

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: June 5, 2015 (B of T) Date: June 18, 2015

TITLE: ZBA 15-05 – 601 N. Grace Street

SUBMITTED BY: Department of Community Development *GN*

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 take the following actions for the subject property located within the R2 Single-Family Residence District (Lombard Heights Subdivision):

1. Grant approval of a variation from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials; and
2. Grant approval of a variation from Section 155.205 (A)(1)(e)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high wood fence of solid-construction within the clear line of sight area where fences or walls of open-construction are required. (DISTRICT #4)

The ZBA unanimously recommended approval of a variation to allow a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials, subject to one condition. However, the ZBA unanimously recommend denial of the requested variation to allow for a six foot (6') high wood fence of solid construction within the clear line of sight area.

The petitioner requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):
 Village Attorney X _____ Date _____
 Finance Director X _____ Date _____
 Village Manager X _____ 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 *WJH*

DATE: June 18, 2015

SUBJECT: ZBA 15-05; 601 N. Grace Street

Please find the following items for Village Board consideration as part of the June 18, 2015 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 15-05;
3. An Ordinance granting approval of only the requested variation from Section 155.2015 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials.

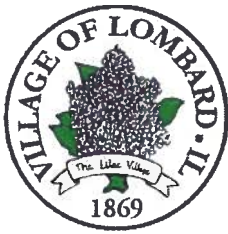
Should the Village Board not approve the variation from Section 155.205 (A)(1)(e)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high wood fence of solid construction within the clear line of sight area where fences or walls of open construction are required, the attached Ordinance can be approved as is.

If the Village Board opts to approve both the corner side yard and clear line of sight area variations, they should direct staff to prepare a revised Ordinance; and

4. Supporting documentation associated with the petition.

The ZBA unanimously recommended approval of a variation to allow a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials, subject to one condition. However, the ZBA unanimously recommend denial of the requested variation to allow for a six foot (6') high wood fence of solid construction within the clear line of sight area.

Please place this petition on the June 18, 2015 Board of Trustees consent agenda. The petitioner requests a waiver of first reading of the Ordinance.



VILLAGE OF LOMBARD

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Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

June 18, 2015

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Bill T. Johnston, Dist. 4
Robyn Pike, 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 15-05; 601 N. Grace Street

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 take the following actions for the subject property located within the R2 Single-Family Residence District (Lombard Heights Subdivision):

1. Grant approval of a variation from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials; and
2. Grant approval of a variation from Section 155.205 (A)(1)(e)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high wood fence of solid-construction within the clear line of sight area where fences or walls of open-construction are required.

The Zoning Board of Appeals conducted a public hearing on May 27, 2015.

Mrs. Renee Connors, and her husband Matt Connors, presented the petition. Mrs. Connors began by stating that her property is a corner lot and she would like to construct a six foot (6') high solid privacy fence along Sunset Avenue to replace an existing five foot (5') high chain link fence. Privacy in the majority of her yard is a very important factor to her. She stated that the gate on the east side of the garage is four feet (4') in height.

Mr. Connors stated that their family has grown and they are in need of more room. He said that they have explored options of building an addition to the home or moving. The house has been broken into previously and he has discussed the proposed fence with neighbors,

who have not stated any concerns. Without the privacy fence, he sees very little reason to invest in the expansion of the house along with other amenities.

Chairperson DeFalco questioned if there was anyone present to speak in favor of or against the petition.

Ms. Grace Hillyard was sworn in and testified that she is in favor of the fence requested. She is a neighbor at 609 N. Grace Street and understands the need for privacy with small children because she has young grandchildren similar in age to the Connors' children. She said in addition to the amount of traffic on both Grace Street and Sunset Avenue, she is very concerned about the number of pedestrians utilizing the sidewalks. There have been suspicious individuals seen in the neighborhood trespassing into back yards.

Chairperson DeFalco questioned if there was anyone else present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.

Matt Panfil, Senior Planner, stated that the IDRC report is to be entered into the public record in its entirety. Mr. Panfil began by stating that the petitioners had stated that part of their need for the variances is to allow for future construction of a residential addition and/or swimming pool; however, neither of these items would be permitted within the corner side yard. Mr. Panfil then restated that there are two (2) distinct variations requested by the petitioner. One variance is for the height of a solid fence in a corner side yard, and the other is for a solid fence to be located within the clear line of sight area.

