

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: William T. Lichter, Village Manager
DATE: May 11, 2005 (B of T) Date: May 19, 2005
TITLE: ZBA 05-06: 324 S. Ahrens Avenue
SUBMITTED BY: Department of Community Development *WTL*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation from Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the permitted fence height in a required corner side yard from four feet (4') to six feet (6'). (DISTRICT #5)

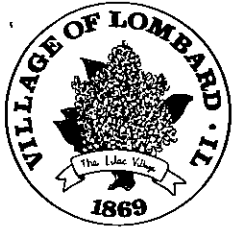
The Zoning Board of Appeals recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* _____ Date 5/12/05

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.



VILLAGE OF LOMBARD
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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

May 19, 2005

Mr. William J. Mueller
Village President, and
Board of Trustees
Village of Lombard

Subject: ZBA 05-06; 324 S. Ahrens

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner yard from four feet (4') to six feet (6') the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on April 27, 2005. Topi Viitala, property owner, presented the petition. Mr. Viitala stated that he previously appeared before the Zoning Board requesting a variation for a six-foot fence in a corner side yard. He stated that the final decision on the fence had been delayed after three Village Board meetings, but was ultimately denied. Mr. Viitala stated that he was now requesting to move the fence fifteen feet away from the property line. He stated that if he were to move the fence the required twenty feet the back door of the residence would be on the opposite side of the fence.

Chairperson DeFalco then opened the meeting for public comment. Brian LaVan, 805 E. Division, stated that he was the property owner immediately west of the petitioner. He stated that he was fine with the fence's present location. He stated that if the petitioner were required to move the fence in he would have to construct additional fencing on his own lot.

Chairperson DeFalco asked if the previous fence was constructed to code. He asked if the fence were in the same location and the materials used. Mr. LaVan stated that the fence was on the property line, but it was chainlink.

Angela Clark, Planner II, presented the staff report. She stated that the petitioner had appeared before the Zoning Board before and the petition was

subsequently denied by Village Board. She stated that staff had discussed the possibility of moving the fence further into the yard. She stated that the petitioner's home is located fifteen feet from the property line and was considered legal nonconforming. Ms. Clark stated that staff has typically encouraged property owners to move fences outside of the required corner lot area if they wanted to erect six foot fences. She stated that if the petitioner were to move the fence in twenty feet the rear door of the residence would be outside of the fence. She stated that there would not be any line of sight issues as the neighboring driveway was more than thirty feet from the property line. Ms. Clark stated that staff recommended approval of the petition.

Chairperson DeFalco opened the meeting for discussion among the members.

Mr. Young stated that he felt badly that Mr. LaVan enjoyed years of fencing and would have to make modifications because the petitioner constructed an illegal fence. Mr. Young stated that regardless of whether or not the fence was constructed to code Mr. LaVan would still have to place additional fencing if the petitioner had decided to simply remove the fence.

Chairperson DeFalco asked where the fence was in location to Mr. LaVan's fence. Mr. LaVan stated that the fences abutted one another.

Ms. Clark stated that the petitioner's fence would still be within the front yard of the neighbor's property. She also noted the conditions of approval limiting the relief to the existing residence. She stated that perhaps the condition should be limited to the fence.

Mr. Bedard noted that if the condition were limited to the fence it would hinder subsequent replacement and repairs of the fence. Ms. Clark agreed. Chairperson DeFalco stated that the condition should be left as written in the staff report.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals submits this petition to the Corporate Authorities with a recommendation for **approval** of the requested variation subject to conditions.

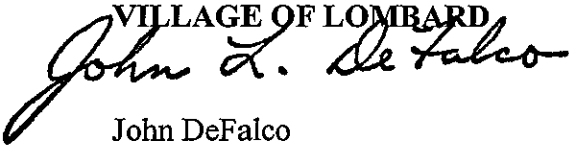
1. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
2. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

The roll call vote was 6 to 0 to recommend approval of ZBA 05-06.

Re: ZBA 05-06
May 19, 2005
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Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink that reads "John L. DeFalco". The signature is written in a cursive style with a large, sweeping initial "J".

