

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: Scott Niehaus, Village Manager

DATE : August 1, 2019

(BOT) Date: August 15, 2019

SUBJECT: ZBA 19-05: 244 E. St. Charles Road

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 approve a zoning variation from Section 155.205(A)(2)(c) of the Lombard Village Code for a fence to be eight (8) feet, where a maximum of four (4) feet in height is permitted in the rear front yard of a through lot in the B2 General Neighborhood Shopping District

The Zoning Board of Appeals failed to make recommendation vote (a motion to deny and subsequent motion to approve failed to receive four votes). Please place this petition on the August 15, 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: August 15, 2019

SUBJECT: **ZBA 19-05, 244 E. St. Charles Road**

Please find the following items for Village Board consideration as part of the August 15, 2019 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 19-05;
3. An Ordinance granting approval of the requested variation; and
4. Supporting documentation (plans, response to standards, pictures, etc.) associated with the petition.

The Zoning Board of Appeals failed to make recommendation vote (a motion to deny and subsequent motion to approve failed to receive four votes). Please place this petition on the August 15, 2019 Board of Trustees agenda under Items for Separate Action.



VILLAGE OF LOMBARD

255 E. Wilson Ave.
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August 15, 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 19-05, 244 E. St. Charles Road

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 approve a zoning variation from Section 155.205(A)(2)(c) of the Lombard Village Code for a fence to be eight (8) feet, where a maximum of four (4) feet in height is permitted in the rear front yard of a through lot in the B2 General Neighborhood Shopping District.

The Zoning Board of Appeals conducted a public hearing on July 24, 2019.

Mr. Greg Ludwig and Dr. Georgie Ludwig, petitioners, and staff were sworn in by Chairperson DeFalco to offer testimony.

Dr. Ludwig said the vet hospital was started by her parents. She bought the clinic and property in 2012 and has worked here since she was 16. It is one of the oldest businesses in Lombard and employs approximately 40 people. She is seeking approval for a variance for an eight-foot-tall fence. This is for the safety of the pets and people. They board animals and have animals overnight at the clinic. Prior to the homes on Windsor the area was a field and Allied Drywall. It was secluded. During the home construction there was a temporary eight-foot-tall fence. She consulted with other animal hospitals and found that eight feet is a standard fence size. All dogs are supervised by staff. They would landscape the area near the fence.

Chairperson DeFalco asked if anyone from the public wanted to address the petitioner.

Mr. Ray Keeler was sworn in. Mr. Keeler said he is a customer of the vet clinic and has two dogs. He said he bought a house on Windsor and liked the quiet area and looking at the green field. He is concerned the fence will look like a fortress. He doesn't think it will be aesthetically pleasing. He said the issue of safety for people and dogs applies to residential homes as well, and he would not be permitted to have an eight-foot-tall fence.

Chairperson DeFalco asked for the staff report.

Jennifer Ganser, Assistant Director, presented the staff report, which was entered into the record in its entirety. The subject property is developed with a commercial building used as an animal hospital/veterinary clinic. The petitioner/property owner intends to install a solid privacy fence that is eight feet in height along the frontage of Windsor Avenue in the B2 District where four feet is required. As a result, a variance is needed for the fence. The property owner uses the rear of the property to walk dogs that are patients of the hospital or being boarded. For the security of dog walkers and the dogs, the property owner proposes to install a fence. Before the Allied Drywall property was sold and redeveloped in 2017, with the extension of Windsor Avenue, a fence with a height of eight feet could have been installed with only a permit. Due to the uniqueness of the through lot created by the installment of Windsor Avenue, staff recommends the variance for the fence to be eight feet in height within the front yard along the north property line. Staff believes the petitioner has affirmed the standards and concurs with their response.

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

Mr. Bedard asked if the fence will be eight feet on the side and Mr. Ludwig said yes. Ms. Ganser explained the fence regulations and that the side yard is permitted to have an eight-foot-tall fence by right.

Mr. Keeler said he has other neighbors who agree with him. He would be happier with a six-foot-tall fence. He asked if the business nature would change and if the dogs would still be on leashes. Dr. Ludwig said it is not a staffing issue. The dogs would be on leashes, though in the future they would like a small area for some dogs to run free.

Chairman DeFalco asked what their landscape plans were. Dr. Ludwig said they don't have specific plans. Mr. Ludwig said this discussion started over two years with staff. He would propose fast growing trees six to eight feet in height so the fence is mostly covered.

Ms. Ganser clarified that the zoning ordinance does not regulate if the dogs are leashed or not. Other dog day care or clinics have fenced outdoor areas where the dogs can run free. Mr. Ludwig said the fence would also help during their community events.

