

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

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

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Huliseberg, Village Manager *DAH*

DATE: July 17, 2008 (B of T) Date: August 21, 2008

TITLE: ZBA 08-10: 591 S. Charlotte St.

SUBMITTED BY: Department of Community Development *MDH*

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 to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five and one half feet (5.5') in the R2 Single-Family Residence District. (DISTRICT #5)

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

Please place this item on the August 21, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:
Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

Date _____

Date _____

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: David A. Hulseberg, Village Manager

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

DATE: August 21, 2008

SUBJECT: ZBA 08-10; 591 S. Charlotte Street

Please find the following items for Village Board consideration as part of the August 21, 2008 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 08-10; and
3. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials. The Zoning Board of Appeals recommended approval of the zoning actions associated with the petition.

VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3931
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org



August 21, 2008

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

William J. Mueller
Village President
Bridgite O'Brien
Village Clerk

Subject: ZBA 08-10; 591 S. Charlotte Street

Dear President and Trustees:

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Dana L. Moreau, Dist. 4
Laura A. Fitzpatrick, Dist. 5
Rick Soderstrom, Dist. 6

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. 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 front yard from four feet (4') to five and one half feet (5.5') in the R2 Single-Family Residence District.

David A. Hulseberg
Village Manager

The Zoning Board of Appeals conducted a public hearing on June 25, 2008. Garrett George, owner of the subject property, presented the petition. Mr. George stated that the proposed fence is intended to enclose the backyard for privacy. The fence would be five and one-half (5.5) feet in height and would be a continuation of the fence on the neighboring property on Madison Street. He stated that the variation would only be necessary for the first forty-three feet of fencing as the fence height regulations would be followed beyond this. He added that an additional purpose of the fence would be to block traffic noise and other sounds from busy Madison Street.

"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."

Mr. George stated that he believes a hardship is present due to the unusual configuration of his lot. It is surrounded by streets on three sides. He stated that as a result he effectively has three front yards and no rear yard.

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

Mr. George stated the fence would be the same style and height as the neighboring fence. He said that the neighbor on Madison Street is supportive of his request.

Chairperson Defalco opened the meeting for public comment. No one spoke for or against the petition. Chairperson Defalco then requested the staff report.

Stuart Moynihhan, Associate Planner, presented the staff report. Mr. Moynihhan stated the subject property could be described as a "peninsula" lot being bordered by streets on three sides: Madison Street, Charlotte Street, and Circle Terrace. As it fronts on two parallel streets, the subject property is a through lot. The Lombard Zoning Ordinance definition of a through lot states that both street lines shall be deemed front lot lines. The petitioner is requesting a variation to allow the installation of a solid wood fence five and one half feet (5.5') in height in the front yard along Madison Street where a maximum of four (4) feet is allowed. The proposed fence would match the height of an existing fence along the right-of-way line on the neighboring property to the east.

The peninsula arrangement of the subject property is uncommon in Lombard. This unusual arrangement causes the subject property to have two separate thirty (30) foot front yard setbacks and one twenty (20) foot corner side yard setback. Consequently, there are substantial limitations on where a fence higher than four (4) feet could be constructed. The proposed fence height would match the height of a neighboring legal non-conforming fence on the adjacent lot.

A variation is only necessary for the western forty-three (43) feet of fencing along the front lot line. The petitioner has proposed to install a four (4) foot chain link fence within the clear line of sight area at the corner of Madison Street and Charlotte Street. The fencing will then continue in a northerly direction within the corner side yard as a four (4) foot solid wood fence.

Staff can support a variation due to the unusual layout of the subject property and existing public rights-of-way. A hardship is present due to the characteristics of the property which are not generally applicable to other parcels in Lombard.

The subject property is affected by the fence height regulations of both corner lots and through lots. According to the Zoning Ordinance, the subject property has by definition no rear yard. However, the petitioner gains vehicular access to the property from Circle Terrace and primary access to the residence from Charlotte Street. The yard along Madison Street is closest in functionality to a rear yard.