Mr. Panfil continued by stating that in order to be granted a variation each of the Standards for a Variation must be affirmed. Staff finds that standards two, three, and six have been affirmed. In regards Standard One, staff does not agree that the construction of a six foot (6') high solid fence, especially when located in a clear line of sight area, is a matter of need, but rather a matter of preference, and is therefore not a true hardship. If a six foot (6') high solid fence is a necessity, the petitioner may, by right, construct such a fence twenty feet (20') north of the southern property line instead of within the corner side yard and clear line of sight area.

In regards to Standard Four, Mr. Panfil stated that staff finds the alleged difficulty to be a matter of personal preference for a six foot (6') high solid fence rather than either a six foot (6') high fence of open construction decorative materials or a four foot (4') high solid fence. In regards to the encroachment into the clear line of sight area, the petitioner can either angle the fence in such a manner so as to avoid the encroachment, or construct a fence of an open construction.

In regards to Standard Five, Mr. Panfil stated that staff finds Standard Five to be partially affirmed in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to be detrimental to the public welfare or injurious to other property or improvements. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to the public welfare. While Private Engineering Services is correct in the comment that the proposed fence will not increase the already obstructed view due to the location of the existing garage, staff must take into account the fact that the existing

detached garage is a nonconforming structure, and if it were to be demolished, a new garage would have to conform to the required twenty foot (20') corner side yard setback.

Finally, in regards to Standard Seven, Mr. Panfil stated that staff finds that Standard Seven is partially affirmed in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to endanger public safety. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to public safety. Staff does acknowledge that the sidewalk along Sunset Avenue shifts to the south in the area of the private driveway, allowing for an increased level of visibility beyond what would be possible if the sidewalk ran exactly parallel to the property line. While the configuration of the existing sidewalk may allow for visibility that functionally creates a clear line of sight area, there is no guarantee that the curvilinear sidewalk will be maintained in perpetuity.

Mr. Panfil then cited five (5) similar past cases that appeared before the Zoning Board of Appeals within the last ten (10) years. Each case involved a solid fence that exceeded the maximum height for a fence in a corner side yard as well as a solid fence within a clear line of sight area. Also, each case pertained to a single-family home located within a residential zoning district. Of the five (5) cases, staff recommended that the Zoning Board of Appeals recommend denial of the requested clear line of sight area variation each time. Staff also recommended denial of the six foot (6') high fence in a required corner side yard each case, except one, ZBA 06-13. In ZBA 06-13 staff recommended approval of the fence height variation because the petitioner was proposing a six foot (6') high solid fence to encroach into the corner side yard setback only along a twenty foot (20') segment of the rear property line. The petitioner constructed a four foot (4') high fence along the street frontage.

Mr. Panfil concluded his presentation by stating that staff recommends denial of the requested variations. However, if the Zoning Board of Appeals were to consider granting zoning relief to the property, Mr. Panfil recommended that said relief be limited to a five foot (5') solid wood fence located in the same location as the existing five foot (5') high chain link fence in the corner side yard, but not within the clear line of sight area.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Mr. Bartels requested clarification of the exact location of the fence and it was noted that it will be located where the existing chain link fence is, extending from the southeast corner of the garage to the east property line, approximately eleven feet (11') from the south property line.

Dr. Corrado asked the petitioner if a decorative, open style fence would not suffice. Mrs. Connors responded that it would not because the safety of her children is important. Mr. Connors asked for clarification as to the Village's specific safety concerns.

Chairperson DeFalco explained the clear line of sight area for the driveway in relation to the sidewalk. A person backing their car out of the driveway needs to have an unobstructed view on either side. The existing garage is within the delineated clear line of sight area. Mr. and Mrs. Connors questioned that if the garage is in the clear line of sight area what difference does it make if the fence is also located off of the garage.

Mr. Panfil explained the clear line of sight triangle is depicted in the staff report as Exhibit C shown in yellow. The existing garage is in the clear line of sight however if the garage were to be destroyed and then replaced, it would have to be located twenty feet (20') from the property line to meet the current zoning code. The garage could not be replaced in the existing location. Mrs. Connors stated that she would have to move her shed and an angled portion of the fence would look funny.

