

**Item #4:**  
**Ord Approving Rear Yard Setback Variation, 1509 Sumter**

**VILLAGE OF LONG GROVE**  
**ORDINANCE NO. 20014-O-\_\_**  
**AN ORDINANCE GRANTING A**  
**VARIATION FOR DECK AND RETAINING WALL**  
**(1509 Sumter Drive)**

Adopted by the  
President and Board of Trustees  
of  
the Village of Long Grove  
this \_\_\_\_ day of \_\_\_\_\_, 2014

Published in pamphlet form by direction  
and authority of the Village of Long Grove  
Lake County, Illinois  
this \_\_\_\_ day of \_\_\_\_\_, 2014

VILLAGE OF LONG GROVE

ORDINANCE NO. 20014-O-\_\_

**AN ORDINANCE GRANTING A  
VARIATION FOR DECK AND RETAINING WALL  
(1509 Sumter Drive)**

**WHEREAS**, Tony and Michele Peradotti (collectively, "**Owner**") are the owners of that certain real property commonly known as 1509 Sumter Drive, 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, is part of the Long Grove Country Club Estates Units 5 and 7 Re-Subdivision (the "**Subdivision**"), and is currently occupied with a single family residence ("**Residence**"); and

**WHEREAS**, the Subdivision is subject to a planned unit development approval (the "**PUD**") that authorizes reduced setbacks for certain lots; and

**WHEREAS**, at the time the Owner purchased the Property, it was improved with a pool (the "**Existing Pool**") and wooden deck (the "**Prior Deck**"), both of which were located within the required setback authorized pursuant to the PUD and as depicted in Figure 1 of the plans for the Property (collectively, the "**Plans**") attached hereto as Exhibit B; and

**WHEREAS**, due to deterioration of the Prior Deck, the Owner desired to construct a new wooden deck with associated retaining walls (the "**Retaining Walls and Deck**") to complement the Existing Pool on the Property, all as depicted in the Plans (including Figure 3 thereof); and

**WHEREAS**, the Existing Pool and the Retaining Walls and Deck as existing and proposed will be located within the required rear setback line and the rear lot line established by the PUD, and up to eight feet (8') from the lot line of the Property as depicted in the Plans; and

**WHEREAS**, implementation of the Plans requires a variation pursuant to Section 5-11-15 of the Long Grove Zoning Code; and

**WHEREAS**, the Owner submitted an application requesting variations from the authorized setbacks established under the PUD to permit the Existing Pool to remain and the

Retaining Walls and Deck to be constructed on the Property to a point not less than 8' from the Property's lot line as depicted on the Plans; and

**WHEREAS**, pursuant to notice duly published in the *Daily Herald*, the Pland Commission and Zoning Board of Appeals (the "**PCZBA**") of the Village of Long Grove did conduct a public hearing on June 3, 2014, regarding Owner's request for a variation; and

**WHEREAS**, the PCZBA, 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 and is subject to the PUD for the Subdivision.
2. Owner proposes to maintain the Existing Pool and to replace the Prior Deck with the Retaining Walls and Deck to the rear of the Residence but within the required setback for the Property.
3. The evidence presented indicated that requiring the Existing Pool and the Retaining Walls and Deck to be developed and maintained in compliance with the Zoning Code will create a hardship because (i) the lot is uniquely configured and oriented, (ii) a substantial portion of the Property is within the floodway, floodplain, or established conservancy area, (iii) the longstanding location of the Existing Pool, (iv) the location of the existing septic field, which limits the placement of the Existing Pool and the Retaining Walls and Deck, and (v) the substantial conservancy area adjacent to that portion of the Property where the Existing Pool and the Retaining Walls and Deck will be located.
4. The evidence presented indicated that the hardship and practical difficulties relating to Owner's request for a variation are based on the existing conditions of the Property that are unique in light of the existing development on the Property and its environs, is not motivated by a desire to make more money out of 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.
5. The evidence presented indicates that the maintenance of the Existing Pool in its current location and construction of the Retaining Walls and Deck, if undertaken in conformity

with the recommended conditions, will promote the public interest and will not alter the essential character of the Property and its environs and will otherwise satisfy all the requirements for a variation under Section 5-12-1-2 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 Existing Pool and the Retaining Walls and Deck on the Property, and the findings and recommendations of the PCZBA, 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 Subsection 5-12-1-3(A) 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 a variation from the setback requirements of the PUD and of the Long Grove Zoning Code to permit the maintenance of the Existing Pool in its current location and construction of the Retaining Walls and Deck on the Property to extend no closer than eight feet (8') from the boundary of the Property as depicted in the Plans.

**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. Compliance with Plans. The maintenance of the Existing Pool in its current location and construction of the Retaining Walls and Deck shall be undertaken and completed in substantial conformity with the Plans.
- D. 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, their 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 \_\_\_ DAY OF \_\_\_\_\_, 2014.

AYES:

NAYS:

ABSENT:

APPROVED THIS \_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

# 3784364\_v1

**EXHIBIT A**

**Legal Description of Property**

P.I.N. No. \_\_\_\_\_

Commonly known as: 1509 Sumter Drive, Long Grove, Illinois

DRAFT

**EXHIBIT B**

**Plans**

**EXHIBIT C**

**Unconditional Agreement and Consent**

Pursuant to Section Four of Long Grove Ordinance No. 2014-O-\_\_\_, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigneds 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. 2014-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.

**TONY PERADOTTI**

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ATTEST:

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**MICHELE PERADOTTI**

\_\_\_\_\_

ATTEST:

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