

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Timothy Sexton, Acting Village Manager

DATE: October 8, 2013 (B of T) Date: October 17, 2013

TITLE: ZBA 13-06: 521 S. Lewis Avenue

SUBMITTED BY: Department of Community Development *WS*

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 grant a variation from Section 155.205 (B)(3) of the Lombard Zoning Ordinance to increase the maximum allowable hedge height in a clear line of sight area from two feet (2') to two feet and six inches (2' 6"), located within the R2 Single-Family Residential Zoning District. (DISTRICT # 5)

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial of the variation to allow a two foot six inch (2'6") hedgerow within the clear line of sight area. Therefore, this petitioner is being forwarded to the Village Board of Trustees with no recommendation. Please place this petition on the October 17, 2013 Board of Trustees meeting under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):
Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ 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: Timothy Sexton, Acting Village Manager

FROM: William Heniff, AICP, Director of Community Development *WH*

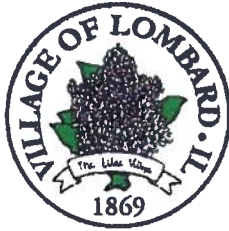
DATE: October 17, 2013

SUBJECT: ZBA 13-06; 521 S. Lewis Avenue

Please find the following items for Village Board consideration as part of the October 17, 2013 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 13-06 (including information submitted into the public record from neighboring property and petitioner prior to ZBA meeting);
3. Supporting documentation (plans, response to standards, pictures, etc.) associated with the petition; and
4. Documents received as part of the public record (at the ZBA meeting).

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial of the variation to allow a two foot six inch (2'6") hedgerow within the clear line of sight area. Therefore, this petitioner is being forwarded to the Village Board of Trustees with no recommendation. Please place this petition on the October 17, 2013 Board of Trustees meeting under Items for Separate Action.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

October 17, 2013

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Acting Village Manager
Timothy Sexton

"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 13-06; 521 S. Lewis Avenue

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 grant a variation from Section 155.205 (B)(3) of the Lombard Zoning Ordinance to increase the maximum height of hedges within a clear line of sight area from two feet (2') to two feet six inches (2'6") for the subject property located within the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on September 25, 2013.

Mr. Jeffrey Davis, property owner, presented the petition. Mr. Davis began by stating that he has lived in the house for twenty-nine (29) years without any incidents. The hedges in question were planted approximately fifteen (15) years ago and reached their mature height about seven (7) or eight (8) years ago. The hedges are boxwoods, which are difficult to grow as successfully as he has. They are trimmed once a year.

Mr. Davis then began to describe the recent history with his neighbor to the south as the reason for his request. Chairperson DeFalco commented that many cases that come before the ZBA originate as complaints to Code Administration. Chairperson DeFalco continued by stating that Mr. Davis had already laid sufficient groundwork for his request and did not need to provide information regarding the relationship with Mr. Davis' neighbor.

Mr. Davis submitted into the public record a petition with signatures of nearby residents who support his variation request.

Addressing the IDRC Report, Mr. Davis stated that he disagrees with its findings and believes that there is no clear line of sight issue because of the slope of the lot and adjacent driveway. Mr. Davis submitted photographs into the public record and claimed that the photographs demonstrated his point about there being no safety issues within the clear line of sight area.

Mr. Davis stated that he wants the hedges to be six inches (6") taller because boxwoods look poor when trimmed at a two foot (2') height. The hedges were recently trimmed to the lower height because of a recent adjudication against Mr. Davis. Mr. Davis stated that he has never received a safety complaint from any of his other neighbors on the block.

Mary Jo Davis, co-petitioner, added that the neighbors who signed the previously submitted petition agree that there are no safety issues with the hedges in the clear line of sight area because of the design of the driveway.

David Berry of 533 S. Lewis Avenue spoke in favor of the petition and stated he has lived in the neighborhood for twenty (20) years and raised four (4) children and there has never been a safety issue with the petitioner's landscaping.

Tracy Dembek of 509 S. Lewis Avenue spoke in favor of the petition and stated that she has lived in the neighborhood for twenty-seven (27) years and Mr. Davis' landscaping is always perfectly manicured. Mrs. Dembek added that her children also never had any safety issues while riding bikes past the hedges.

Mike Pine of 522 S. Lewis Avenue spoke in favor of the petition and stated that he lives directly across the street from Mr. Davis and agrees that the Davis' landscaping is always immaculately kept. Mr. Pine added that he does not believe that there is a safety issue, but rather a personal issue between neighbors. Mr. Pine reiterated previous comments regarding the sloping driveway providing sufficient visibility.

Matt Panfil, Senior Planner, stated that before he presented the IDRC report, he wanted to clarify the meaning of a clear line of sight area because he sensed there was some confusion. A clear line of sight area is not a subjective judgment whether or not one can see well from a certain position. A clear line of sight area is an objective measurement established within the Lombard Zoning Ordinance required when either a private residential driveway or an improved public right-of-ways intersects with a public right-of-way.

Mr. Panfil continued by presenting the IDRC report. Mr. Panfil stated that in this case, where a private residential driveway intersects an improved public right-of-way, the clear line of sight area is formed by completing a triangle formed by lines twenty feet (20') away from the point of intersection. The Zoning Ordinance requires any hedges within the clear line of sight area to be no taller than two feet (2') in height, therefore a variance is required.

Mr. Panfil stated that there is no precedent specifically for variations for exceeding the maximum allowable height of a hedge within a clear line of sight area, but there have been four requests for a solid fence taller than two feet (2') in a clear line of sight area since 2009. While staff and the

ZBA recommended denial in three of the four cases, all four were ultimately approved by the Village Board of Trustees.

In response to the petitioner's comments, Mr. Panfil stated that staff finds there is no hardship associated with any unique geographic characteristics of the site and that the petitioner has several options that would resolve the issue such as: trimming and maintaining the hedges at two feet (2') in height; relocating the specific hedges that are within the clear line of sight area; removing the hedges completely and replacing them with an open-style fence, or replacing the hedges with slower-growing evergreen plants that have a lower mature height.

Mr. Panfil added the hedges are measured from the ground at the base of the plant upward to their peak, not from the neighbor's driveway. If the petitioner were to maintain the hedges at a uniform two foot (2') height there would be a corresponding slope to the hedges. Mr. Davis prefers that the hedges have different heights in order for them to appear level at their peak, regardless of the grade beneath. Mr. Panfil stated that this preference is not a hardship.

Mr. Panfil stated that in order to be granted a variation, a petitioner must affirm each of the Standards for a Variation. Staff finds that following Standards have not been met:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

Staff finds that there are no conditions related to the property that prevent compliance with the clear line of sight regulations. The petitioner's property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship.

