

**VILLAGE OF LOMBARD**  
**REQUEST FOR BOARD OF TRUSTEES ACTION**  
**For Inclusion on Board Agenda**


       Resolution or Ordinance (Blue)        Waiver of First Requested  
  X   Recommendations of Boards, Commissions & Committees (Green)  
       Other Business (Pink)

**TO :** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** Scott R. Niehaus, Village Manager

**DATE :** December 10, 2019 **(BOT) Date:** December 19, 2019

**SUBJECT:** ZBA 19-07: 201 W. Madison Street

**SUBMITTED BY:** William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1. Grant approval of a variation from Section 155.205(A)(1)(c)(ii) of the Lombard Village Code to allow for a six foot (6') high solid fence in a corner side yard; and
2. Grant approval of a variation from Section 155.205(A)(1)(e) of the Lombard Village Code to allow for a six foot (6') high solid fence in the clear line of sight area of a driveway

The Zoning Board of Appeals made the recommendation of denial by a 6-0 vote. Please place this petition on the December 19, 2019 Board of Trustees agenda under items for Separate Action.

**Fiscal Impact/Funding Source:**

Review (as necessary):


Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ Date \_\_\_\_\_

**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:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**MEETING DATE:** December 19, 2019

**SUBJECT:** ZBA 19-07, 201 W. Madison Street

Please find the following items for Village Board consideration as part of the December 19, 2019 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 19-07.

The Zoning Board of Appeals made the recommendation of denial by a 6-0 vote. Please place this petition on the December 19, 2019 Board of Trustees agenda.





## VILLAGE OF LOMBARD

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December 19, 2019

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**Trustees**  
Dan Whittington, Dist. 1  
Anthony Puccio, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Andrew Honig, Dist. 4  
Daniel Militello, Dist. 5  
William "Bill" Ware, Dist. 6

**Village Manager**  
Scott R. Niehaus

*"Our shared **Vision** for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."*

*"The **Mission** of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."*

Mr. Keith Giagnorio  
Village President, and  
Board of Trustees  
Village of Lombard

### **Subject: ZBA 19-07, 201 W. Madison Street**

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 take the following actions for the subject property located within the R2 Single-Family Residence District:

1. Grant approval of a variation from Section 155.205(A)(1)(c)(ii) of the Lombard Village Code to allow for a six foot (6') high solid fence in a corner side yard; and
2. Grant approval of a variation from Section 155.205(A)(1)(e) of the Lombard Village Code to allow for a six foot (6') high solid fence in the clear line of sight area of a driveway.

The Zoning Board of Appeals conducted a public hearing on December 4, 2019.

Ms. Kirsten Jennings, petitioner, and staff were sworn in by Chairperson DeFalco to offer testimony.

Ms. Jennings stated that she was seeking to simply replace her existing fence. Madison Street is a busy street and there is no other place for children to play safely. The house is setback sixteen feet from the sidewalk when usually houses are setback twenty feet. Her dog has been hit by a car twice because he got out of the house. She has had no issues pulling out of the driveway. A neighbor's four-foot tall fence blocks the visual of traffic on Elizabeth Street from the south. The request for the variance of a six-foot tall solid fence is for safety reasons. Observing the clear line of sight of the driveway effectively wipes out the entire fence. Cars have been broken into numerous times, bikes and other items have been stolen from the patio and cars have been egged.

Chairperson DeFalco asked if anyone from the public wanted to address the petitioner. Mr. Matthew Personette was sworn in to provide testimony. He stated that he was

not necessarily for or against the fence but had a safety concern. He has children and sympathizes with wanting to keep them safe from kicking a ball into the street however the fence is located in a high traffic area between two schools. He questioned who would be liable if a driver backed out of the driveway into someone if this fence were to be approved.

Chairperson DeFalco asked for the staff report.

Tami Urish, Planner I, presented the staff report, which was entered into the record in its entirety. Ms. Urish stated that the request is for a six-foot tall solid fence in the corner side yard including the clear line of sight of the subject property's driveway. A request for a variance requires a demonstrated hardship and affirming all of the standards for a variation. Staff found that most of the standards were not met specifically locating a fence in the clear line of sight of a driveway is not a need, but rather a matter of preference and therefore is not a hardship. The fence represents a potential danger to the public welfare with the obstructed view of pedestrians and vehicles along Madison Street. In addition, there are two schools in the immediate vicinity. Staff also identifies that a precedent has been set to deny fences in the clear line of sight for safety concerns.

Chairperson DeFalco opened the meeting up for discussion among the ZBA members.

Mr. Bartels stated that he visited the site on separate occasions at different times of the day and agrees that Madison is a busy street. He said he sympathizes with the petitioner's desire to secure her environment and has a neighbor on Maple Street contending with a similar situation. On one of his visits to the site, he said he walked on the sidewalk that is along the fence and found that the fence appears to be six-and one-half feet tall and should be noted as such. He stated that he has a hard time understanding how a driver pulling out of the driveway can see a pedestrian approaching in time to stop.

Mr. Tap asked the petitioner about the timeline regarding the installation of the fence.

Ms. Jennings responded that Larry (code enforcement) had placed a notice on the door that a permit was required for the fence. She said that she spoke to Michelle (code enforcement) and was told that a permit was needed for the fence. She said that she takes issue with the staff report stating that work continued on the fence because she was told that she needed a permit only. She stated that no one had informed her that the fence was not grandfathered in.

Ms. Urish stated that the photograph on page five of the staff report shows that the fence was incomplete and the photograph was taken by code enforcement on the date the stop work order was delivered.

Chairperson DeFalco clarified the process of obtaining a permit for a fence or any project includes a review of the building code therefore the current location of the six-foot tall solid fence not being valid would have been identified.

Mr. Bedard stated that he is concerned for any children or anyone walking by the driveway.

Chairperson DeFalco stated that having the ability to see through the fence in the clear line of sight area of a drive way is required and a fence that is sixty-six percent open and six feet in height would address the security concern.

Ms. Johnson agreed that an open fence at the same height would improve security concern.

Mr. Bartels asked if another design similar to the existing fence with scallops would improve visibility.

Ms. Urish responded that the solid part could only be two feet in height.

Chairperson DeFalco stated that the options are to avoid the clear line of sight triangle or have the fence with a sixty-six percent open design.

Ms. Newman asked why both ends of the fenced area are open.

Mr. Tap asked if the intent was to close in the patio area for security or privacy.

Ms. Jennings responded that the fence was for security reasons and not privacy.

Mr. DeFalco suggested talking to staff about what is allowed for corner side yards and clear line of sight areas.

On a motion by Mr. Bartels, and a second by Mr. Tap, the Zoning Board of Appeals voted 6-0 that the Village Board deny the petition associated with ZBA 19-07.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco  
Chairperson, Zoning Board of Appeals