Staff recommends that the petition be approved subject to the three conditions in the staff report.

Chairperson Defalco opened the meeting for discussion among the members.

Chairperson Defalco asked if the fence would be chain link at the clear line of sight triangle.

Mr. George stated that it would.

Chairperson Defalco stated that large shrubs and a tree in the area of the proposed fence were acting much like a fence themselves.

Mr. George stated that he has tried to cut them back the best he can.

Chairperson Defalco asked if the shrubs would stay and if the fence would be inboard of those shrubs. He also asked if Mr. George would consider removing the shrubs and trees.

Mr. George stated that the fence would be inboard of the trees and shrubs. He indicated that he would like to keep the trees and shrubs as a sound barrier if possible.

Chairperson Defalco asked if Mr. George would be willing to accept the condition that the shrubs be kept at the same height as the fence. The trees could be left as they are.

Mr. George stated that he did not have an objection to the condition.

Chairperson Defalco stated that he believed a hardship exists due to the nature of the lot.

On a motion by Mrs. Newman and a second by Mr. Polley, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five and one half feet (5.5') in the R2 Single-Family Residence District subject to the following conditions:

1. The fence shall be installed in accordance with the site plan submitted as part of this petition.

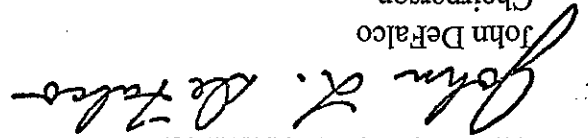
2. The petitioner shall apply for and receive a building permit for the fence prior to construction.

3. Vehicular access to the property shall not be permitted from Madison Street as long as a fence greater than four (4) feet in height exists in the front yard abutting Madison Street.

4. The shrubs along Madison Street shall be maintained at a height not to exceed five and one-half (5.5) feet.

Respectfully,

VILLAGE OF LOMBARD



John Defalco

Chairperson

Zoning Board of Appeals

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Stuart Moynihan
Associate Planner

HEARING DATE: June 25, 2008

TITLE

ZBA 08-10; 591 S. Charlotte St.: 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 front yard from four feet (4') to five and one half feet (5.5') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Owner:

Garett George
591 S. Charlotte St.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning:

R2 Single Family Residential District

Existing Land Use:

Single Family Residence

Size of Property:

approximately 8,700 square feet

Surrounding Zoning and Land Use:

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

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on June 2, 2008.

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Written response, prepared by the petitioner, describing the proposed fence and the current conditions on the subject property.
4. Plat of Survey prepared by Professional Associated Survey, Inc., dated May 15, 1998, with proposed fence location.

DESCRIPTION

The subject property could be described as a "peninsula" lot being bordered by streets on three sides: Madison Street, Charlotte Street, and Circle Terrace. As it fronts on two parallel streets, the subject property is a through lot. The Lombard Zoning Ordinance definition of a through lot states that both street lines shall be deemed front lot lines. The petitioner is requesting a variation to allow the installation of a solid wood fence five and one half feet (5.5') in height in the front yard along Madison Street where a maximum of four (4) feet is allowed. The proposed fence would match the height of an existing fence along the right of way line on the neighboring property to the east.

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.