2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.*

Staff finds that the conditions are not unique to the subject property. Clear line of sight areas for private residential driveways are required at all residences with a driveway throughout the village. Any number of property owners could request a similar variation.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that the Zoning Ordinance in fact allows for certain types of encroachment into clear line of sight areas. For example, per Section 155.205 (A)(1)(e), the petitioner is entitled to construct a decorative open-style fence within the clear line of sight area if the petitioner so wishes to maintain a physical separation between their lot and their neighbor to the south.

5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Staff finds that the very purpose for the clear line of sight area is to protect the public welfare, therefore an encroachment into the clear line of sight area represents a threat to the public welfare.

- 7. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

As stated above, the hedgerow in the clear line of sight area represents a threat to public safety.

Concluding, Mr. Panfil stated that staff recommends denial of the requested variation.

Chairperson DeFalco reminded those present that it is the task of the ZBA to evaluate each case to determine if there is a hardship that warrants a variation.

Mr. Bedard stated that he had viewed the property and because there is a slope to the driveway he did not see a safety issue. Mr. Bedard indicated his support for the variation.

Dr. Corrado stated that it is necessary to remember that because an accident has not happened yet, it is still a possibility to consider.

Mrs. Newman asked Mr. Davis why he did not trim the hedges when notified of the violation.

Mr. Davis responded that he was notified in the middle of June, but wanted to wait to trim until after their growth spurt. When he did proceed with trimming the hedges Code Administration told him that they were still six inches (6") too tall. Mr. Davis claimed that he trimmed the hedges another six inches (6") but Code Administration measured again and issued a ticket in August. Mr. Davis indicated he then contacted Mr. Panfil in order to file a variation request. At the court hearing he did not bring all of his materials because he claimed he was told by staff that it was possible that a continuance would be granted. A continuance was not granted and the adjudication officer issued a fine. Mr. Davis then trimmed the hedges to their current height.

Mr. Davis then claimed that the pictures and report that his neighbor at 527 S. Lewis Avenue, Denise Fruhauf, had submitted into the public record were misleading. Mr. Davis then submitted new pictures with views of the hedges from his neighbor's driveway into the public record.

After discussing the pictures with Mr. Davis, Chairperson DeFalco then summarized some of the previous comments from the ZBA members.

Mrs. Newman then asked Mr. Davis what his hardship is.

Mr. Davis stated that he was confused by what a hardship is to which Chairperson DeFalco responded by defining a hardship. Mr. Davis then stated that he was not sure if he had a hardship, but feels that the hedges have aesthetic value and enhance the neighborhood.

Mrs. Davis responded that the stress that has been placed on her and Mr. Davis throughout the adjudication hearing and zoning relief process was their hardship.

Chairperson DeFalco and Mr. Bedard gave examples of hardships that have been considered in the past, such as requiring an accessible ramp in a required yard due to a disability. Mr. Davis added that the physical labor associated with making any further changes to the hedges was a hardship.

Mr. Davis then asked if there was a grandfather clause that would enable him to maintain his hedges at their previous height. Chairperson DeFalco informed Mr. Davis that no such relief was available to him.

There being no other comments, Chairperson DeFalco asked for a motion to be made.

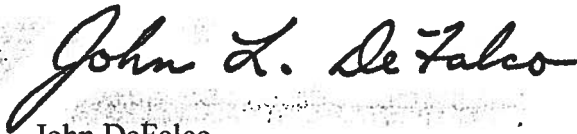
On a motion by Mr. Bedard and a second by Dr. Corrado, the Zoning Board of Appeals voted 2-3 to approve the variation.

On a motion by Chairperson DeFalco and a second by Mr. Tap, the Zoning Board of Appeals voted 3-2 to deny the variation.

As the Zoning Board of Appeals could not obtain four votes to either approve or deny the variation, the hedge height in a clear line of sight area variation is forwarded to the Village Board with no recommendation.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

SEPTEMBER 25, 2013

Title

ZBA 13-06

Petitioner & Property Owner

Jeffrey Davis
521 S. Lewis Avenue
Lombard, IL 60148

Property Location

521 S. Lewis Avenue
(06-08-413-006)

Zoning

R2 Single Family Residence
(Edwin Chase's Lilac Lodge
Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

A variation to allow a two foot-six inch (2'6") hedge in a private residential driveway clear line of sight area where two feet (2') is the maximum allowed.

Prepared By

Matt Panfil, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

There is an existing hedgerow along the petitioner's southern property line. While the hedgerow has approached forty-two inches (42") in height over the past few months, it is currently approximately two feet six inches (2'6") tall. The petitioner is requesting the ability to maintain the hedgerow at the above referenced two foot six inch (2'6") height within the clear line of sight area for a private residential driveway.

The petitioner has requested the taller hedgerow because they believe the proposed height does not represent a safety issue and trimming the hedgerow to two feet (2') in height or below could be detrimental to its health. The petitioner also believes that the hedgerow enhances the overall aesthetics and character of the neighborhood.

APPROVAL(S) REQUIRED

Section 155.205 (B)(3) of the Lombard Zoning Ordinance requires hedges within the clear line of sight area to not exceed two feet (2') in height. As the proposed hedgerow exceeds the maximum allowable height by six inches (6"), a variation is required.

EXISTING CONDITIONS

The property contains a brick and frame split level single family residence with an attached garage. The neighbor directly south of

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size: 8,131 sq. ft.

Hedge Height 2'6" (30")

Setbacks

Front (west) 39'

Side (north) 7'8"

Side (south) 13'

Rear (east) 66'

Submittals

1. Petition for Public Hearing
2. Response to Standards for Variation
3. Proof of Ownership
4. Plat of Survey dated December 31, 1991.
5. Photographs

the subject property has a driveway that runs parallel along the same property line as the hedgerow. It is the intersection of this driveway with Lewis Avenue that requires a twenty-foot clear line of sight area. The property is surrounded on all sides by single family homes within the same R2 Single Family Residence Zoning District.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division currently has no comments regarding the project.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:

Private Engineering Services (PES) concurs with the Department of Public Works comment (see below).

Public Works:

The Department of Public Works has the following comment:

- The maximum height of two feet (2') in the clear line of sight triangle is necessary for public safety to allow sidewalk users to see and be seen. This is particularly true for small children on bicycles/tricycles. Therefore, the Department of Public Works recommends that the petition be denied.

Planning Services Division:

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Within their response to the Standards for a Variation, the petitioner raises concerns regarding the health of the shrubs if they were to be regularly maintained at a height of two feet (2'). While the total loss of the first twenty feet (20') of hedgerow would be unfortunate, staff does not believe that their potential loss effectively demonstrates a hardship associated with any unique geographic characteristic of the site. Options available to the petitioner include trimming the hedgerow to maintain a two foot (2') height, relocating the specific shrubs located in the clear line of sight area, removing the shrubs completely and replacing them with a decorative, open-style fence (minimum 75% open space), or replacing the existing hedgerow with slower-growing evergreen plants more suitable for lower heights and heavy pruning, such as yews.

