

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals HEARING DATE: June 27, 2007
FROM: Department of Community PREPARED BY: Michael S. Toth
 Development Associate Planner

TITLE

ZBA 07-10; 220 W. Central Avenue: The petitioner requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted; and
2. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted.

GENERAL INFORMATION

Petitioner/Property Owner: Arben Ilo
 220 W. Central Avenue
 Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Residential

Size of Property: 0.243 acres

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 May 29, 2007.

1. Petition for Public Hearing.
2. Response to the Standards for Variation.
3. Plat of Survey, prepared by Streamline Survey, Inc. dated November 24, 2003.
4. Site plan, prepared by the petitioner, showing fence location.

DESCRIPTION

The subject property is located at 220 W. Central Avenue. The petitioner replaced an existing fence to a height six (6) feet without a permit. As the petitioner's proposed fence is located within the required corner side yard setback and adjacent to a neighboring properties front yard setback, the four-foot height restriction is required.

INTER-DEPARTMENTAL REVIEW COMMENTS

Private Engineering Services

The PES Division has the following comment for this petition:

- 1) Petitioner shall verify that the sight triangle is not impacted by the new fence.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

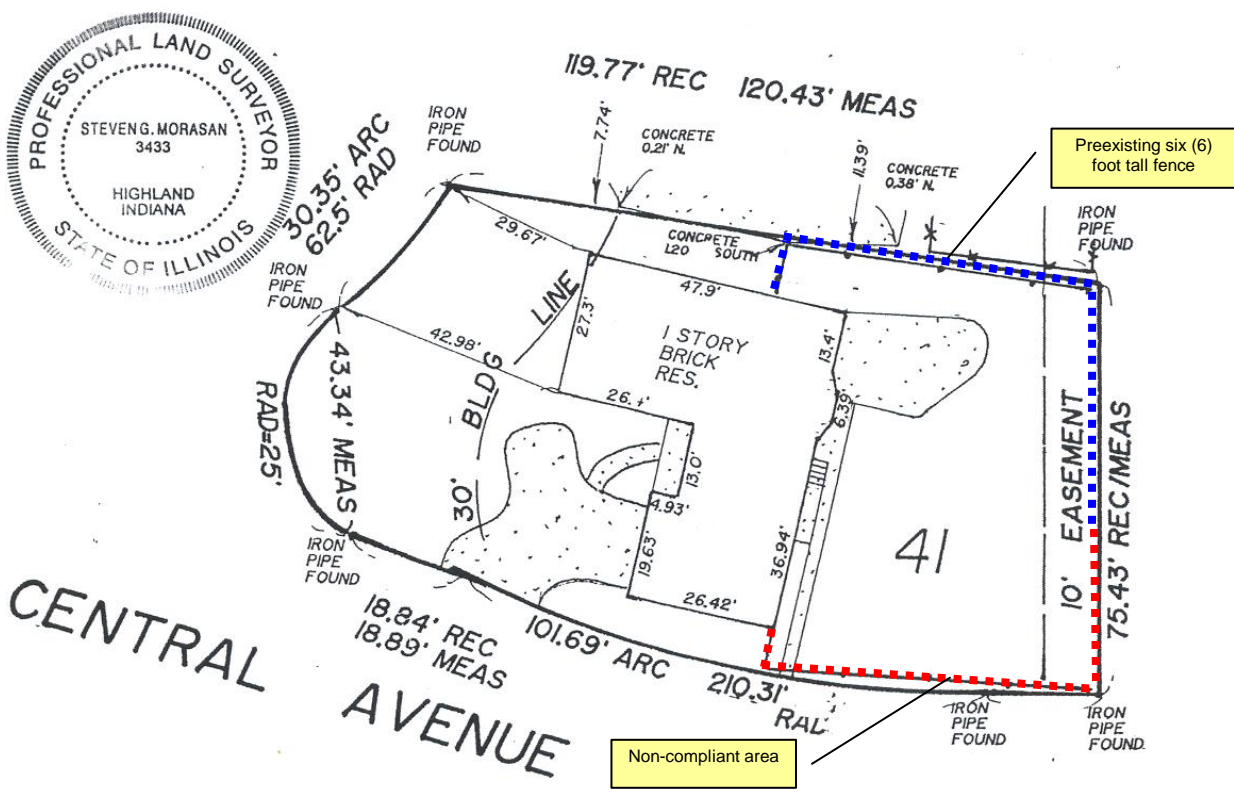
Fire and Building

Upon review of the above referenced request for variations in fence heights at the corner property, the Fire Department/Bureau of Inspectional Services has the following comment:

That the new fence height not interfere with any line of sight for emergency vehicles.

PLANNING

The subject property previously had a legal nonconforming six-foot high solid fence within the corner side yard. The fence also abutted the front yard of the adjacent property. The petitioner removed the entirety of the nonconforming fence and replaced it with a similar six-foot high solid fence. The Zoning Ordinance contains provisions that allow nonconforming fences to remain with the intention that, once a nonconforming fence reaches the end of its useful life, any replacement fence will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance. As such, the petitioner's replacement of the fence removed any legal nonconforming rights and requires that the new fence meet the four-foot height restriction.



The petitioner raised several issues within the Response to the Standards for Variations with regard to privacy and safety. However, 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 cannot support the variation for the following reasons. Six-foot high fences are not permitted within front yards or corner side yards due to the visual obstruction they create. Similarly, there are additional restrictions placed upon fences that abut a neighbor's front yard to prevent such a fence from blocking the view from the front yard of the neighboring property.

It is noted that there is a substantial grade deviation between the rear yard of the subject property and the abutting front yard of the adjacent property to the east. When viewed from the aforementioned neighboring property, the portion of the fence which abuts the property does not have the effect of that of a six (6) foot fence (see illustration below).



Grade deviation from the front yard of the adjacent property (to the east), sloping down to the subject property.

While the above pictures illustrate grade deviation from the abutting front yard of the neighbor to the east, the issue lies primarily with the screening along Central Avenue. There is no relative grade deviation between the right of way portion of the subject property (in relation to the street) and the fence location. The majority of the fence that is subject to the variation has no grade deviation, so staff cannot consider grade deviation as a means for support of the variation.

There are no clear line of sight issues pertaining to the fence on the subject property.

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:

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 fence height regulations or clear line of sight requirements.

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.

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 ordinance has not caused the hardship as the fence could have been constructed per the ordinance requirements. 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 in its entirety. However, if the Zoning Board of Appeals finds it appropriate to grant the variation, the petitioner would be required to obtain a permit for the existing fence.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not 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 **denial** of the requested variation:

Based on the submitted petition and the testimony presented, the requested fence height 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 07-10.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager

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c: Petitioner