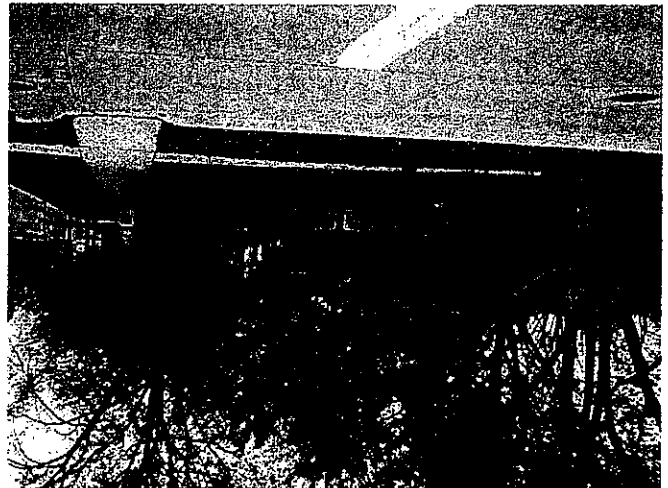
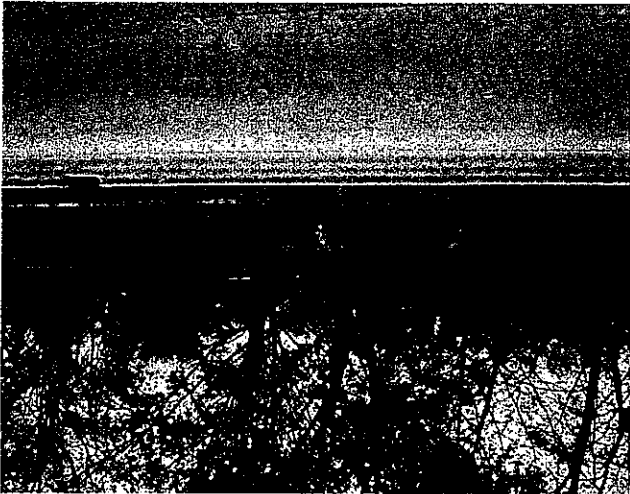
FIRE AND BUILDING

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

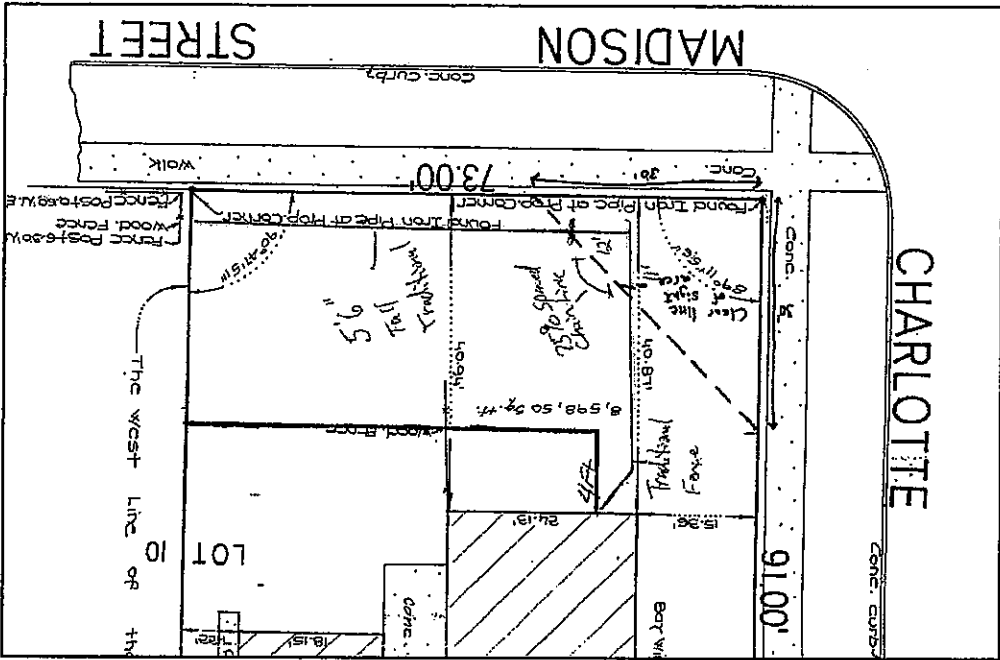
PLANNING

The peninsula arrangement of the subject property is uncommon in Lombard. This unusual arrangement causes the subject property to have two separate thirty (30) foot front yard setbacks and one twenty (20) foot corner side yard setback. Consequently, there are substantial limitations on

where a fence higher than four (4) feet could be constructed. The petitioner is requesting a variation to construct a fence five and one half (5.5) feet in height near the front lot line. The proposed fence height would match the height of a neighboring legal non-conforming fence on the adjacent lot. The petitioner has stated that the fence is intended to provide safety for his child and privacy in the area that is functionally the rear of the residence. The photographs below show the front yard of the subject property in which the fence would be built and the fence on the neighboring property.