The petitioner has also represented that the hedgerow looks higher than it actually is because the neighboring driveway was replaced approximately two (2) years ago, which resulted in a unique sloping grade. Staff finds that the slope of the neighboring driveway is irrelevant to the true measurement of the plants, which are measured from the ground upward to their peak at the base of the plant, not from the neighbor's driveway. If the plants are maintained at a constant two feet (2') in height then they will have a corresponding slope.

In order to be granted a variation the petitioner must show that they have affirmed each of the Standards for a Variation. Staff finds that the following standards have not been affirmed:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

Staff finds that there are no conditions related to the property that prevent compliance with the clear line of sight regulations. The petitioner's property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship.

2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.*

Staff finds that the conditions are not unique to the subject property. Clear line of sight areas for private residential driveways are required at all residences with a driveway throughout the village. Any number of property owners could request a similar variation.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

Staff finds that the Zoning Ordinance in fact allows for certain types of encroachment into clear line of sight areas. For example, per Section 155.205 (A)(1)(e), the petitioner is entitled to construct a decorative open-style fence within the clear line of sight area if the petitioner so wishes to maintain a physical separation between their lot and their neighbor to the south.

5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Staff finds that the very purpose for the clear line of sight area is to protect the public welfare, therefore an encroachment into the clear line of sight area represents a threat to the public welfare.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

As stated above, the hedgerow in the clear line of sight area represents a threat to public safety.

In consideration of precedent, there are no recent variation requests for hedgerows exceeding two feet (2') in height. However, since 2009, four requests for a solid fence exceeding two feet (2') in height have been before the Zoning Board of Appeals. In three of the cases staff recommended that the Zoning Board of Appeals recommend denial of the requested variation. In the remaining case, staff recommended approval based on the historic nature of the site (Babcock's Grove Cemetery) and the fact that the pillars constructed within the clear line of sight area replaced existing pillars of the same dimensions.

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 09-05	10/15/2009	1107 Woodrow Ave	Supporting members of a fence in the clear line of sight area exceeding 6" in width	Denial, 0-5	Approval, 6-1
ZBA 09-11	1/21/2010	617 E Berkshire Ave	6' tall fence within clear line of sight area	Denial, 0-5	Approval, 6-0
ZBA 10-02	5/20/2010	302 S Grace St	6' tall fence within clear line of sight area	Denial, 0-5	Approved, 6-0
ZBA 11-02	6/2/2011	403 W Ethel Ave	6' tall fence within clear line of sight area	None, 3-3	Approved, 6-0


As in ZBA 09-05, ZBA 09-11, ZBA 10-02, and ZBA 11-02, staff recommends that the petition be denied. However, if the Zoning Board of Appeals finds that it would be appropriate to grant the requested variation, staff recommends that the petitioner conforms to the submitted plans (attached).

FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations, in their entirety, for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **denial** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variations **do not comply** with the Standards for a Variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 13-06.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

PETITIONER'S

SUBMISSION

(08/23/13)

VILLAGE OF LOMBARD
ZONING BOARD OF APPEALS

District _____

- Single Family
- Non-Single Family
- Principal Building
- Accessory Structure
- Fence
- Sign

ADDRESS OF SUBJECT PROPERTY: 521 S. Lewis
 PROPERTY IDENTIFICATION NUMBER(S) (P.I.N.(S)): 06-08-413-006
 PETITIONER: JEFFREY DAVIS PHONE NO.: 6304954632
 PETITIONER'S E-MAIL ADDRESS: JEFFREY.D@COMCAST.NET
 PETITIONER'S ADDRESS: 521 S. Lewis FAX NO.: _____
 CITY: Lombard STATE: IL ZIP CODE: 60148
 RELATIONSHIP OF PETITIONER TO PROPERTY: OWNER
 OWNER OF PROPERTY: JEFFREY + MARY Jo DAVIS
 OWNER'S ADDRESS: 521 S. Lewis
 CITY: Lombard STATE: IL ZIP CODE: 60148
 EXISTING ZONING: _____ AREA OF PROPERTY: 1/4 acres / sq
 EXISTING LAND USE(S): HOME
 EXISTING SITE IMPROVEMENTS: _____

DESCRIPTION OF REQUEST
(attach additional pages as needed)

To Let 3 bushes Be 6 inches or less
over the 2 foot limit

A COMPLETE SUBMITTAL MUST BE HANDED IN DIRECTLY TO A MEMBER OF
THE PLANNING SERVICES DIVISION OF THE DEPARTMENT OF COMMUNITY DEVELOPMENT

THE ABOVE INFORMATION, TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT

JEFFREY L DAVIS JEFFREY + MARY Jo DAVIS
(name of petitioner (principal)) (petitioner's title) (name of owner (principal)) (owner's title)
Jeffrey L Davis 8-22-13 Jeffrey L Davis 8-22-13
(petitioner's signature) (date) (owner's signature) (date)

SUBSCRIBED AND SWORN TO before me
this _____ day of _____, 2013

SUBSCRIBED AND SWORN TO before me
this _____ day of _____, 2013

OFFICIAL SEAL
JANET L DOWNER

NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 02/23/16

(Notary Public)

OFFICIAL SEAL
JANET L DOWNER

NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 02/23/16

(Notary Public)

Jeffrey L Davis

I am asking for a variance of 6 inches on the 3 bushes closest to the sidewalk as you can see on the plat of survey and in the photos. Do to the sloping of the driveway as you can see in the photos the bushes are a little higher. I understand the purpose of the 2 foot limit is to insure safety and not block the vision of someone pulling out of the driveway. As you can see in the photo with the car and driver in it these bushes in no way block or impair the sight of someone pulling out. You could see a squirrel walking down the sidewalk, or a cat or dog or person.

The only reason my neighbor complained about these bushes is a malicious attempt to get them removed completely. She does not like them because they keep the wind from blowing garbage from her property on to mine, and in the fall they keep her from blowing the leaves off her driveway on to my property. (Which she tries to do continually, and I ask her continually not to) Not because she can't see when she pulls out.

