



November 11, 2024

TO: Gregory Koeppen, Chair
Lake County Zoning Board of Appeals

FROM: Thomas Chefalo, Principal Planner
Lake County Department of Planning, Building, and Development

CASE NO: #001027-2024

HEARING DATE: November 14, 2024

REQUESTED ACTIONS: Variances from the requirements of the Lake County, Illinois Code of Ordinances (LCC) to:

1. Reduce the ordinary high watermark setback for a retaining wall from 30 feet to 21 feet.
2. Reduce the side yard setback for a retaining wall from 4 feet to 0 feet.
3. Reduce the side yard setback for a patio from 6 feet to 2.4 feet.

GENERAL INFORMATION

OWNER: Robert L. Larsen and Karla Ann Larsen

OF PARCELS: One

SIZE: 0.45 acres, per Lake County's Geographical Information Systems

LOCATION: 26044 W SPRING GROVE RD ANTIOCH, IL

PIN: 0111406036

EXISTING ZONING: Residential -2 (R-2)

EXISTING LAND USE: Single family home.

PROPOSED LAND USE: Single-family home with terraced retaining walls and patio addition.

SURROUNDING ZONING / LAND USE

EAST:	Residential-2 (R-2) / Single-Family Residential
NORTH:	Open Space (OS) / Channel Lake
SOUTH:	Residential-2 (R-2) / Single-Family Residential
WEST:	Residential-1 (R-1) / Single-Family Residential

DETAILS OF REQUEST

ACCESS:	Direct access is provided via W. Spring Grove Rd.
NONCONFORMING LOT:	The subject property is a conforming lot.
FLOODPLAIN / WETLAND:	The north portion of the property, at the base of the bluff, is within mapped floodplain. There is also mapped wetland on a small portion of the property.
SEPTIC AND WATER:	The subject property is serviced by a private septic system and well.

ADDITIONAL COMMENTS

- According to records available, the subject property was rezoned, subdivided, and developed in 2005. At that time, a variance was approved by the ZBA to allow an individual sewage disposal system on a lot less than 40,000 square feet and less than 130 feet of lot width.
- The applicants constructed the patio with retaining walls without the required permits in fall 2023. In July 2024, the applicant requested five variances that were required to be granted to allow for the improvements to remain. However, the motions for approval failed to pass at the Zoning Board of Appeals' (ZBA) July 11, 2024 hearing.
- The ordinary high-water mark is defined in Section 151.271 *Definitions* of the LCC as the point on the bank or shore at which the presence and movement of surface waters are continuous so as to leave a distinctive mark, such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other recognized characteristics.
- Section 151.146 *Performance Standards for all Development* (H)(6)(C)(d)(1) of the LCC requires that all proposed public road rights-of-way, buildings, structures, driveways, and parking areas

shall be set back at least 30 feet from the ordinary high water mark with a tributary drainage area of 20 acres or more.

- Section 151.113(C)(2)(a) of the LCC requires that the minimum interior side and rear setbacks for accessory structures on conforming lots shall be six feet.
- Section 151.113(L)(2) of the LCC requires that retaining walls (i.e., walls that support fill) shall be set back a minimum of four feet from all property lines at a maximum height of six feet, unless site conditions warrant a modification of these requirements, in which case, the Planning, Building and Development Director shall be authorized to allow a reduced setback and/or increased height. However, the LCC allows this type of request to be deferred to the Zoning Board of Appeals. Given the number of variances and the extent of deviation requested by the applicant and the potential interest of the public in the request, the Planning, Building and Development Director has again deferred this application request to the ZBA.

STAFF COMMENTS

Jeff Schrei – Health Department

- The Health Department has no objections to the variance requests.

Andrew Heuser – Engineering Division

- The Engineering Division has no objection to this variance application. The project is located within the regulatory floodplain and will require a site permit and will be required to comply with all floodplain and compensatory storage requirements of the LCC.

Ieva Donev – Building Division

- Building Division has no objections for the proposed variance requests. Building permits shall be applied for as required.

RECOMMENDATION

In Staff's opinion, the variance requests meet the approval criteria for variations specified in Lake County Code Section 151.056(C)(4) and recommends approval of the variances for the following reasons:

1. Exceptional conditions peculiar to the applicant's property:

Comment: **Variance Requests 1, 2 and 3:**

The subject property is a conforming lot in the R-2 zoning district. The house was constructed adjacent to a steep lakeside bluff. This topography is somewhat unique to the portion of the Channel Lake shoreline abutting the subject property and

surrounding properties in the vicinity. This exceptional condition necessitates the use of retaining walls and other grading features to stabilize the bluff. The walls previously existing on site had deteriorated and needed restoration or replacement.

In addition, the house and existing deck are not oriented parallel to the side lot lines, as the northwest corner of the house is located closer to the west lot line than its southwest corner. The deck is in a similar alignment.

2. Practical difficulties or particular hardship in carrying out the strict letter of the regulation:

Comment: **Variance Request 1:**

The steep bluff was originally stabilized with terraces. The applicant is proposing to replace the terraces with a series of retaining walls. Department policy requires that terraced retaining walls be a minimum of 4 feet from each other to be considered distinct structures when measuring wall height. Because the house was constructed adjacent to the top of the slope, the required separation between walls necessitates that a portion of the terracing extend into the ordinary high water mark setback.

Variance Request 2:

The bluff runs the width of the subject property, and all portions of the bluff along that width are subject to erosion and subsidence. As such, requiring retaining walls to meet the 4-foot side yard property line setback would fail to prevent erosion and subsidence of the unsupported side-yard portions of the bluff.

Variance Request 3:

Because the house and the deck are not centered on the lot, the patio was oriented in its proposed location to provide a more esthetically pleasing site design.

3. Harmony with the general purpose and intent of the zoning regulations:

Comment: **Variance Request 1:**

Neighboring properties have constructed retaining walls that that intrude much farther into the required ordinary high water mark setback. Reconstructing the retaining wall on the subject property at the proposed setback would have no negative impact on neighboring properties or the character of that portion of the Channel Lake shoreline and is in keeping with the neighborhood character.

Variance Request 2:

The bluff requires stabilization. Neighboring properties have retaining walls that are at a zero-foot setback from the side yard property lines. Constructing one of 4 retaining walls

on the subject property, that meets a zero-foot setback from the property line would have no negative impact on neighboring properties and is in keeping with the neighborhood character.

Variance Request 3:

Patios are a customary accessory use to a single-family house. The neighbor who owns the property immediately to the west of the applicant's lot and who would solely be impacted if the variance were granted, has no objection to the patio extending into the side yard setback. Constructing the patio in the proposed location would have no negative impact on neighboring properties and is in keeping with the neighborhood character.

RECOMMENDED CONDITIONS

In the event the Board grants the proposed variances, staff recommends the following conditions:

1. The location of the patio and retaining walls shall be consistent with the site plan accompanying ZBA application #001027-2024.
2. A floodplain/compensatory storage covenant is required to be completed and recorded with the Recorder of Deeds Office prior to the final inspection request.