

**Item #2:**

Ordinance Granting Side & Rear Yard Setback Variations – 2579 Lincoln

**VILLAGE OF LONG GROVE**

**ORDINANCE NO. 2012-O-\_\_**

**AN ORDINANCE GRANTING REAR AND SIDE YARD SETBACK  
VARIATIONS FOR 2579 LINCOLN AVENUE**

Adopted by the  
President and Board of Trustees  
of  
the Village of Long Grove  
this 24th Day of April, 2012

Published in pamphlet form by direction  
and authority of the Village of Long Grove  
Lake County, Illinois  
this 24th day of April, 2012

VILLAGE OF LONG GROVE

ORDINANCE NO. 2012-O-\_\_

**AN ORDINANCE GRANTING REAR AND SIDE YARD SETBACK  
VARIATIONS FOR 2579 LINCOLN AVENUE**

**WHEREAS**, Gary and Shelley Morris ("**Owners**") are the owners of that certain real property commonly known as 2579 Lincoln Avenue, Long Grove, Illinois and legally described in Exhibit A, attached hereto ("**Property**"); and

**WHEREAS**, the Property is located in the R-2 Single Family Residence District and is currently improved with a single family residence ("**Residence**"); and

**WHEREAS**, the Owners desire to construct improvements, including a stone fire pit, patio, and benches in conjunction with the existing swimming pool on the Property ("**Improvements**") as depicted in the site plan attached hereto as Exhibit B ("**Site Plan**"); and

**WHEREAS**, the Improvements are proposed to be located no closer than approximately 15 feet from the rear lot line and the southwest side lot line on the Property; and

**WHEREAS**, Paragraph 5-3-12 of the Long Grove Zoning Code requires minimum rear and side yard setbacks of 40 feet in the R-2 District; and

**WHEREAS**, the Owners submitted an application requesting a variation from Paragraph 5-3-12 of the Long Grove Zoning Code to permit the construction of the Improvements to encroach into the side yard setbacks; and

**WHEREAS**, pursuant to notice duly published in the *Daily Herald*, the Zoning Board of Appeals of the Village of Long Grove did conduct a public hearing on April 3, 2012, regarding Owners' requests for variations; and

**WHEREAS**, the Plan Commission / Zoning Board of Appeals, having fully heard and considered the testimony by all those attending the public hearing who wished to testify, made the following findings:

1. The Property is located within the R-2 Single Family Residence District under the Long Grove Zoning Code.
2. Owners propose to construct the Improvements, which Improvements would be located within the required southwest side yard and rear setbacks but no closer than approximately 15 feet from the southwest side and rear lot lines.
3. The evidence presented indicates that construction of the Improvements in compliance with the Zoning Code will create a hardship because (i) the existing conditions of the Residence and its location vis-à-vis the mature trees and existing swimming pool on the Property make the construction of conforming Improvements impracticable; (ii) the requested setback variations are consistent with the character of the neighborhood particularly given the history of variations authorized as part of the Country Club Estates Subdivision; and (iii) the proposed location for the Improvements is the most aesthetically and architecturally logical location on the Property.
4. The evidence presented indicates that the construction of the Improvements in the proposed location on the Property will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, and will not result in other detrimental effects to the area of the Property, particularly since the Property's rear lot line abuts a golf course.
5. The evidence presented further indicates that the hardship and practical difficulties relating to Owners' requests for variations are based on the existing conditions of the Property that are unique in light of the existing development on and environs of the Property, and is not motivated by a desire to make more money out of the Property.
6. The evidence presented indicates that the construction of the Improvements, if undertaken in conformity with the recommended conditions and the Plans, will not alter the essential character of the Property and its environs and will otherwise satisfy all of the requirements for a variation under Section 5-11-15 of the Long Grove Zoning Code.