Thank you for your time

Jeffrey Davis

Standards for variations responses

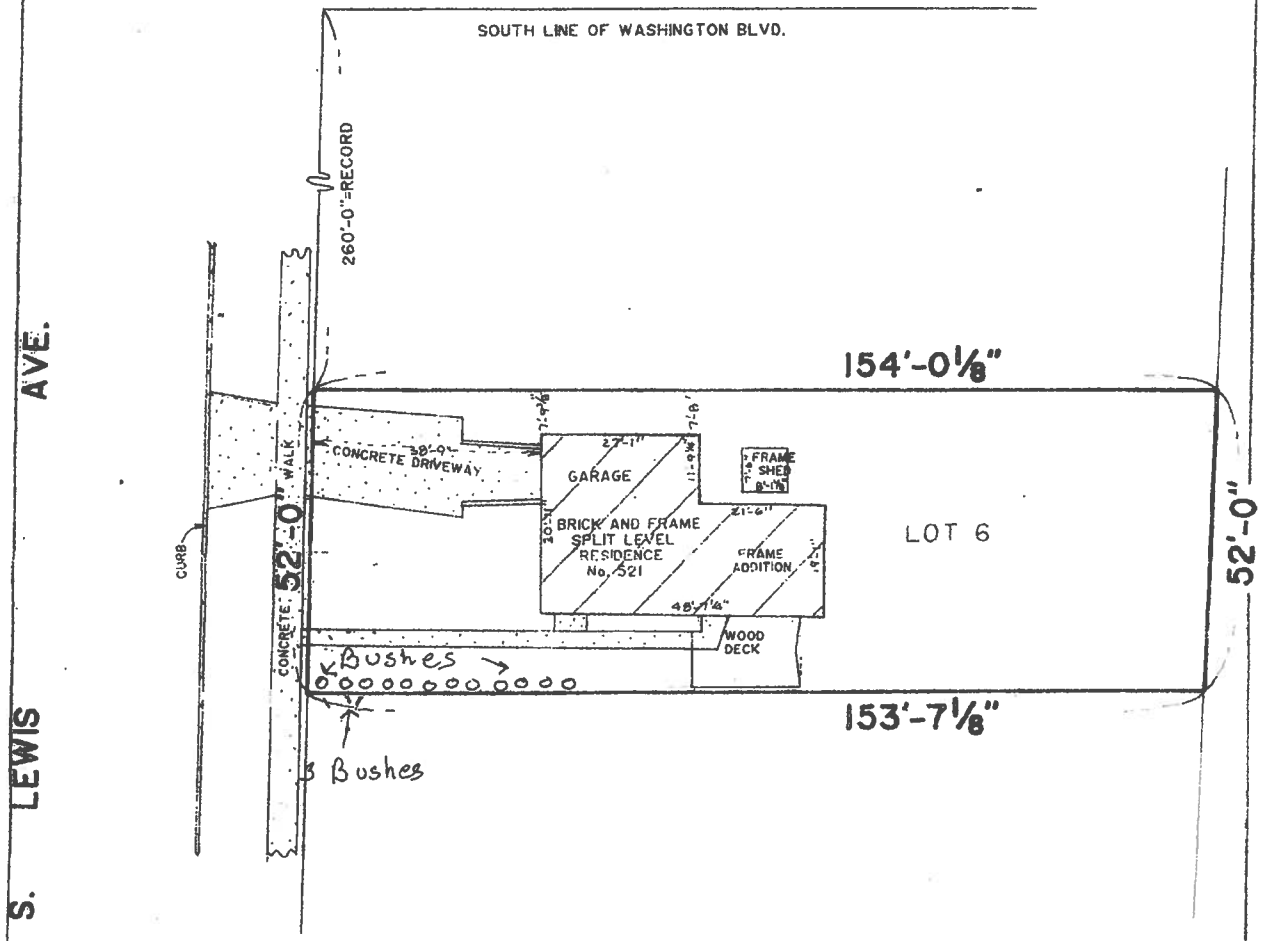
1. To cut the bushes back any more would cause a hardship on the bushes, and could kill them, or at the very least make them look bad.
2. It is somewhat unique situation do to the sloping of the driveway, and the redo of the driveway 2 years ago to concrete from asphalt, and in the process the grade and slope of the driveway was lowered thus making the bushes look higher, and you don't see hedge bushes like this do to the high cost of the bushes and the work involved in maintaining them.
3. The granting of this variation will not increase or help in any financial gain instead not granting it would lower propriety values do to the unevenness and sloppy look it would cause.
4. These bushes were planted 15 or 20 years ago well before the person was living there, and were completely established when the person moved in 6 years ago.
5. The granting of this variation will in no way be detrimental or injurious to other property or improvements in the neighborhood.
6. Not granting this variation will alter the looks of the neighborhood, by causing it to look a little less nice. All

my other neighbors think the bushes as are add to the looks of the neighborhood.

7. Keeping the bushes at their present height will not change the light or air circulation; they have no effect on traffic or congestion. There are no drainage problems created by the bushes instead they help by letting more water soak in during heavy rains and less over flow running down the hill towards my neighbors. Leaving them at present height does not affect safety as pointed out in the pictures and in the other letter. Cutting them back will not increase the safety. The bushes in their present state add value to the neighborhood because they look really nice and are well maintained by me at my cost, time, and labor. Like all good landscaping these bushes enhance the looks of my neighborhood and the property values.

PLAT OF SURVEY

Lot 6 in Block 16 in Edwin Chase's Lilac Lodge Subdivision, being a Subdivision of the Southeast 1/4 of the Northeast 1/4 and of the East 1/2 of the Southeast 1/4 of Section 8, Township 39 North, Range 11 East of the Third Principal Meridian (except the Right of Way of the Chicago, Aurora and Elgin Railroad), according to the Plat thereof recorded August 10, 1925 as Document No. 197654 in Du Page County, Illinois.



S. LEWIS AVE.

SOUTH LINE OF WASHINGTON BLVD.

LOT 6

ORDERED BY
JEFF DAVIS

ORDER No. 910-77-V

THIS PLAT WAS PREPARED FOR REAL ESTATE SALE AND OR FINANCING PURPOSES, NO MONUMENTATION WAS RESET. BEFORE ESTABLISHING FENCE LINES OR CONSTRUCTION, A BOUNDARY SURVEY SHOULD BE PERFORMED TO VERIFY CORNERS.

DO NOT ASSUME THAT PROPERTY STAKES ARE AT PROPERTY CORNERS UNLESS SHOWN HEREON, AND THAT THEY REMAIN IN PLACE. ALSO DO NOT ASSUME DIMENSIONS BY SCALING OR ADDITION.

COMPARE ALL MEASUREMENTS BEFORE BUILDING TO CHECK FOR DISCREPANCIES. ALL PROPERTY DIMENSIONS ARE RECORD UNLESS OTHERWISE NOTED.