A variation is only necessary for the western forty-three (43) feet of fencing along the front lot line. The petitioner has proposed to install a four (4) foot chain link fence within the clear line of sight area at the corner of Madison Street and Charlotte Street. The fencing will then continue in a northerly direction within the corner yard as a four (4) foot solid wood fence. This design is shown in the site plan below. The orange line indicates the proposed fence. The green line indicates where a fence taller than foot (4) feet could be constructed according to the Zoning Ordinance.



A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area. Staff can support a variation due to the unusual layout of the subject property and existing public rights of way. A hardship is present due to the characteristics of the property which are not generally applicable to other parcels in Lombard.

The application of the Zoning Ordinance significantly restricts the possible areas in which a privacy fence could be constructed on the subject property. The subject property is affected by the fence height regulations of both corner lots and through lots. According to the Zoning Ordinance, the subject property has by definition no rear yard. However, the petitioner gains vehicular access to the property from Circle Terrace and primary access to the residence from Charlotte Street. The yard along Madison Street is closest in functionality to a rear yard.

FINDINGS AND RECOMMENDATIONS

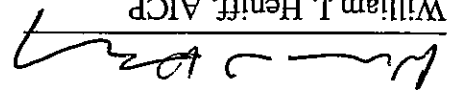
The Department of Community Development has determined that the information presented has **affirmed** the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion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

Based on the submitted petition and the testimony presented, the requested 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 08-10, subject to the following conditions:

1. The fence shall be installed in accordance with the site plan submitted as part of this petition.
2. The petitioner shall apply for and receive a building permit for the fence prior to construction.
3. Vehicular access to the property shall not be permitted from Madison Street as long as a fence greater than four (4) feet in height exists in the front yard abutting Madison Street.

Zoning Board of Appeals
Re: ZBA 08-10
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Inter-Departmental Review Group Report Approved By:



William J. Heniff, AICP

Acting Director of Community Development

WJH

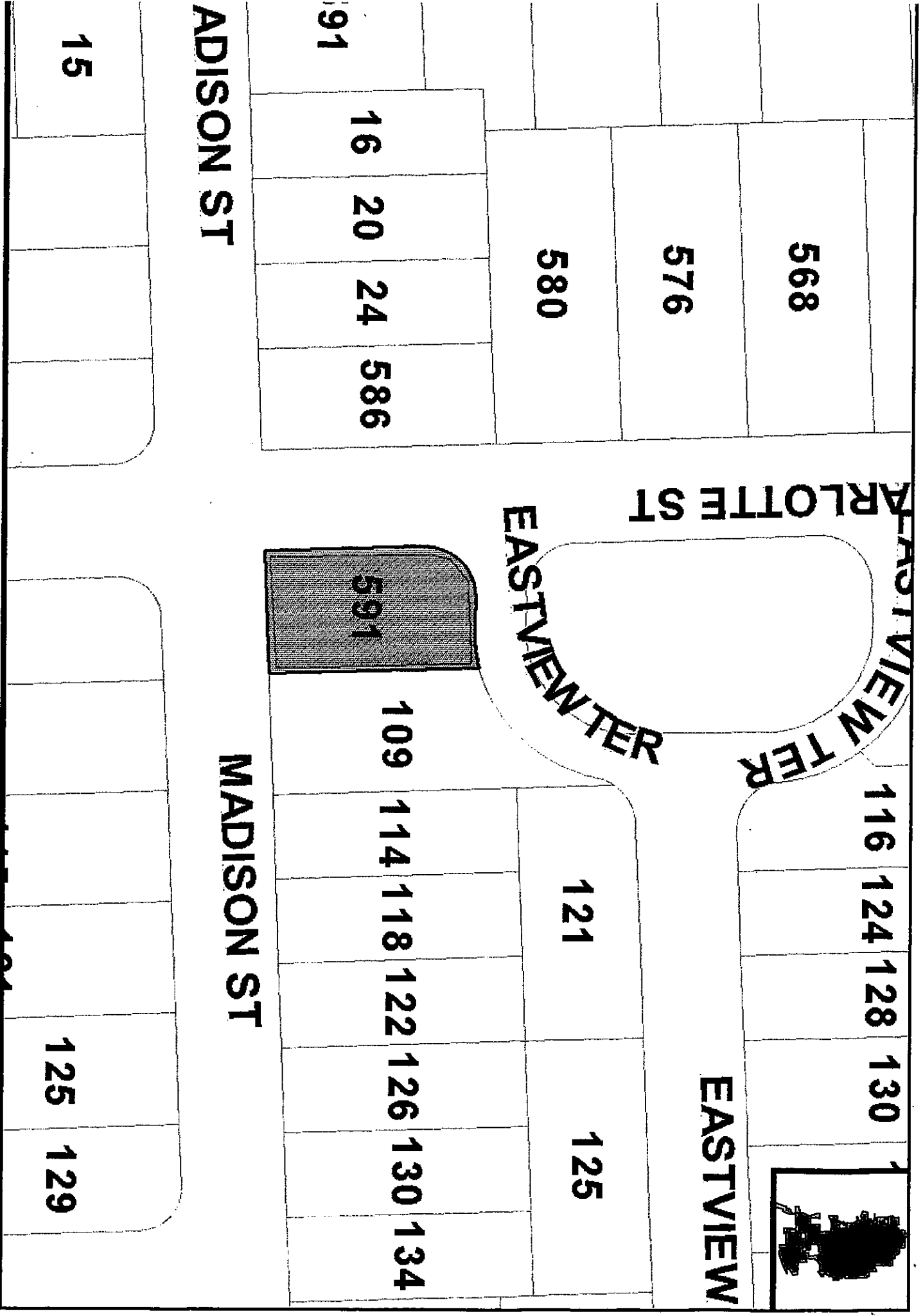
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591 S. Charlotte St.

1 in. = 73.1 feet



PETITION FOR VARIANCE OF 591 S CHARLOTTE STREET

Existing Site Improvements/Description of Request

The property improvement proposal consists of building a traditional fence to enclose the backyard for child safety as well as privacy reasons. The fence proposal will be a continuation of the adjacent neighbor's privacy fence in the height of 5'6" along Madison Street between our yard and the bushes. The fence will then transition to a 4' fence with 75% transparency when it reaches a distance of 30' within the property boundary. It will then take a 90 degree turn towards the house while maintaining its transparency and height. The fence will then resume a traditional look once it is beyond 30' of the property boundary.

Response to Standards for Variations

1. A particular hardship exists at our property that would prevent us from receiving a permit for said fence should the strict letter of the law be applied.

Our property is addressed as 591 S Charlotte; however, it has village streets on three sides. Due to the uniqueness of the lot, the village has determined that the property has no backyard, but instead, three front yards.

While there may be technical considerations leading to the village's arrival of this conclusion, we disagree. We believe and feel that the backyard is the portion of the property behind our garage and behind our house, with portions of the backyard being beside the house. It is also the backyard because it is adjacent to our neighbor's backyard. It would not make practical sense for any other portion of the property to be considered the backyard.

Furthermore, if you were to visit the property, you would notice considerable landscaping improvements throughout the entire plot. Much of these improvements were made under the assumption that the area in question was the backyard. These improvements strengthened the delineation that this area is a backyard.

It should be known that as a result of these improvements, the village of Lombard has sent us letters commending us on the up-keep and beautification of the property. The village also extended its gratitude for our efforts in keeping Lombard beautiful.

2. The conditions present on the property, as mentioned above, are extremely unique and require consideration of a zoning variance. We have traveled the neighborhood and the village frequently looking for a similar zoning situation and we can find no other property with the same situation.