Chairperson DeFalco stated that several properties in Lombard have angled fences to avoid the clear line of sight area. He stated that it has been in recent years that six foot (6') fences with open design have been permitted in the corner side yards. If the garage were to ever be replaced, it and the fence would need to comply with the clear line of sight area requirements.

Mr. Panfil stated that staff is required to review a fence request according to the Lombard Zoning Ordinance. The clear line of sight area is to remain unobstructed by the fence, even if the garage is a legal nonconforming structure.

Mr. Young stated that angling the fence to avoid the clear line of sight area will not make any difference since the garage itself is within the clear line of sight. He questioned if allowing the fence within the clear line of sight area would then imply approval of a variance sometime in the future for a possible replacement of the garage to remain in the existing nonconforming location.

Ms. Hillyard questioned if the location of the garage is requiring the variance and that there are several properties in the area that have six foot (6') high fences on corner lots. Mr. Panfil responded that some of the existing fences could have received variances, were installed prior to the requirement of building permits for fences, or were constructed recently, but without a proper permit. Mr. Panfil cited an example at 551 N. LaLonde Avenue in which a variance was recently granted because the hardship was due to the topography and the T-intersection of LaLonde Avenue and Sunset Avenue adjacent to the property.

Ms. Hillyard pointed out that she had to go through this process for her front porch and she believes a neighbor had the same circumstances and got away with building their porch without a variance. She questioned why some people do not have to follow the rules. Mr. Panfil responded that he would look into her concern if she would like to identify the address in question. Staff does not actively seek all instances of non-compliance to the Zoning Ordinance, yet when a concern is brought to staff's attention, a property maintenance case may be opened. Ms. Hillyard stated that she did not wish to share the address.

Mr. Young cited an example where a six foot (6') high fence was granted a variance due to concerns of a pool and its proximity to a school playground. Chairman DeFalco added that there may have been two (2) fence variances in relation to pools. He questioned the petitioners if their plans for a pool are immediate.

Mrs. Connors stated that plans for a pool are not definite and would be sometime in the future. She stated that their house had been broken into approximately ten years ago. She said she would like to stay in the area since her parents live a few blocks away. Her reason for the six

foot (6') high fence is for the safety of her children and four feet (4') in height is not high enough to prevent an individual from reaching into her yard.

Chairperson DeFalco asked staff if the width of the lot is a standard size. Mr. Panfil responded that the typical lot width is sixty feet (60') wide and some older subdivisions have lots with a width of fifty feet (50'). Chairperson DeFalco asked the petitioners if bringing in the requested six foot (6') high fence by twenty feet (20') from the property would be an option. Mr. Connors responded that they would lose too much of the back yard.

Mr. Connors stated that he was confused as to why the staff report recommended a fence five feet (5') tall where the existing fence is located. Mr. Panfil responded that staff recommended denial of the request and added a possible recommendation if the Zoning Board of Appeals were not to recommend denial of the petition.

Mr. Bartels stated that the clear line of sight area is still an issue. Mr. Tap requested clarification from staff if the clear line of sight triangle is located at the property line and not the edge of the street. Mr. Panfil confirmed that the clear line of sight area is a triangle formed by the first twenty feet (20') along the edge of the driveway and the twenty feet (20') extending from the point of intersection with the driveway along the property line.

Chairperson DeFalco restated that the clear line of sight area is required for safety concerns. For example, a child on a bike riding on the sidewalk may not be seen in time by a person pulling their car out of their driveway.

Mr. Young stated that the blue line shown on Exhibit C of the staff report is an option for the fence since it is not within the clear line of sight. The garage is still the problem and not the fence.

Mr. Panfil confirmed that the garage is an existing encroachment within the clear line of sight due to its nonconformity and therefore the fence would also be considered nonconforming, but it would not be increasing the degree of nonconformity.

Chairperson DeFalco suggested to the petitioners that the fence follow the blue line on Exhibit C from the garage to the chain link fence and then continue straight along where the existing chain link fence is located.

Mr. Young stated that if a variance is granted for the corner side yard, the exact location of the fence should not make any difference provided it is on the petitioners' property. Whether the fence is located at the property line or where the existing chain link fence is located should be up to the property owners since the variance is granted for the corner side yard. Mr. Bartels indicated that the gain of the square footage between the existing chain link fence and the property would make up for the loss of the square footage of the clear line of sight area.