SCALE: 1"=20'

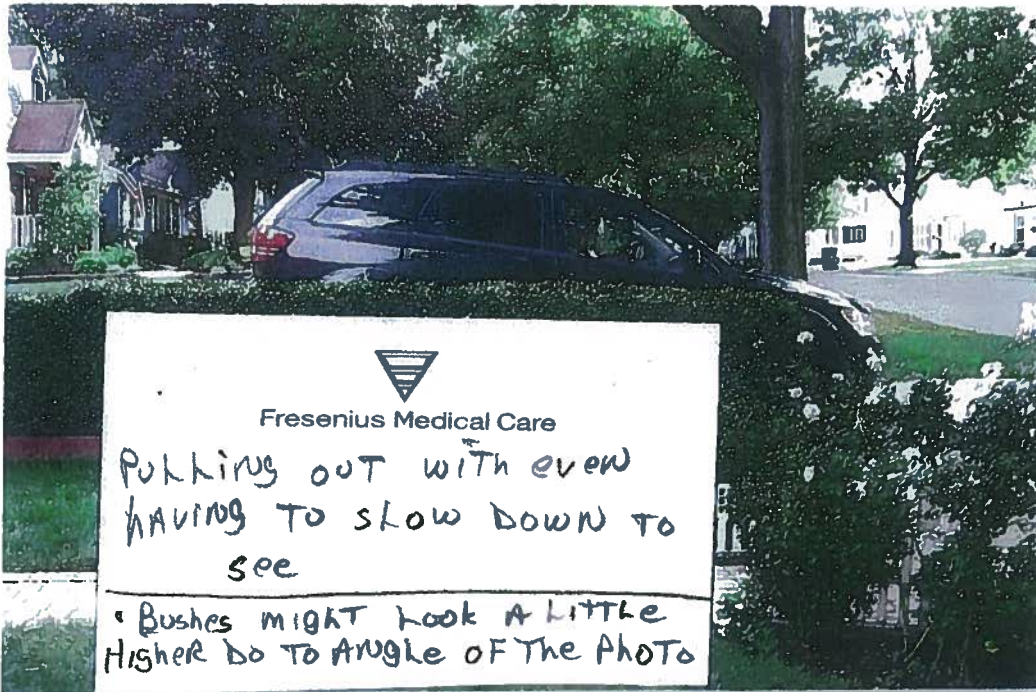
NOTES: CHECK RECORDS FOR BUILDING LINES, EASEMENTS AND OTHER RESTRICTIONS, IF ANY, NOT SHOWN.

STATE OF ILLINOIS } ss.
COUNTY OF COOK

WE, VANDERWALKER LAND SURVEYORS, LICENCED ILLINOIS PROFESSIONAL LAND SURVEYORS, DO HEREBY CERTIFY THAT WE HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY ON THE HEREON DRAWN PLAT.

GIVEN UNDER MY HAND AND SEAL THIS 31st DAY OF DECEMBER 19 91

Frank T. Vanderwalker
LICENCED PROFESSIONAL LAND SURVEYOR No. 1925 TO INSURE AN AUTHENTIC COPY SURVEYOR'S SEAL MUST BE IMPRESSED.





**SUBMITTED BY NEIGHBOR, DENISE
FRUHAUF, AT 527 S. LEWIS AVENUE ON
09/16/13.**

September 15, 2013

Matt Panfil, AICP
Senior Planner
Department of Community Development
255 East Wilson Avenue
Lombard, IL 60148

Dear Village of Lombard Zoning Board of Appeals:

Thank you for your notification letter of September 6 pertaining to the hearing addressing the petition filed on behalf of the property located at 521 S. Lewis Avenue.

I reside at 527 S. Lewis Avenue and share a property line with the petitioner. The initial complaint was made by me on May 13, 2013. Being a lifelong Lombardian, I am aware of the Lombard Zoning Ordinance Section 155.205 (B)(3) stating that hedges shall not exceed two (2') in height if in a clear line of sight.

I filed the complaint because I am concerned about the safety of the children and animals that reside in the area. Every morning I see children walk past 521 S. Lewis Avenue, to the bus stop located on Washington Street. In addition, our community has several families with children less than school age. There are also numerous dog owners within the area and it is difficult to see pets with tall hedges. We are also, the primary street utilized by traffic before, during, and after the Taste of Lombard. I observe these things daily, as I am a Registered Transplant Nurse who works from home. When I have visitors, they tend to park in the street and have complained about the obstructed line of sight when backing out of the driveway (see attached pictures date Aug 31, 2013).

I have lived in my home for about seven years, and have attempted to address these concerns with the resident of 521 S. Lewis Avenue. At first, he said they are on his property and joked that he planted them there to stop the leaves and snow from blowing onto his yard. Over the years, when I again attempted to speak with him, he became verbally abusive and condescending towards me. I assumed that eventually he would trim the height down, as he would see the danger the elevated height posed, but that has not been the case. Eventually, I was left with no alternative, but to address this violation with the Village of Lombard Code Enforcement Department.

Unfortunately, that has increased my neighbor's hostility, not only to me, but others. He was provided numerous opportunities to cut the hedges to code height, but still refused to trim the hedges. Just prior to the Lombard Code Enforcement meeting, on 09/09/13, he applied for a variation, and then changed the variation request. Soon after he attended the hearing without his wife and was fined \$750 plus \$50 court fees, he a changed the variance again.

Since the Village of Lombard Code Enforcement meeting, of 09/09/13, he and his wife have approached several neighbors saying that I am responsible for their fine, speaking ill of me, and are planning to create a petition against the findings and fines. The neighbor did cut his hedges on 09/11/13, which took approximately 20 minutes, but they still do not meet code height or distance from the sidewalk. Please see pictures dated 09/14/13. I notified Code Enforcement and they returned to the sight to re-measure and take pictures. To clarify matters and end the harassment, I

Matt Panfil
September 15, 2013
Page 2

reached out to the wife of my neighbor, via email, asking her to stop the harassment her husband is doing. Needless to say, she was not pleasant in her response (see attached).

Admittedly, being that this is my first house, I have tried to please all of my neighbors and become friends with them. However, that has not been easy to maintain, as some neighbors overstep their boundaries. I have attempted over the years to speak with him about the hedges, and he has refused. But there comes a point when it becomes a safety issue, as they keep getting taller. My neighbors have deemed me selfish, and say that this is personal. That is correct, it is personal, I don't want myself, or any of my visitors, to kill a child or animal. I apologize that I am unable to attend the Lombard Zoning Board Hearing, as I will be out of town for business, and am unable to change the meetings.

I am most appreciative of the time and resources utilized during the last few months addressing this complaint. For your convenience, I have included pictures of the hedges, extensive documentation, and provided Mr. Panfil a copy of my plat of survey, should questions about property lines arise. I look forward to a resolution and will feel more secure about the safety of the children and pets after a determination is made.

Sincerely,

Denise Fruhauf
527 S. Lewis Avenue
Lombard, IL 60148
(630) 750-7689

Village of Lombard: 421 S. Lewis Avenue, Lombard, IL= Shrub height

05/13/13: Initial call to Village of Lombard (VOL) to file complaint of height of shrubs and vision obstruction. 1990 ordinance change law passed and were they planted prior to that year?

05/22/13: Call Richard and he said that they have been real busy. Nothing done.

06/17/13: I went to village office and Richard off for 2 weeks, until 07/19/13. Referred to Larry Zaremba, in office, at 630-620-3592.

06/24/13 1226 pm: VOL code enforcement onsite and take pictures

07/09/13 1012 am: Larry said he sent advisory letter today to 421 S. Lewis. Follow up date 07/19/13, must cut to 2 feet by 07/19/13 and Richard back that day.

07/19/13 1054 am: Call Larry voicemail.

07/22/13 1139 am: Call Richard. He called neighbor, tried the door, and left voicemail that need to cut down.

07/23/13 1213 pm: Call Richard, got Larry instead. Richard out of office until Thursday at 0900 @ 630-620-3591

07/25/13 100 pm: Call Richard, to post violation on front door today, that is the plan. He said that the resident went golfing with son and now has another 10 days to comply. Refer him to Larry and told him that Larry said sent letter 07/09/13, still not done.

07/29/13 805 am: Call Richard, left message.

07/29/13 855 am: Richard: he said that he has a meeting with resident this afternoon. He said that resident tried to say that bushes up prior to 1990, Richard said no they weren't, as has pictures of area in 1990. Geoblade on internet, as well as the documents provided to village with pictures from <http://gis.dupageco.org>, and bushes not there in 1990.

07/29/13 120 pm: Richard met with resident and notify will have to cut to code height.

08/01/13 1020 am: Left message about status.

08/02/13 1248 pm: Richard said that he has 10 days to cut to 2 foot high, by next Friday

08/08/13 926 am: I called Richard and notified him that the resident cut the hedges one inch. He called the resident and said that they would be there Friday, 08/09/13, to confirm the hedges are cut to code height as that is the deadline.

08/08/13: Richard and another code enforcer spoke with resident about height of shrubs on site. Resident said not going to cut, to go ahead take him to court, and that he had no problems until the b___h moved in next door. Resident used profanity. And insulted myself by using extreme profanity while code enforcers left.

08/09/13: Richard said court is 09/10/13 at 630pm at the village hall. He said that the resident may ask for a variance to the code due to special circumstances. Court open to public.

08/23/13 0913 am: Left message for Richard asked if variance filed.

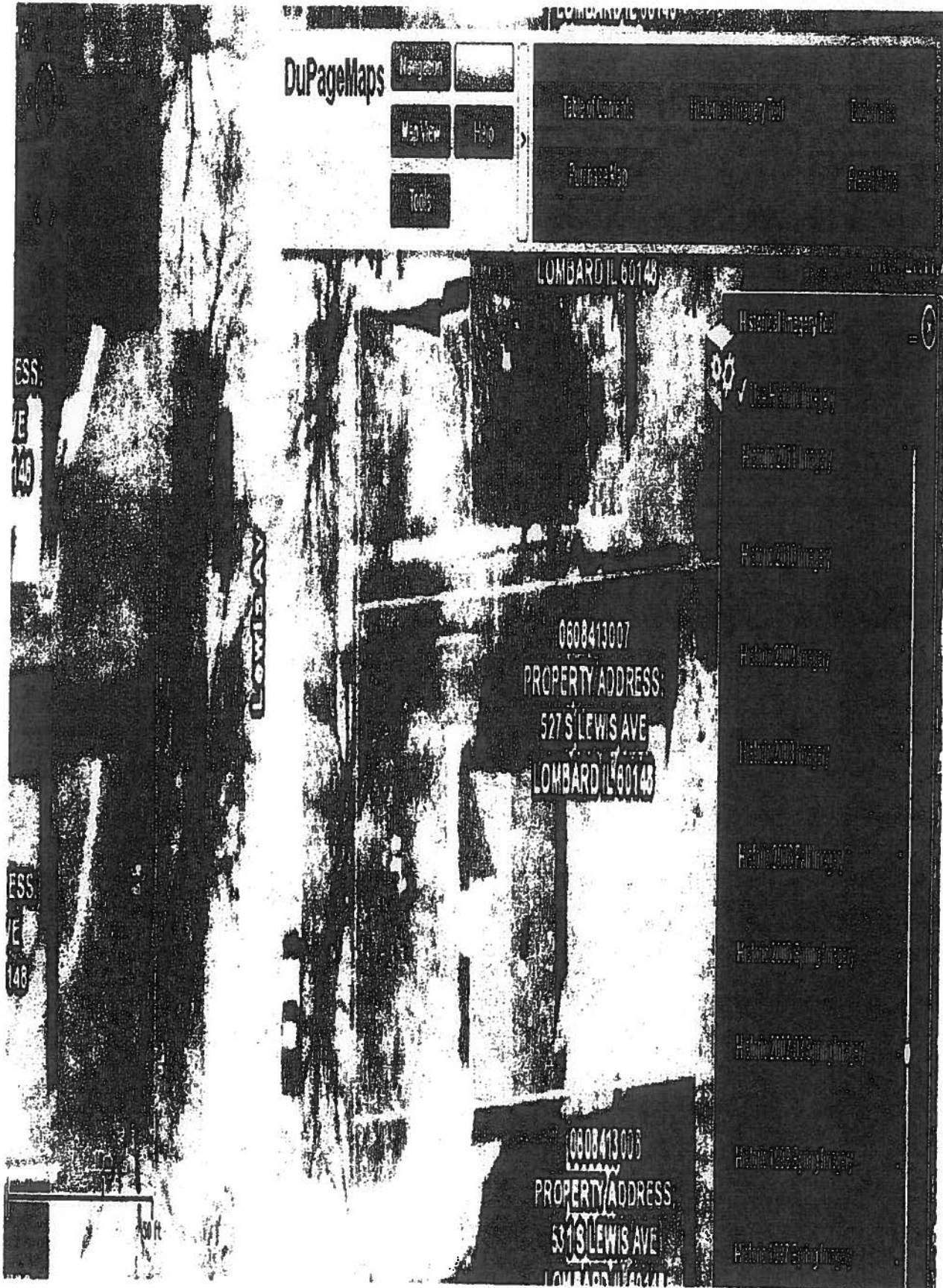
08/23/13 0935 am: Per Richard, as of Monday, not applied for variance.

