

Item #3:

Ordinance Approving Side Yard Setback Variation, 1262 Pottawatomie

VILLAGE OF LONG GROVE

ORDINANCE NO. 2010-O-__

**AN ORDINANCE GRANTING A SIDEYARD SETBACK
VARIATION FOR 1262 POTTAWATOMIE COURT**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this 26th Day of February, 2008

Published in pamphlet form by direction
and authority of the Village of Long Grove
Lake County, Illinois
this 26th day of October, 2010

VILLAGE OF LONG GROVE

ORDINANCE NO. 2010-O-__

**AN ORDINANCE GRANTING A SIDEYARD SETBACK
VARIATION FOR 1262 POTTAWATOMIE COURT**

WHEREAS, David Weisberg ("**Owner**") is the owner of that certain real property commonly known as 1262 Pottawatomie Court, 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 Owner desires to construct an addition to the Residence on the Property ("**Addition**"); and

WHEREAS, the Addition is proposed to be located no closer than approximately 30 feet from the south side lot line on the Property; and

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

WHEREAS, the Owner submitted an application requesting a variation from Paragraph 5-3-12 of the Long Grove Zoning Code to permit the construction of the Addition 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 October 5, 2010, regarding Owner's requests for variations; and

WHEREAS, the 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. Owner proposes to construct the Addition, which Addition would be located within the required side yard setback but

no closer than approximately 30 feet from the south side lot line.

3. The evidence presented indicates that construction of the Addition in compliance with the Zoning Code will create a hardship because (i) the existing conditions of the Residence and its location on the irregular "pie-shaped" lot vis-à-vis the front and side lot lines make the construction of a conforming Addition impracticable; (ii) the requested setback variations are consistent with the character of the neighborhood; (iii) the construction of the Addition in a fully conforming location will cause undue complication and expense in light of the existing footprint of the Residence and swimming pool in relation to the required setback lines; and (iv) the proposed location for the Addition is the most aesthetically and architecturally logical location on the Property.
4. The evidence presented indicates that the construction of the Addition 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, as the Addition will be no closer to neighboring properties than the existing Residence.
5. The evidence presented further indicates that the hardship and practical difficulties relating to Owner's 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 Addition, if undertaken in conformity with the recommended conditions, will promote the public interest by reducing the degree to which impervious surfaces will cover the Property and 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.

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 Owner's request for a variation to permit the construction of the Addition on the Property, and the findings and recommendations of the Zoning Board of Appeals, have determined that it is in the best

interests of the Village and its residents to grant Owner 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 Paragraphs 5-3-12(C) of the Long Grove Zoning Code to permit the construction of the Addition on the Property to encroach into the required side yard setback for the Property, but no closer than approximately 30 feet from the southern side lot line on the Property, as more fully depicted on the site plan attached to this Ordinance as Exhibit B (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 Owner will fully comply with the tree preservation ordinance as it relates to the construction of the Addition.
- D. Site Plan Compliance. The Addition must be located on the Property in substantial compliance with the Site Plan.
- E. Fees and Costs. The Owner 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 Owner 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.

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 Owner has 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 26th DAY OF OCTOBER, 2010.

AYES: (0)

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

APPROVED THIS 26th DAY OF OCTOBER, 2010.

Village President, Maria Rodriguez

ATTEST:

Village Clerk, Karen Schultheis

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EXHIBIT A

Legal Description of Property

P.I.N. No.

Commonly known as: 1262 Pottawatomie Court, Long Grove, Illinois

EXHIBIT B

Site Plan

EXHIBIT C

Unconditional Agreement and Consent

Pursuant to Section Four of Long Grove Ordinance No. 2010-O-____, 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. 2010-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 Owner 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 Owner 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 Owner of the Property.

David Weisberg

ATTEST:
