garage. He noted that the structure was destroyed before staff had the opportunity to visit the site and make note of the site improvements.

Dean Comber, 144 W. Park, asked whether or not the Fire Department had any issues with the reduced setback. He asked if this was a safety concern.

Mr. Toth stated that the Fire Department had the opportunity to review the case through the IDRC process. He stated that the Fire Department had no comment on the case, which means that they didn't believe that this was a safety hazard.

Chairperson DeFalco then requested the staff report.

Mr. Toth presented the staff report. The property contains a split-level single family residence which once contained a carport on the eastern portion of the residence. Due to recent fire damage, the residence has undergone a number of internal improvements. Unrelated to the fire damage, the carport was also demolished. The petitioner now plans to construct an attached garage where the carport once existed. The new construction would maintain the original carport setback of three feet (3'). The Zoning Ordinance requires that the new construction meet an interior side yard setback of six feet (6'). Therefore, a variation is necessary.

The petitioner is proposing to construct an attached garage where a carport once existed. The original carport was three feet (3') from the side lot line. The proposed attached garage addition would occupy the same footprint of the carport. Therefore, the addition would be set back three feet (3') and would be one-story in height.

As the proposed addition would maintain the building line of the original carport, it would not increase the degree of encroachment into the side yard. Staff notes that a two-car attached garage could not be constructed in any other portion of the house. The eastern portion of the existing residence (directly north of the proposed garage location) maintains a six foot (6') setback and the western portion of the residence is setback eight feet (8'), respectively. As such, there is inadequate space to allow a driveway to the rear of the residence to construct a detached garage. These setback deficiencies can be attributed, in part, to the width of the lot being fifty-four feet (54'). This lot width would be considered substandard by current Zoning Ordinance requirements that lots zoned R2 must be sixty feet (60') in width.

Listed below are several ZBA cases in which similar variation requests were made where the addition holds the setback of the existing residence and does not further encroach into the requisite yard. Examples of these variations include:

1) The property at 576 Green Valley Drive received approval of a variation to reduce the required interior side yard setback from six feet (6') to two feet (2') for the conversion of a carport into a garage and for a residential addition (ZBA 03-10).

2) The property at 828 S. Fairfield received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and one-half feet (2.5') for a residential addition (ZBA 05-14).

3) The property at 219 W. Hickory received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and one-half feet (2.5') for an attached garage (ZBA 06-14).

4) The property at 259 N. Garfield received approval of a variation to reduce the required interior side yard setback from nine feet (9') to 7.88 feet for a second story addition holding the previously developed exterior wall of the residence (ZBA 07-12).

5) The property at 217 N. Craig Place received approval of a variation to reduce the required interior side yard setback from nine feet (9') to 7.9 feet for a sunroom at the rear of the home holding the previously developed exterior wall of the residence (ZBA 08-03).

6) The property at 126 S. Lombard received approval of a variation to reduce the required interior side yard setback from six feet (6') feet to four and one-half feet (4.5') for an addition that held the previous setback line (ZBA 09-04).

Staff finds that this petition meets the Standards for Variations. The proposed location for the addition and garage are due to the existing configuration of improvements on the lot. The proposed attached garage would be constructed within the footprint of the previously existing non-conforming structure (the testimony provided clarifies that it was not a 'legal' structure) and would therefore not increase the degree of setback non-conformity than what previously existed for many years. Lastly, the western portion of the neighboring property (directly to the east of the subject property) is improved with a driveway. As such, that residence (144 W. Park) has a side yard setback of eleven (11) feet. Furthermore, the separation between the subject principal structure and that of the neighbor to the east would be fourteen (14) feet. Mr. Toth stated that this is important to note because the side yard setback in the R2 District is six (6) feet so in most situations homes in the R2 District are usually only spaced twelve (12) feet apart.

Concluding, Mr. Toth stated that staff is recommending approval of ZBA 10-11, subject to the five conditions outlined in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Mr. Young asked if the property was located on Green Valley. He also questioned the addition location mentioned in the staff report.

Mr. Toth stated that the property is located on Park, but Green Valley Drive does continue from Park Drive in that area. Mr. Toth also stated that the addition mentioned in the staff report refers to the addition on the subject property to the north of the proposed garage location.

Chairperson DeFalco asked if the proposed garage would be located in the same footprint as the previous garage.

Mr. Toth stated, yes.

Mr. Bartels questioned the framing and foundation of the proposed addition.

Karolina Boldyrew, representing the building company, stated that all framing and foundation will be brought up to code compliance.

Mr. Young asked what the setback is for the existing addition to the north of the proposed garage area.

Mr. Toth stated that the addition is set back six (6) feet. He added that the addition was properly permitted and met code.