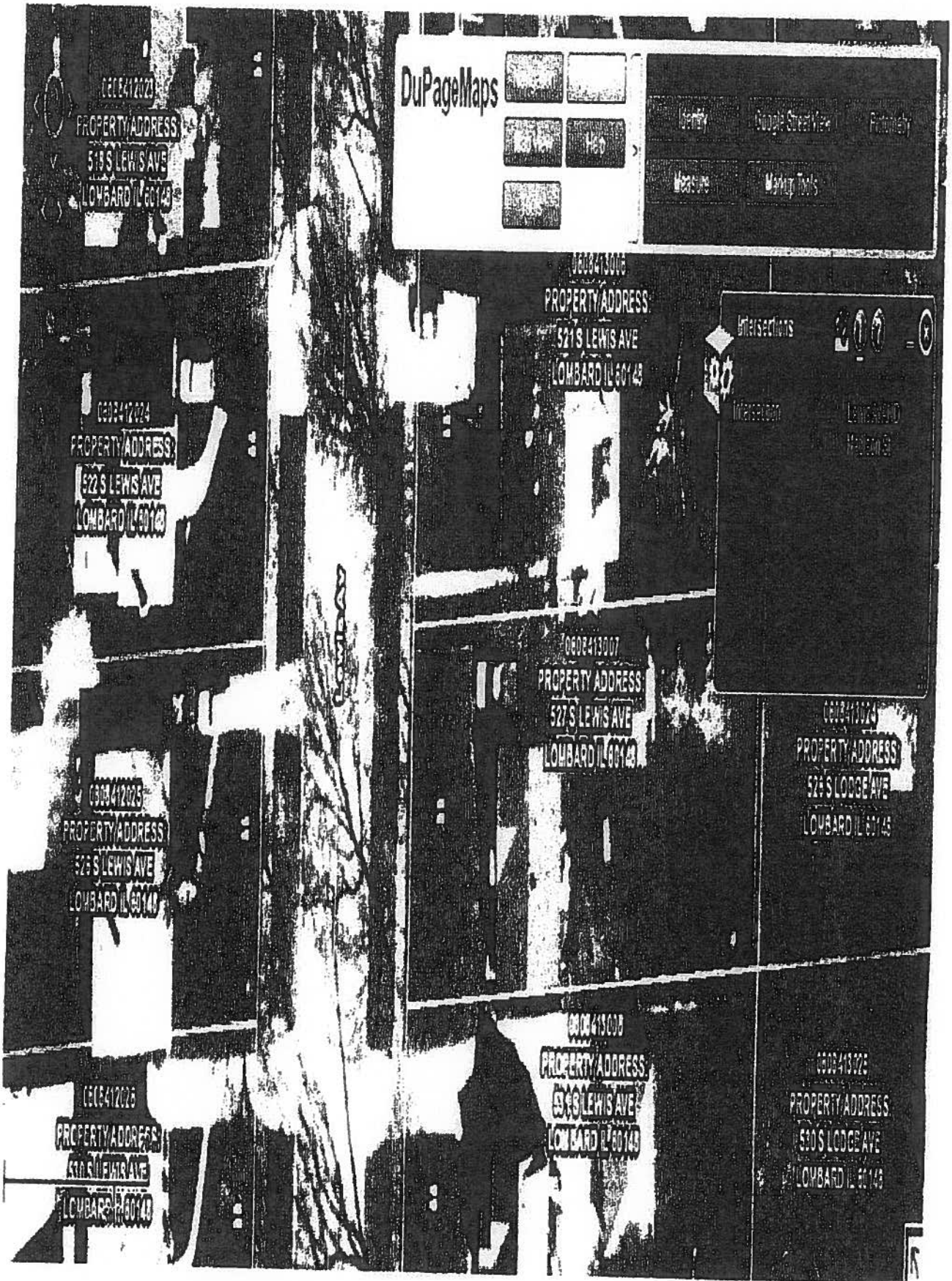
09/08/13: Received letter, resident in not in compliance with code and has requested a variance.

09/09/13 245pm: Spoke to Matt Panfil, VOL. He said that the variance meeting scheduled for September 25, 2013 has been postponed until October 23, 2013, as there was

confusion about how the actual height of the shrubs are measured. Resident changed variance to 40 inches tall. Matt P. provided his direct number: 630-620-5744.

- 09/09/13 630pm: VOL Violation meeting with arbitrator and code enforcement. Resident called me a bitch in court. He explained story to court, then I provided account of matter, copy of this documentation, and pictures. He stated that he was under the impression a variance would allow him to keep the present height, despite the code. Neighbor does not work, and is home all day. Arbitrator noted the initial date of complaint 05/13/13 and timing of letters sent. The resident fined \$750 and \$50 for court fees. I discuss outcome with VOL code enforcement. When pulled into my driveway, neighbor standing there watching me and notified him will call 911 with any harassment.
- 09/10/13 745am: Neighbor wife approach two neighbors walking (522 Lewis and 513 Lewis), notified them about the court and hedges. Husband at 513 Lewis has stated that the violator has said he planted the hedges to block leaves and snow from him lawn, and he does not want to clean it up.
- 09/11/13 104-130pm: Neighbor cut hedges and left clippings on my driveway (see picture). Hedges are still not to code as not at 2 feet tall and distance to be 20 feet.
- 09/11/13 600 pm: Leave my house and he called be a b---h, and asked how felt to have no friends.
- 09/12/13 855 am: Call Richard VOL, left message. Notified neighbor cut hedges yesterday, not to code and left clippings on my driveway.
- 09/12/13 950 am: Spoke with Richard VOL, he said that neighbor only can appeal the variation and can cost up to \$400. He has to pay fine or it will go to a collection agency.
- 09/12/13 1030 am: Richard and Joan VOL onsite, pictures taken, measurements made, still not code height.
- 09/12/13 400pm: Matt Panfil, VOL, called and stated the neighbor changed to variance application back to the original requested height of 30" tall, so the original Zoning Board of Appeals meeting date of 09/25/13 is the hearing date. I asked to maintain the meeting date in October, as I am out of town on business during the 09/25/13 meeting, and would like to attend the meeting. He said that it is a zoning board meeting to look at granting a hedges height variance to 421 S. Lewis, due to special circumstances, and may impact changing future codes. He said that I am more than welcome to provide information to the board related to this case.
- 09/12/13 630 pm: I clean up neighbor hedge clippings
- 09/13/13 741 am: Neighbor wife go across street and speak with another neighbor(620 Madison and 538 Lewis), while they walk dog. He informed that both husband and wife are going to neighbors and telling them that because of me, they have to pay fines. They are generating a petition against the fine.
- 09/13/13 800 am: Email MaryJo Davis, neighbor, in an attempt to stop them from going to neighbors and husband's harassment of me. Mistake and not nice. (attached)
- 09/13/13 1201pm: Call Richard VOL, VM ask to attend 9/25/13 on my behalf.
- 09/13/13 1300pm: Richard VOL, said he cannot attend the Zoning Meeting on my behalf as it is a conflict of interest, but that the Zoning Board will have copies of the Arbitration Hearing and the his documentation and pictures. He also said that the neighbor is going to appeal the conviction and fine in a Wheaton court.
- 09/13/13 240pm: VOL van onsite to view 521 Lewis.





*relative 1092 Spring
10/20/04*

Subject: Re: 521 LEWIS FINE
From: Mary Jo Davis (MaryJo.Davis@fmc-na.com)
To: dmfruhau@sbcbglobal.net;
Date: Friday, September 13, 2013 8:19 AM

Please do not contact me again at my place of business. You have made choices based on personal feelings and not what is in the best interest of animals and children. The bushes were in no way obstructing your view.

