

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO:	Zoning Board of Appeals	HEARING DATE:	December 16, 2008
FROM:	Department of Community Development	PREPARED BY:	Stuart Moynihan Associate Planner

TITLE

ZBA 08-16; 350 N. Fairfield Avenue: The petitioner requests a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Owner:	Mark Edison 350 N. Fairfield Avenue Lombard, IL 60148
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PROPERTY INFORMATION

Existing Zoning:	R2 Single Family Residential District
Existing Land Use:	Single Family Residence
Size of Property:	approximately 14,000 square feet

Surrounding Zoning and Land Use:

North:	R2 Single Family Residence District; Single Family Residences
South:	R2 Single Family Residence District; Single Family Residences
East:	R2 Single Family Residence District; Single Family Residences
West:	R2 Single Family Residence District; Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on November 12, 2008.

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Written narrative, prepared by the petitioner, describing the need for a variation.
4. Plat of Survey prepared by Harrington Land Surveying, Ltd., dated June 10, 2008 and showing the location of the proposed fence.

DESCRIPTION

The subject property is located at the northwest corner of View Street and Fairfield Avenue. The petitioner is requesting a variation to allow the installation of a solid wood fence six (6) feet in height along the corner side lot line. As the Zoning Ordinance permits fences within the corner side yard to be no greater than four (4) feet in height, a variation is required.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no comments on the subject petition.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

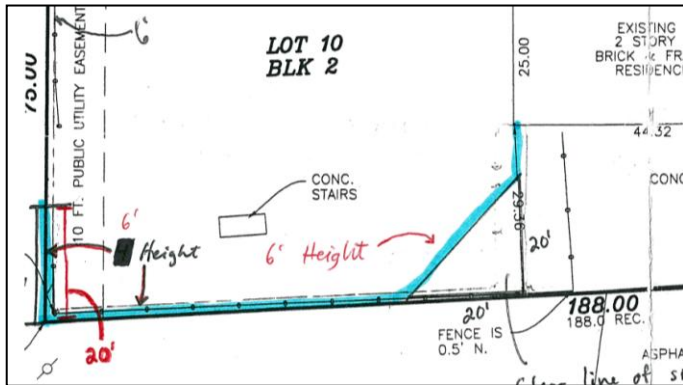
FIRE AND BUILDING

The Fire Department/Bureau of Inspectional comments: Clear line of sight must be maintained at the corner of the driveway.

PLANNING

The petitioner began construction of a six (6) foot fence within the corner side yard of the subject property without a permit being issued. Fence posts were placed along the corner side lot line and within the twenty (20) foot clear line of sight triangle at the driveway. The petitioner was informed by the Code Enforcement Division that a permit was necessary. At the time that the petitioner applied for the permit, he was informed that the fence could be no greater than four (4) feet in height within the corner side yard or a variation would be necessary.

The petitioner was issued a permit for a six (6) foot fence along the interior side and rear property lines. However, a six (6) foot fence was constructed within the first twenty (20) feet of the rear property line as shown below. As this portion of the fence is within the corner side yard, it may be no greater than four (4) feet in height. The variation will address this existing fencing as well as the



proposed fencing in the corner side yard. The petitioner has agreed to build the proposed fence outside of the twenty (20) foot clear line of sight triangle.

The petitioner indicates that he is the owner of two dogs, one of which could scale a four (4) foot fence. He has also stated his intention to install an in-ground or above ground pool in the spring of 2009. The petitioner believes that with a four (4) foot fence, other animals could enter the subject

property and harm or be harmed by his dogs. Further, he states that children could enter the property and be injured by the dogs or future pool. While staff recognizes these points are not unreasonable, staff does not believe these concerns are demonstrative of a hardship.

The Zoning Board of Appeals has heard a number of fence height variation cases in recent years in which the petitioner asserted the presence of safety and/or privacy concerns due to a pool.

Case Number	Address	Variation Request	ZBA Recommendation	BOT Action
ZBA 01-01	1053 E. Emerson Ave.	6' fence in corner side yard	No Recommendation	Approval
ZBA 02-16	240 E. Harrison Ave.	6' fence in corner side yard	Approval	Approval
ZBA 04-08	324 S. Ahrens Ave.	6' fence in corner side yard	Denial	Denial
ZBA 08-09	1601 S. Main Street	6' fence in corner side yard	Approval	Approval
ZBA 08-14	242 W. Berkshire Ave.	6' fence in corner side yard	Approval	Approval

In all of these cases, with the exception of ZBA 04-08, the ZBA recommended approval. In each of the cases recommended for approval, the subject property had an existing pool. In ZBA 04-08, the petitioner had not yet constructed the pool but argued that there would be safety and privacy issues in the future. Staff and the ZBA both determined that future circumstances should not be sufficient grounds to recommend approval of a variation. It is staff's opinion that a similar determination should be made regarding the variation request at 350 N. Fairfield Avenue.

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

- 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 fence height regulations. The property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood.

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. Many other properties with a similar layout and design have been able meet the established regulations.

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 fence could be constructed per the ordinance requirements either by lowering the fence height to four (4) feet or changing the location so that the fence is outside the corner side yard. The hardship has been created by the petitioner as a result of the preference for the fence's height and location.

Staff recommends that the petition be denied on the grounds that a hardship has not been shown.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations 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 variation **does not comply** with the Standards required 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 Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 08-16.

Inter-Departmental Review Group Report Approved By:

William J. Heniff, AICP
Director of Community Development

c: Petitioner