Ms. Newman asked if the fence would be eight feet all around and Mr. Ludwig said yes. Ms. Newman asked if the fence will be on the lot line. Mr. Ludwig said close to the lot line, accounting for the landscaping.

Chairman DeFalco asked if the variance was for the front yard only, the first thirty feet from Windsor. Ms. Ganser said yes.

Ms. Johnson asked why the fence wasn't put up earlier, before the homes were built. Dr. Ludwig said there was a natural barrier of landscaping. After the homes were built it was clear a fence was needed. There was a temporary fence placed by the home developer while the street was under construction. Ms. Johnson asked if the animal hospital would consult the neighbors and the Ludwig's said yes.

Mr. Bedard asked why the fence can't be moved thirty feet back. Mr. Ludwig said they need the space for the dogs and there are water retention issues on their property.

Mr. Jason Flores was sworn in. He asked if the fence will come to the side of the building. Mr. Ludwig said the intent is to fence the entire yard. Mr. Flores said he thinks eight feet is too high and asked why they didn't install the fence ten or twenty years ago. Mr. Ludwig they were trying to vacate the Stewart Avenue right-of-way and wanted that finalized first. Dr. Ludwig said she acquired the practice in 2012. Mr. Flores asked the ZBA to adhere to the ordinance.

Chairman De Falco clarified that prior to Windsor being extended the fence could have been built by right. Ms. Ganser said yes. He asked if the Plan Commission discussed this when they approved the homes. Ms. Ganser said it was not discussed at the Plan Commission meeting. Chairman De Falco gave a summary of the petition. Mr. Bedard said he grew up with an eight-foot-tall fence and does not support this petition.

On a motion by Mr. Bedard, and a second by Ms. Newman, the Zoning Board of Appeals voted 2-2 that the Village Board deny the petition associated with ZBA 19-05. The motion failed, as four votes were not obtained.

Ms. Johnson asked if the animal hospital was told the new home development would impact the height of the fence they could install. Mr. Ludwig said no. Chairman De Falco noted they could install an eight-foot-tall fence that is thirty feet back with or without landscaping. Ms. Ganser said yes. Chairman De Falco said the fence height would not change from the variance request. Ms. Johnson said she would like to make a motion adding a condition of approval that the area in front of the fence shall be landscaped and there shall be an opportunity for discussion with the neighbors.

On a motion by Ms. Johnson, and a second by Chairman De Falco, the Zoning Board of Appeals voted 2-2 that the Village Board approve the petition associated with ZBA 19-05, subject to the following four (4) conditions:

1. The fence shall be constructed in substantial conformance with the Site Plan;
2. The petitioner shall apply for and receive a building permit for the fence;
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation;
4. The area to the north of the fence shall be landscaped. The petitioner/property owner shall meet with the neighbors to discuss landscaping prior to installation.

The motion failed, as four votes were not obtained.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson, Zoning Board of Appeals

ORDINANCE NO. _____

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

(ZBA 19-05; 244 E. St. Charles Road)

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 B2 General Neighborhood Shopping District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting zoning variations from Section 155.205(A)(2)(c) of the Lombard Village Code for a fence to be eight (8) feet, where a maximum of four (4) feet in height is permitted in the rear front yard of a through lot in the B2 General Neighborhood Shopping District; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on July 24, 2019, pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with no recommendation; 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.

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 Section 155.205(A)(2)(c) of the Lombard Village Code for a fence to be eight (8) feet, where a maximum of four (4) feet in height is permitted in the rear front yard of a through lot in the B2 General Neighborhood Shopping District.

SECTION 2: This ordinance shall be granted subject to compliance with the following conditions:

1. The fence shall be constructed in substantial conformance with the Site Plan;
2. The petitioner shall apply for and receive a building permit for the fence;
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation; and

4. The area to the north of the fence shall be landscaped. The petitioner/property owner shall meet with the neighbors to discuss landscaping prior to installation.

SECTION 3: This ordinance is limited and restricted to the property generally located at 244 E. St. Charles Road, Lombard, Illinois, and legally described as follows:

LOTS 1 THRU 9 IN BLOCK 14 IN H.O. STONE AND COMPANY'S ADDITION TO LOMBARD, A SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 5 AND PART OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 26, 1924, AS DOCUMENT 179463, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-08-106-011; 06-05-321-014; 06-05-321-013; 06-05-321-012 and 06-05-321-011

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 _____, 2019.

First reading waived by action of the Board of Trustees this _____ day of _____, 2019.

Passed on second reading this _____ day of _____, 2019.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2019

Keith Giagnorio, Village President

ATTEST:

Ordinance No. _____
Re: ZBA 19-05
Page 3

Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2019

Sharon Kuderna, Village Clerk