We were very good to you for a very long time and I am appalled with the actions you have taken.

What a shame.



Director of Business Development – North Division Inpatient Services

Fresenius Medical Care North America | North Division | Chicago Central Region
Phone: (708) 498-9336 | Cell: (708) 951-0020 | Fax: (708) 498-9276
Email: maryjo.davis@fmc-na.com | Website: www.fmcna.com

"The future depends on what we do in the present"

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE PARTY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND PROTECTED FROM DISCLOSURE UNDER LAW. If you are not the addressee, or a person authorized to deliver the document to the addressee, you are hereby notified that any review, disclosure, dissemination, copying, or other action based on the content of this communication is not authorized. If you have received this message in error, please delete it immediately and notify the sender by email or phone.

Denise Fruhauf --09/13/2013 07:57:39 AM-- FYI, Your husband is paying the fine because HE had a MONTH to cut down the bushes and refused. Ha

From: Denise Fruhauf <dmfruhau@sbcbglobal.net>
To: Mary Jo Davis <MaryJo.Davis@fmc-na.com>
Date: 09/13/2013 07:57 AM
Subject: 521 LEWIS FINE

FYI,

Your husband is paying the fine because HE had a MONTH to cut down the bushes and refused. Had he cut down the bushes to CODE height, when the Village of Lombard asked him to, and not refused, there would be no fine. You would be aware of this situation, had you attended the arbitration on 09/10/13. The fault again lies with your husband, and him not

getting up to complete things.

Your husband has also harassed me calling me the B---H and C--T words. I have asked that it stop. The village is aware. The village is also aware of your running around to neighbors with your accusations. The code is there for ALL to follow, not a select few, and I do not want any children or animals killed because of his refusal to follow it.

Thank you for your time,

Denise
527 Lewis Ave





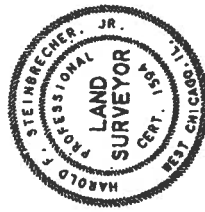




PLAT OF SURVEY

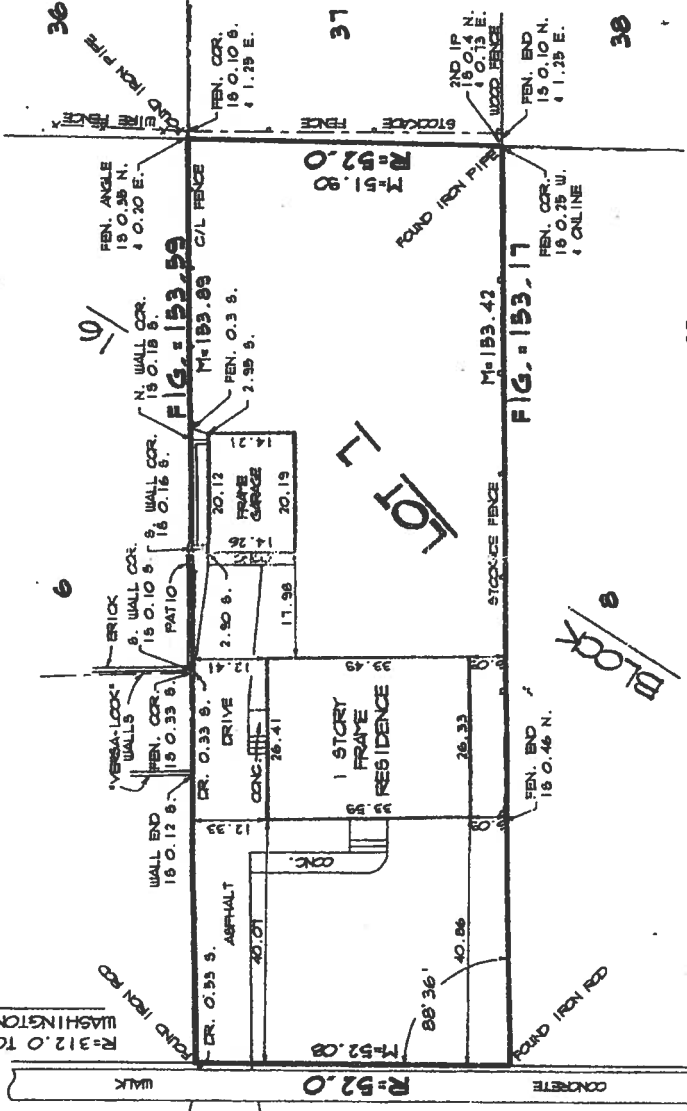


LEWIS AVENUE



Steinbrecher Land Surveyors, Inc.
 Professional Engineering
 Professional Land Surveying
 141 S. Neilnor Boulevard
 West Chicago, IL 60185-2814
 Tel. (630) 793-2900
 Fax. (630) 793-8902

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STATE OF ILLINOIS }
 COUNTY OF DU PAGE } S.S.

This is to certify that Steinbrecher Land Surveyors, Inc., Registered Professional Engineering and Land Surveying Design Firm Corporation No. 184-003128, has surveyed the property shown and described hereon, which is to the best of our knowledge and belief, a correct representation thereof.

West Chicago, Illinois, FEBRUARY 10, 2006
 Buildings were located as shown on FEB 8, 2006

Steinbrecher Land Surveyors, Inc.
 by: [Signature]
 PROFESSIONAL LAND SURVEYOR

OF LOT 7 IN BLOCK 16 IN EDWIN CHASE'S LILAC LODGE SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST QUARTER OF THE NORTH-EAST QUARTER AND OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE RIGHT OF WAY OF THE CHICAGO, AURORA AND ELGIN RAILROAD) ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 10, 1925 AS DOCUMENT 191684, IN DU PAGE COUNTY, ILLINOIS.

THIS PROPERTY IS KNOWN AS 527 SOUTH LEWIS AVENUE, LOEBARD, ILLINOIS.

PREPARED FOR - JEFF DAVIS

CODE ENFORCEMENT IMAGES
(09/09/13)

521 S. Lewis
09/09/13 @ 10:10AM
RC/ms-3 photo # 4182



AT SIDEWALK INTERSECTION
BUSH HEIGHT 4'-2"

521 S. Lewis
09/09/13 @ 10:10AM
RC/ms-3 photo # 4179



AT SIDEWALK INTERSECTION
REQUESTED RELIEF 30"

521 S. Lewis
09/09/13 @ 10:10AM
RC/ms-3 photo # 4183



AT SIDEWALK INTERSECTION

521 S. Lewis
09/09/13 @ 10:17 AM
RC/ms-3 photo # 4187



AT 20' MARK

521 S. Lewis
09/09/13 @ 10:18 AM
RC/ms-3 photo # 4190



AT 20' MARK
BUSH HEIGHT 32"