3. The purpose of variation for the fence permit could not possibly provide us with financial gain. On the contrary, we feel the application adds more of a financial hardship to the project.

4. The difficulty of this ordinance has been created by the letter of the zoning law interacting with the uniqueness of the property. Furthermore, the property is not for sale nor do we have intentions of selling the property.
5. The granting of this variation will have no detriment to the public welfare due to its compliance with sight line zoning on the property.
6. The granting of the variation will not alter the essential character of the neighborhood. We believe that the variance will allow for improvements that will be consistent with the neighborhood. In addition, the fence will be a continuation of an already existing fence adjacent to the property.
7. The proposed variation will not have a detriment to any of the areas discussed within this section of the Lombard Zoning Ordinance.

We share with 5918 Charlotte St.

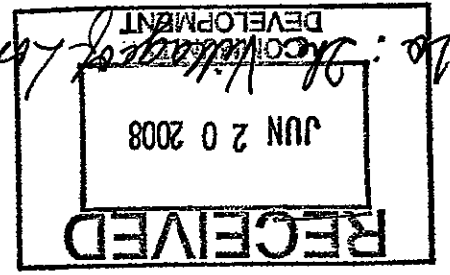
the, Wayne and Martha Bickel, property owners at 109 Eastview Terrace, are neighbors of Janet and Bill Henge of 5918 Charlotte Street and we have absolutely no objection to their request to install their fence.

This letter is regarding the property located at 5918 Charlotte St. and the request for variation of the setback zoning ordinance to increase the maximum allowable fence height in a front yard from 4 ft. to 5 1/2 ft.

to whom it may concern:

To: The Village of Lombard and Board of Appeals:

June 19, 2008



The distinction of having "multiple front yards" is the love of our home, our neighbors, our neighborhood, and the Village, coming from living in Glen Ellyn for 20 years.

The ability to have the fence bordering our back yards allows us all to enjoy a little privacy in our yards and we think that the addition of the fence to the George's property would be nothing but a benefit to the property. We support their request.

Please advise the landlady of this letter, we have had personal out-of-town family notices that we have been addressing.

Thank you for your anticipated attention and cooperation.

Sincerely,
Mark & Beckett

ORDINANCE NO. _____

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

(ZBA 08-10: 591 S. Charlotte Street)

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 in a front yard from four feet (4') to five and one half feet (5.5') in the R2 Single-Family Residence District; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on June 25, 2008 pursuant to appropriate and legal notice; and,

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

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals and have determined that it is in the best interest of the Village of Lombard to approve the requested fence height 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 Title 15, Chapter 155, Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five and one half feet (5.5').

SECTION 2: This ordinance is limited and restricted to the property generally located at 591 S. Charlotte Street, Lombard, Illinois, and legally described as follows:

LOT 10 (EXCEPT THE EAST 5.00 FEET THEREOF) IN THE RESUBDIVISION OF LOTS 7, 8, 9, 17, 18, 19, 20, 21, 42, 43 AND 44 AND THAT PART OF LOT 49 WEST OF A LINE 445.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SECTION AND VACATED FAIRVIEW TERRACE IN MORNINGSIDE PARK

SUBDIVISION, IN THE SOUTHWEST ¼ OF SECTION 8, TOWNSHIP 39 NORTH,
RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE
PLAT OF SAID RESUBDIVISION RECORDED NOVEMBER 10, 1926 AS
DOCUMENT 224713, DUPAGE COUNTY, ILLINOIS.
Parcel No: 06-08-320-001

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

1. The fence shall be installed in accordance with the site plan submitted as part of this petition.
2. The petitioner shall apply for and receive a building permit for the fence prior to construction.
3. Vehicular access to the property shall not be permitted from Madison Street as long as a fence greater than four (4) feet in height exists in the front yard abutting Madison Street.
4. The shrubs along Madison Street shall be maintained at a height not to exceed five and one-half (5.5) feet.

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 _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.
Passed on second reading this _____ day of _____, 2008.

Ayes: _____
Nays: _____
Absent: _____
Approved this _____ day of _____, 2008.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