John DeFalco
Chairperson
Zoning Board of Appeals

att-

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ANALYSIS

SUBMITTALS

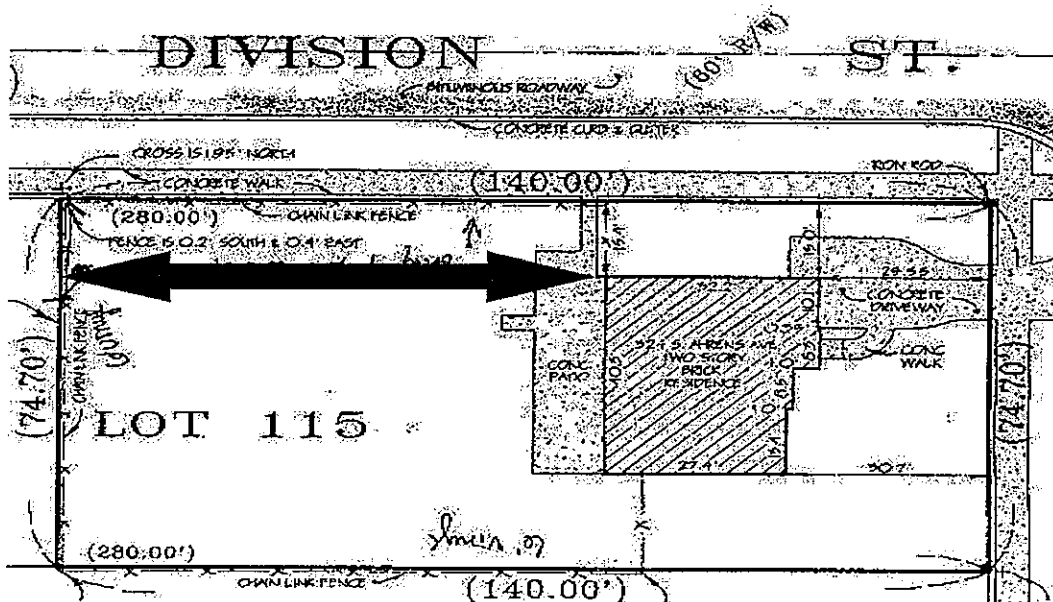
This report is based on the following documents, which were filed with the Department of Community Development on June 24, 2004.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated April 26, 1996, prepared by Alan D. Carradus and Associates

DESCRIPTION

The subject property is located on the corner of Division Street and Ahrens Avenue. The petitioner erected a six foot solid fence on the subject property in June 2004 while four feet was the maximum height allowed on a corner lot. The Village Board denied the petitioner's subsequent request for a variation from the height requirement. The petitioner now proposes to move the solid six-foot fence fifteen feet from the property line so that it is aligned with the building line of the residence. Since the residence is located approximately fifteen feet from the property line the proposed location remains within the required corner side yard area.

Site Plan



ENGINEERING

Private Engineering Services

From an engineering or construction perspective, PES has no comments.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

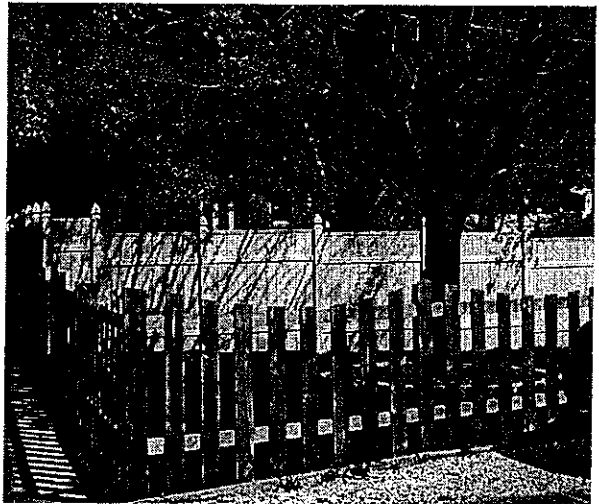
The Fire Department/Bureau of Inspectional Services has no comments on this petition.

PLANNING

As the members may recall, the petition appeared before the Zoning Board in July 2004. The petitioner obtained a building permit for a four-foot fence, but later constructed a solid six-foot fence within the corner side yard. The Board of Trustees ultimately denied the requested variation to maintain the fence within the required corner side yard. The petitioner now proposes to move the fence approximately fifteen feet away from the property line. The proposed new location of the fence would place the fence even with the existing building line of the house. As the petitioner's residence is legal nonconforming and is located within the required corner side yard area, the fence would be located in behind the rear door of the residence if placed a minimum of twenty feet from the corner side property line.



View from West on Division



View from East on Division

Staff can support the variation for the following reasons. Staff has encouraged property owners located on corner lots to locate fences outside of the required corner side yard area if they wish to exceed the four-foot height restriction. Given the location of the petitioner's residence from the corner side property line it is unreasonable to suggest that the fence be located twenty feet from the property line, as the rear door would be outside of the fenced area. The new location of the

fence will not impact any line of sight areas, as the neighboring property's driveway is located approximately thirty feet (30') from the property line. Staff finds that the proposed location will not contribute to any tunneling effects, as it will not be located along the property line.

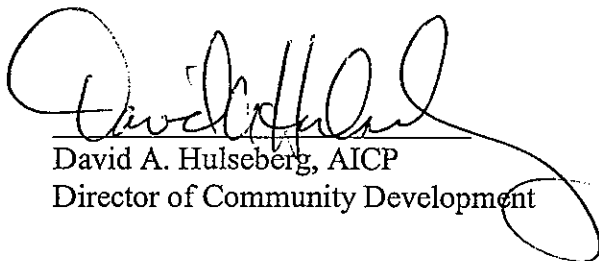
FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested relief. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the requested variation:

Based on the submitted petition and the testimony presented, the requested fence height variation **does 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 **approval** of ZBA 05-06, subject to the following conditions:

1. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
2. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

Inter-Departmental Review Group Report Approved By:

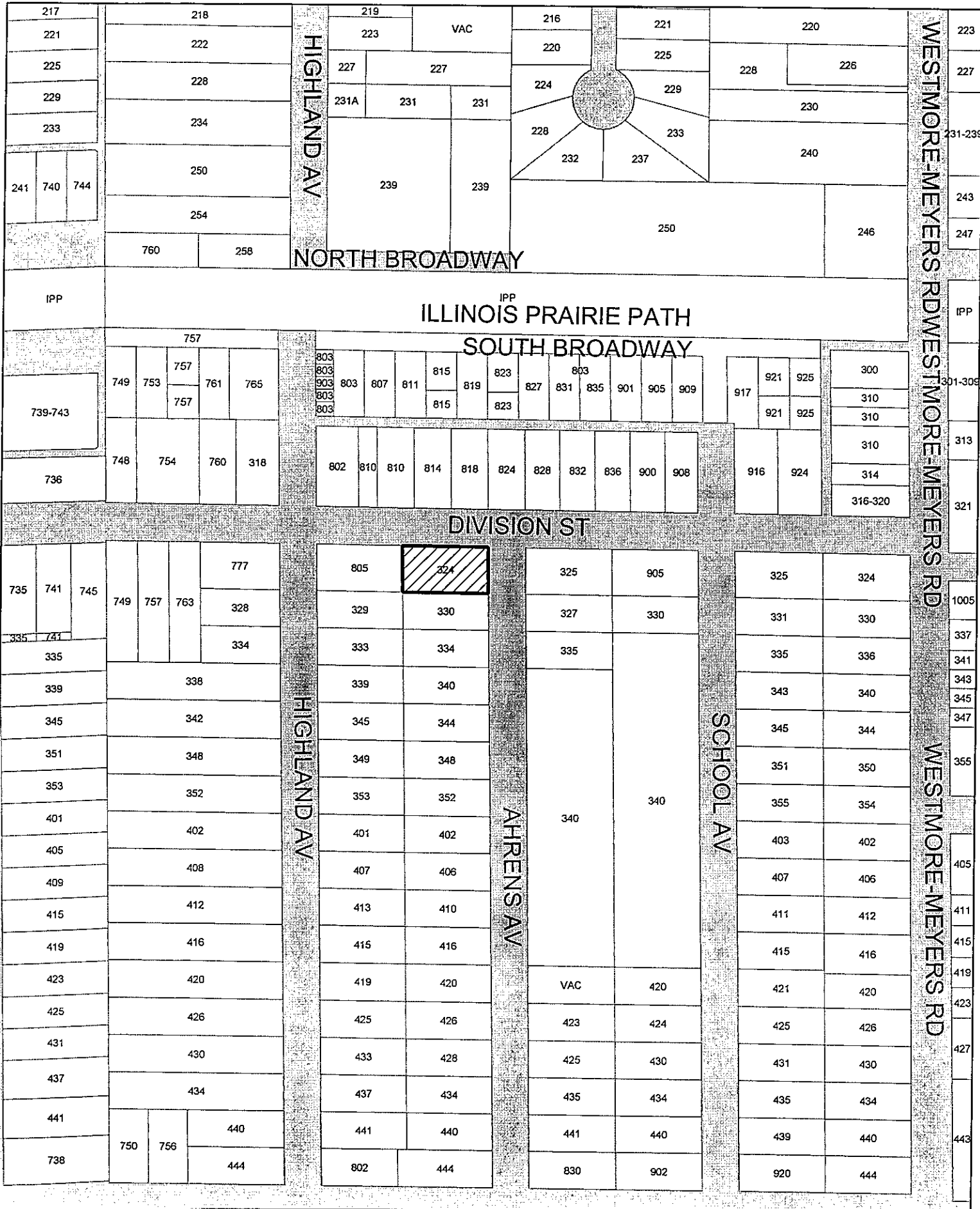


David A. Hulseberg, AICP
Director of Community Development

att-
c: Petitioner

Location Map

ZBA 05-06: 324 S. Ahrens Avenue



ORDINANCE NO. _____

**AN ORDINANCE APPROVING A VARIATION
OF THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 05-06: 324 S. Ahrens)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the subject property is zoned R2 Single Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height from four (4) feet to six (6) feet in a corner side yard; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on April 27, 2005 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendations to the Board of Trustees with a recommendation of approval of the requested variation; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; and

WHEREAS, the President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested variation subject to conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That a variation is hereby granted from the provisions of Title 15, Chapter 155, Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height from four (4) feet to six (6) feet, subject to the conditions noted in Section 3 below.

SECTION 2: This ordinance is limited and restricted to the property generally located at 324 S. Ahrens, Lombard, Illinois, and legally described as follows:

THE EAST HALF OF LOT 115 IN ROBERTSON'S WESTMORE, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTIER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1922 AS DOCUMENT 156301, IN DU PAGE COUNTY, ILLINOIS.

Parcel No: 06-09-306-018

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
2. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2005.

First reading waived by action of the Board of Trustees this _____ day of _____, 2004.

Passed on second reading this _____ day of _____, 2005.

Ayes: _____

Ordinance No. _____

Re: ZBA 05-06

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Nayes: _____

Absent: _____

Approved this _____ day of _____, 2005.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

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