Chairperson DeFalco gave an overview of the case. He then mentioned that past precedence has been established for cases that involve locating a structure in an existing footprint. He added that the precedence has been to recommend approval.

Mr. Bartels questioned the ability to track the past permits in order to establish the origin of the projects. He also questioned if carports were ever permitted at three (3) feet because there are a lot of them that exist at three (3) feet.

Mr. Young stated that the ZBA recommended approval of several of these types of variations.

Referring to Mr. Bartels statement, Mr. Toth stated that there was a flood in the 60's that wiped out a lot of permit data. He stated that (in his own opinion) it was possible that staff (at that time) made the interpretation that the eaves were permitted encroachments so maybe they deemed that a carport was essentially just an eave. He then stated that he looked through past zoning ordinances and did not find anything that would permit the carports to have a three (3) foot setback.

Chairperson DeFalco asked if the roof of the proposed garage extended out further into the yard.

Mr. Toth stated that (according to the plan) the roof extended out about six (6) to ten (10) inches.

Chairperson DeFalco then gave an overview of the five conditions of approval. He then questioned condition #1, which refers to an 'addition'.

Mr. Toth stated that an attached garage is considered to be an addition.

Mr. Bedard stated that the conditions should include information that prevents the variance to allow the three (3) foot setback to span the length of the property.

Mr. Toth stated that the condition ties the setback to the proposed plan only. Any addition setback reductions would require another variation.

Mr. Young questioned whether or not a two car garage is even possible at only seventeen and a half (17.5) feet.

Karolina Boldyrew stated that it is possible as the door is only sixteen (16) feet wide.

On a motion by Mr. Bartels and a second by Mr. Bedard, the Zoning Board of Appeals voted 2 to 3 that the Village Board deny the variation. The motion having failed, Mr. Young made a motion to approve the variation which was seconded by Dr. Corrado. The Zoning Board of Appeals voted 3 to 2 to approve the variation.

The ZBA was unable to obtain four votes for either approval or denial of the petition. Therefore, this petition will be forwarded to the Village Board with no ZBA recommendation.

Respectfully,

VILLAGE OF LOMBARD

John L. DeFalco

John DeFalco
Chairperson
Zoning Board of Appeals

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VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO:	Zoning Board of Appeals	HEARING DATE:	September 22, 2010
FROM:	Department of Community Development	PREPARED BY:	Michael S. Toth Planner I

TITLE

ZBA 10-11; 148 W. Park Dr: The petitioner requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the interior side yard setback to three feet (3') where six feet (6') is required within the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner: Karolina Boldyrew
6663 W. 88th Place
Oak Lawn, IL 60453

Property Owner: Harry Rehfeldt
148 W. Park
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single-Family Residence District

Existing Land Use: Single-Family Residence

Size of Property: Approximately 7,759 square feet

Surrounding Zoning and Land Use:

North: R2 Single-Family Residence District; developed as Single-Family Residences

South: R2 Single Family Residence District; developed as Single-Family Residences

East:	R2 Single-Family Residence District; developed as Single-Family Residences
West:	R2 Single-Family Residence District; developed as Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on April 23, 2009.

1. Petition for Public Hearing.
2. Response to Applicable Standards.
3. Plat of Survey, prepared by Lambert & Associates
4. Elevation & Site Plan

DESCRIPTION

The property contains a split-level single family residence which once contained a carport on the eastern portion of the residence. Due to recent fire damage, the residence has undergone a number of internal improvements. Unrelated to the fire damage, the carport was also demolished. The petitioner now plans to construct an attached garage where the carport once existed. The new construction would maintain the original carport setback of three feet (3'). The Zoning Ordinance requires that the new construction meet an interior side yard setback of six feet (6'). Therefore, a variation is necessary.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING
The Private Engineering Services has no comments.

PUBLIC WORKS
Public Works Engineering has no comments on this petition.

FIRE
The Fire Departments has no comments.

BUILDING DIVISION
The Building Division has no comments.

PLANNING
The petitioner is proposing to construct an attached garage where a carport once existed. The original carport was three feet (3') from the side lot line. The proposed attached garage addition would occupy the same footprint of the carport. Therefore, the addition would be set back three feet (3') and would be one-story in height.

As the proposed addition would maintain the building line of the original carport, it would not increase the degree of encroachment into the side yard. Staff notes that a two-car attached garage could not be constructed in any other portion of the house. The eastern portion of the existing residence (directly north of the proposed garage location) maintains a six foot (6') setback and the western portion of the residence is setback eight feet (8'), respectively. As such, there is inadequate space to allow a driveway to the rear of the residence to construct a detached garage. These setback deficiencies can be attributed, in part, to the width of the lot being fifty-four feet (54'). This lot width would be considered substandard by current Zoning Ordinance requirements that lots zoned R2 must be sixty feet (60') in width.