7. Village Staff reviewed and confirmed, pursuant to conditions recommended by the Plan Commission / Zoning Board of Appeals, that prior additions to the Residence were reviewed by and received permits from the Village and that the Improvements will be in compliance with all bulk requirements.

and recommended that the Village Board of Trustees grant the requested variation, subject to certain conditions and limitations; and

**WHEREAS**, the President and Board of Trustees, having considered Owners' request for a variation to permit the construction of the Improvements on the Property, and the findings and recommendations of the Plan Commission / Zoning Board of Appeals, have determined that it is in the best interests of the Village and its residents to grant Owners the requested zoning relief, subject to the terms and conditions of this Ordinance as hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,**  
as follows:

**SECTION ONE: Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

**SECTION TWO: Approval of Variation.** Pursuant to Section 5-11-15 of the Long Grove Zoning Code, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, the Board of Trustees does hereby grant variations from the regulations contained in Paragraph 5-3-12 of the Long Grove Zoning Code to permit the construction of the Improvements on the Property to encroach into the required southwest side yard and rear setbacks for the Property, but no closer than approximately 15 feet from the southwestern side and rear lot lines on the Property, as more fully depicted on the Site Plan.

**SECTION THREE: Conditions on Approval.** The relief granted pursuant to Section Two of this Ordinance shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, render void the approvals granted by this Ordinance:

- A. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance except only after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.
- B. Compliance with Laws. The Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. Tree Preservation. The Owners will fully comply with the tree preservation ordinance as it relates to the construction of the Improvements.
- D. Site Plan Compliance. The Improvements must be located on the Property in substantial compliance with the Site Plan.
- E. Fees and Costs. The Owners shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Zoning Code. In addition, the Owners shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or successful enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate.
- F. Final Site Plan. The Owners shall submit a final Site Plan identifying to the Village's satisfaction, lot lines, setbacks, and dimensions of the Improvements.
- G. **[Zoning Compliance.** The Owners will seek additional zoning relief, if necessary, for preexisting improvements as the Village's direction.]

**SECTION FOUR: Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall, in the discretion of the Village Board of Trustees, be of no force or effect if Owners have not (i) executed and (ii) thereafter filed with the Village Clerk, within 30 days following the passage of this Ordinance, the unconditional agreement and consent, in the form attached hereto as Exhibit C and by this reference made a part hereof, to accept and abide by each and all of the terms, conditions, and limitations set forth herein. The Village Clerk is hereby directed to record this Ordinance and such agreement and consent with the Recorder of Deeds of Lake County.

PASSED THIS 24th DAY OF APRIL, 2012.

AYES: ( )

NAYS: ( )

ABSENT: ( )

ABSTAIN: ( )

APPROVED THIS 24th DAY OF OCTOBER, 2012.

\_\_\_\_\_  
Village President, Maria Rodriguez

ATTEST:

\_\_\_\_\_  
Village Clerk, Karen Schultheis

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**EXHIBIT A**

**Legal Description of Property**

Legal Description:

P.I.N. No. 1436202002

Commonly known as: 2579 Lincoln Avenue, Long Grove, Illinois

**EXHIBIT B**

**Site Plan**

**EXHIBIT C**

**Unconditional Agreement and Consent**

Pursuant to Section Four of Long Grove Ordinance No. 2012-O-\_\_\_\_ ("**Ordinance**"), and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledges for themselves and their successors and assigns in title to the Property that they

1. have read and understand all of the terms and provisions of Ordinance No. 2012-O-\_\_\_\_;
2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owners against damage or injury of any kind and at any time;
4. acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance;
5. agree to and do hereby hold harmless, defend, and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties with respect to the Property and the Village's adoption of the Ordinance or granting the approvals to the Owners pursuant to the Ordinance; and
6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Owners of the Property.

**OWNERS:**

**Gary Morris**

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ATTEST:

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**Shelley Morris**

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ATTEST:

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## MEMORANDUM

**TO:** Chairman Phillips and Members of the Long Grove PCZBA  
**FROM:** Marlo Del Percio  
**DATE:** April 3, 2012  
**RE:** Variation Request - 2579 Lincoln Avenue

### Recommended Motion

Should the PCZBA wish to recommend the variation, the following motion would be appropriate:

Motion to recommend a variation reducing the side yard setback requirements to 15 feet and rear yard setback requirements to 15 feet to accommodate the deck, pool, bench, and fire pit as all are depicted on the plans, subject to the applicant's submittal of final plans that identify specifically the lot lines, and all dimensions for structures that encroach into the side and back yard setbacks and further subject to petitioner's confirmation of compliance with bulk and yard requirements for the existing improvements.