

October 7, 2010

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

Subject: PC 10-13: Text Amendments to the Zoning Ordinance

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing text amendments to the Lombard Zoning Ordinance, relative to fencing and accessory structures located on Through Lots. The definition of 'Through Lot' would also be amended for purposes of clarity.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on September 20, 2010. Michael Toth, Planner I, presented the petition. Historically, Village staff has received a number of requests to allow accessory structures and fences in excess of four (4) feet in height on through lots. In order to address these requests, staff has reviewed all provisions relative to through lots and is proposing amendments relative to fence height and the placement of accessory structures on such lots.

By definition, a lot that faces two parallel public streets is considered a 'through lot'. Pursuant to the Zoning Ordinance, a through lot is defined as having two front yards. As such, accessory structures and fences in excess of four (4) feet in height are not permitted in front yards. Historically, Village staff has received a number of requests to allow accessory structures and fences in excess of four (4) feet in height on through lots.

Fences

On an interior lot, the principal structure is bound by the front yard setback, two side yard setbacks and a rear setback. In this traditional configuration, a fence can be erected to a maximum height of six (6) feet in the side and rear yards of the property. However, as a through lot technically has two front yards, a fence in excess of four (4) feet is limited to the interior side yard.

Accessory Structures

Accessory structures are not listed as permitted encroachments in the front or side yard. Moreover, all detached accessory structures must also be located behind the front wall of the principal building that is nearest to the front lot line. As such, the placement of an accessory structure is limited to either the buildable area of the lot (behind the principal structure) or the rear yard. The placement of an accessory structure on a through lot is further restricted to the buildable area of the lot.

Staff recognizes the demand to allow properties located on through lots to have the same level of privacy (through the use of a fence in excess of four (4) feet) and use of accessory structures that are afforded to interior lots. Through the proposed text amendments, single family through lots would be permitted to place an accessory structure or erect a fence to a maximum of six (6) feet, which is consistent with the interior lot provisions; however, certain conditions must apply.

In order to place accessory structures or erect a fence (in excess of four (4) feet) on through lots in an area once deemed to be a front yard, each through lot would be required to take driveway access from the same right of way as both adjacent properties. If this requirement is met, the lot line opposite the access right of way would be treated as a rear yard. This provision was created in order to maintain consistency on the block face and to ensure that accessory structures and fences (in excess of four (4) feet) would not be placed adjacent to the front yard of the neighboring property (the front yard taking access from the same right of way). Such provisions already exist within code to protect property owners from the impact caused by adjacent properties.

Existing Conditions

Staff conducted an analysis of all existing through lots within the Village. There are a total of 75 through lots, and with the exception of one block (located on 16th Street) the majority of through lots are located on (or abut) a Minor Arterial Route (as recognized by the Comprehensive Plan). Staff notes that the through lots along 16th Street are located across the street from Four Seasons Park. Furthermore, with the exception of one area (S. Main Street and Washington Blvd) all of the through lots examined held the same block face, which means that every house on the block takes access from the same right of way. All of these homes also face the same right of way from which they take access from.

In the case of the S. Main Street and Washington Blvd area, there are a total of five properties that form a peninsula. Three of those properties face S. Main Street, but only one both faces and takes access to S. Main Street. Only two lots face and take access from Washington Blvd. The other two face S. Main Street, but take access from Washington Blvd. Because of this area's unique lot configuration, each property would be required to either meet the fence and/or accessory structure requirements or seek a variation, even if the proposed amendments were adopted.

The definition of 'Through Lot' does not specify which yard shall be deemed the front yard, but rather states that both street lines shall be deemed front lot lines. The definition of 'Lot Line,

Front' allows corner lots to select either street line as the front lot line and states that the front lot line of "land-locked land" shall be that lot line that faces access to the lot. This definition does not specifically address through lots, but staff has historically made the interpretation that the front line is considered the lot line that the house faces and takes right of way access from. For technical purposes, homes that face their applicable right of way, but take access from a rear alley, would not be applicable to the proposed text amendments as those alleys are considered access easements and not public right of way.

Prior to the year 2000, the Village did not require permits for fences. Code provisions relative to fences (height, location, etc) did officially exist; however, without a formal permit process, these provisions were often disregarded. As a result, many of the through lots currently have fences in excess of four (4) feet. Typically during the permit process - now - is when permit applicants (living on through lots) discover that their existing fence is non-conforming and the current code provisions must be met, otherwise a variation must be obtained.

Staff has always been consistent with the regulation of accessory structures on through lots; more specifically, staff has always considered the two front yard provision as part of the location requirement. Although there have not been any recent variations involving the placement of accessory structures on through lots, there has been a demand to allow such structures in the rear portion of the property. Furthermore, if a through lot could have the ability to erect a six (6) foot fence, this would provide a screening element for an accessory structure.

Staff has a history of amending provisions of the Zoning Ordinance to address emerging land use issues. As an example, corner lots - once deemed to have two front setbacks, were eventually granted the ability to consider one street exposure as a 'corner side yard', as opposed to a more restrictive front yard. This amendment allowed corner lots to have a larger building footprint and also expanded the amount of usable area of a property for other types of structures. Staff believes that the proposed amendments would also allow property owners to utilize their property to a greater extent, without sacrificing bulk regulations and/or aesthetic issues. Staff notes that the difference between allowing additional fence and accessory structure consideration for through lots, as opposed to corner side yards is the fact that these through lots are located along major thoroughfares and not in the middle of residential neighborhoods. As such, the visual impact would be less detrimental.

Furthermore, staff finds that the proposed amendments meet the standards and recommends approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that staff did a really good job with such a confusing issue.

Commissioner Burke stated that this is a very technical issue. He then questioned why the Plan Commission is addressing this issue and why it is not handled on a case-by-case basis. Each and every condition is going to be different. He is nervous with the approach of creating a blanket

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ordinance because it won't fit every situation. He then questioned how many requests have we actually received because he does not remember one.

Michael Toth stated that these types of requests are typically taken at the staff level at Village Hall during normal business hours. He then added that these requests are made when someone comes to the Village for a fence permit or permit for an accessory structure at which point they are told that they do not meet code and they have to seek a variation.

Commissioner Burke asked if staff has seen anyone come in and seek a variation. Mr. Toth responded, no.

Christopher Stilling, Assistant Community Development Director, stated that Mike is the frontline and ends up telling people that the code limits their fence in height. The issue is that most people have an existing six (6) foot fence that was erected prior to 2000.

Commissioner Burke stated that it is better to do that than leave it in a state of disrepair.

Mr. Stilling agreed. He then added that those people will either contact him or the Director of Community Development, upset about this. He stated that we currently have four or five people waiting to see the result of this text amendment to know how tall they can build their fence. He added that staff wants to be more proactive with this issue. Ultimately, if the Village Board decides that they want to review these on a case-by-case basis, they can deny the text amendment. Staff believes that it is unnecessary to charge for the variation and is proposing the text amendment instead.

Referring to the staff report, Commissioner Burke stated that the definition of a through lot is a lot that faces two parallel streets. If you consider that definition in the strict sense of the word, several of the lots on Washington and Main would not be considered through lots as Main and Washington do not run parallel. He suggested that we consider changing the definition, noting that the lots have frontage on two sides.

Commissioner Sweetser suggested that the words "essentially parallel" or "parallel to 'x' percentage".

Attorney Wagner referred to the actual definition found on page 8 and provided clarity on the issue.

On a motion by Commissioner Olbrysh and a second by Commissioner Burke, the Plan Commission voted 5 to 0 that the Village Board **approve** the text amendments associated with PC 10-13.

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Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

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