Proposed Garage Footprint

Listed below are several ZBA cases in which similar variation requests were made where the addition holds the setback of the existing residence and does not further encroach into the requisite yard. Examples of these variations include:

1) The property at 576 Green Valley Drive received approval of a variation to reduce the required interior side yard setback from six feet (6') to two feet (2') for the conversion of a carport into a garage and for a residential addition (ZBA 03-10).

2) The property at 828 S. Fairfield received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and one-half feet (2.5') for a residential addition (ZBA 05-14).

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6) The property at 126 S. Lombard received approval of a variation to reduce the required interior side yard setback from six feet (6') feet to four and one-half feet (4.5') for an addition that held the previous setback line (ZBA 09-04).

Staff finds that this petition meets the Standards for Variations. The proposed location for the addition and garage are due to the existing configuration of improvements on the lot. The proposed attached garage would be constructed within the footprint of the previously existing legal non-conforming structure and would therefore not increase the degree of setback non-conformity than what previously existed for many years. Lastly, the western portion of the neighboring property (directly to the east of the subject property) is improved with a driveway. As such, that residence (144 W. Park) has a side yard setback of eleven (11) feet. Furthermore, the separation between the subject principal structure and that of the neighbor to the east would be fourteen (14) feet.

In order to avoid the undesired effects of increased physical or perceived bulk to the neighboring properties, staff suggests that a condition be added to any motion for approval that any new construction built within the six foot (6') setback area be limited to one-story in height.

FINDINGS AND 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 side yard setback variation:

Based on the submitted petition and the testimony presented, the requested variation complies with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals recommend to the Corporate Authorities **approval** of ZBA 10-11, subject to the following conditions:

1. The addition and garage shall be developed in accordance with the submitted site and elevation plan submitted as part of this petition.

2. The proposed addition and garage along with any future additions to the residence, which are set back less than six feet (6') from the interior side property line, shall not exceed a height of one-story.

3. The petitioner shall apply for and receive a building permit for the proposed plans.

4. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

5. In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required side yard setback.

Inter-Departmental Review Group Report Approved By:

William J. Heniff, AICP
Director of Community Development

c: Petitioner

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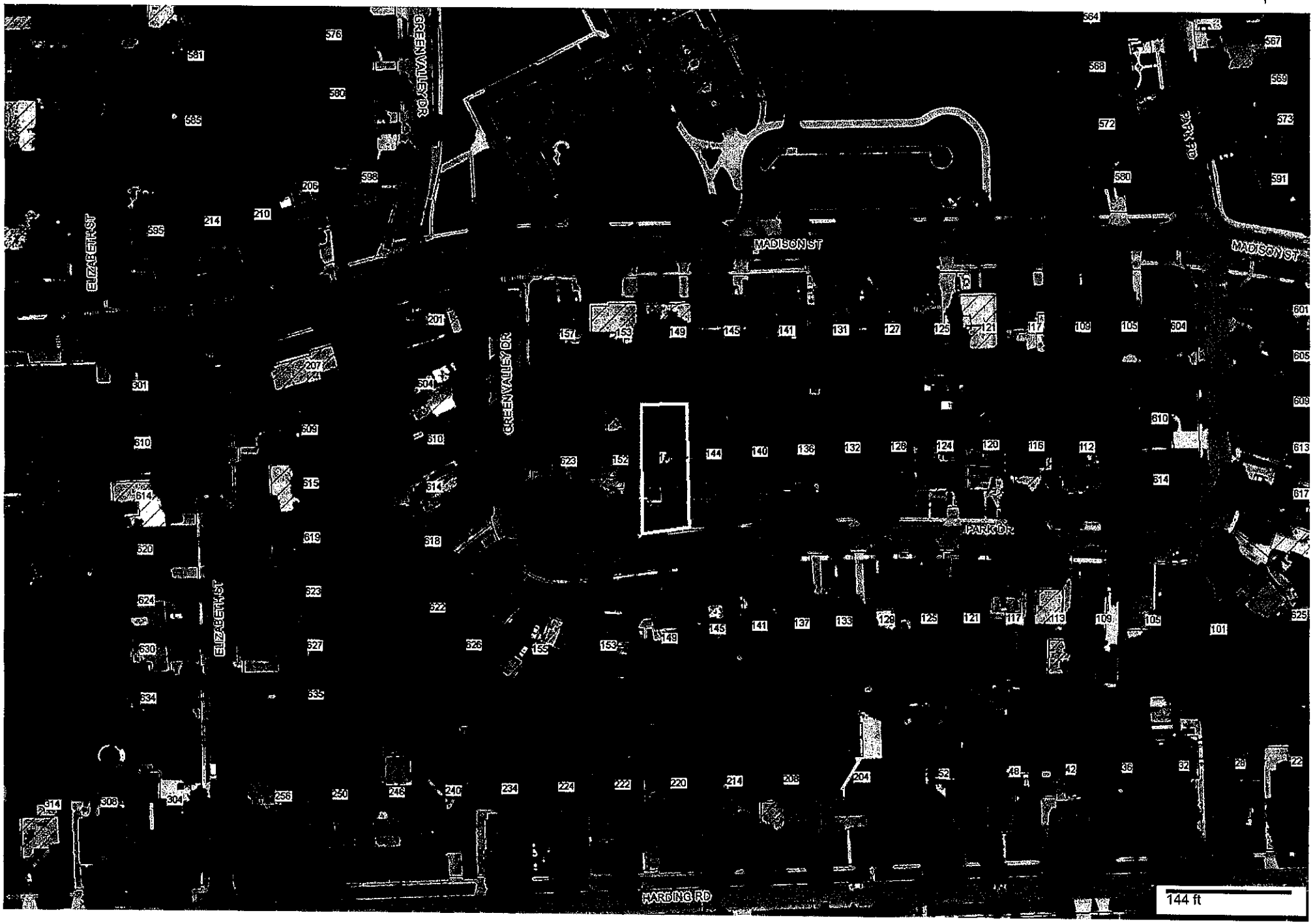
ZBA 10-11: 148 W. Park Dr.



August 19th, 2010

Village of Lombard
Zoning Board of Appeals

Re: 148 West Park Drive, Lombard, Il
Proposed attached 2 car garage
Variance (3'-0" side setback)

To Whom It May Concern:

Due to fire damage of the property located at 148 West Park Drive, Lombard, IL, an existing enclosed carport, which functioned as a 2 car garage, had to be demolished. Also, it did not comply with the applicable codes of the Village of Lombard. In this situation a new attached 2 car garage is needed.

Current standards of the residential properties require at least a 2 car garage. The proposed attached garage would be located at its prior location, which is on the east side of the property, providing 3'-0" side setback (east side) and 30'-0" front setback (south side). In order to build the same 2 car garage on the west side with proper 6'-0" side setback, a portion of the existing house would need to be demolished. Therefore, the east side, which does not require any demolition, is the best option for the garage. Also, due to aesthetic value a garage structure is more adequate than a carport structure.

Building a proposed 2 car garage is not based primarily upon a desire to increase financial gain, but to provide more comfortable living for residents of this property. Also, the alleged difficulty or hardship caused by this ordinance has not been created by any person presently having an interest in this property. 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 and it will not alter the essential character of the neighborhood.

Also, 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.

August 19th, 2010

Village of Lombard
Zoning Board of Appeals

Re: 148 West Park Drive, Lombard, Il
Proposed attached 2 car garage
Variance (3'-0" side setback)

To Whom It May Concern:

1. Due to fire damage of the property located at 148 West Park Drive, Lombard, IL, an existing enclosed carport, which functioned as a 2 car garage, had to be demolished. Also, it did not comply with the applicable codes of the Village of Lombard. In this situation a new attached 2 car garage is needed. Current standards of the residential properties require at least a 2 car garage.

2. The proposed attached garage would be located at its prior location, which is on the east side of the property, providing 3'-0" side setback (east side) and 30'-0" front setback (south side). In order to build the same 2 car garage on the west side with proper 6'-0" side setback, a portion of the existing house would need to be demolished. Therefore, the east side, which does not require any demolition, is the best option for the garage. Also, due to aesthetic value a garage structure is more adequate than a carport structure.

3. Building a proposed 2 car garage is not based primarily upon a desire to increase financial gain, but to provide a more comfortable living for residents of this property.

4. The alleged difficulty or hardship caused by this ordinance has not been created by any person presently having an interest in this property.

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.

6. The granting of the variation will not alter the essential character of the neighborhood.

7. The proposed variation will not impair an adequate supply of light and air to adjacent property (which is located approximately 12'-0" from property line) 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.

August 27th, 2010

Village of Lombard
Board of Trustees

Re: 148 West Park Drive, Lombard, Il
Proposed attached 2 car garage
Variance (3'-0" side setback)

Waiver of the First Reading

To Whom It May Concern:

Please allow us to summarize three meetings to one meeting only, in order for a construction of the 2 car garage to begin as soon as possible, so that it could be finished before the 2010 construction season ends.

Karolina Boldyrew
Petitioner

Harry Rehfeldt
Property Owner