Chairperson DeFalco stated that the variance for a six foot (6') high fence could be considered based on the relatively minimal impact on the adjacent property to the east because the neighbor's view would not be obstructed due to the location of the house, which is a significant

Re: ZBA 15-05
June 18, 2015
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distance from the proposed fence location. In some instances, the neighboring home is closer and they may end up with a view with an appearance of a fortress, which is undesirable.

Mr. Panfil showed each member of the Board and the petitioners the blue line of Exhibit C as the location being now considered for the variance.

Chairperson DeFalco asked staff if a new plat of survey would be required if the fence variance were to be approved. Mr. Panfil responded that a new plat of survey would not be necessary.

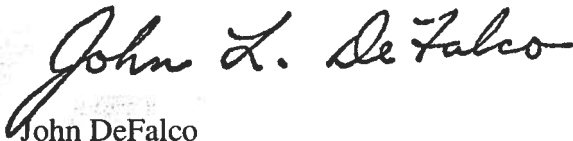
Mr. Young asked the petitioners if they plan to hire a fence company. Mr. Connors responded that he would be installing the fence himself. Mr. Young emphasized the importance of installing the fence on the petitioner's property and not mistakenly place it on the neighbor's or Village's property. This can be a very costly mistake. Mrs. Newman cited the example of a fence located at the corner of Washington and Westmore-Meyers Road.

A motion was made by Mr. Young, seconded by Mr. Bartels, that the Zoning Board of Appeals recommend denial to allow a fence more than two feet (2') tall to be and located within the clear line of sight area not of an open construction design within the R2 Single-Family Residence District by a vote of 6 to 0 to the Village Board.

A motion was made by Mr. Tap, seconded by Dr. Corrado, that the Zoning Board of Appeals recommend the variation to allow a six foot (6') high fence in a corner side yard within the R2 Single-Family Residence District for approval by a vote of 6 to 0 to the Village Board, subject to the condition of the fence being located on the property owner/petitioner's property.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

MAY 27, 2015

Title

ZBA 15-05

Petitioner & Property Owner

Renee Connors
601 N. Grace Street
Lombard, IL 60148

Property Location

601 N. Grace Street
(06-05-202-009)
Trustee District #4

Zoning

R2 Single Family Residence
(Lombard Heights Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

Variations to allow a six foot (6') high solid fence in a corner side yard that 1.) does not consist of open-construction decorative materials, and 2.) is located within the clear line of sight area.

Prepared By

Matt Panfil, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing to replace an existing five foot (5') high chain-link fence with a six foot (6') high solid wood fence within their corner side yard (Sunset Avenue frontage).

APPROVALS REQUIRED

There are two (2) distinct variations requested by the petitioner. First, Section 155.205 (A)(1)(c)(ii) of the Village of Lombard Zoning Ordinance allows for six foot (6') high fences in a corner side yard only if it consists of open-construction decorative materials. "Fence-open construction" is defined by the Zoning Ordinance as a fence which has over its entirety at least seventy-five percent (75%) of its surface area in open space which affords a direct view through the fence. As the proposed fence is entirely opaque, a variance is required.

Second, Section 155.205 (A)(1)(e)(ii) of the Zoning Ordinance requires fences more than two feet (2') tall and located within the clear line of sight area to be of an open construction design. In regards to instances where a private residential driveway intersects an improved right-of-way or street, Section 155.802 defines the clear line of sight area as, "the area formed by the intersection of the edge of the pavement of such private drive with the improved rights-of-way or street, twenty feet (20') away from the point of intersection."

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size: 13,650 sq. ft.

Fence Height: 6'

Reqd. Setbacks & Proposed Dimensions (in parens.)

Front (west) 30' (26.4')

Side (north) 6' (29.5')

Corner Side (south) 20' (9.2')

Rear (east) 35' (130.8')

Submittals

1. Petition for Public Hearing;
2. Response to Standards for Variation; and
3. Plat of Survey, prepared by ARS Surveying Service, LLC, dated November 19, 2003 and submitted April 22, 2015.

As a portion of the fence is located in a clear line of sight area and is of a solid construction design, a second variance is required.

EXISTING CONDITIONS

In addition to the existing fence, the property is improved with a two-story frame single family residence with a detached garage. In order to help place the request in its proper context, planning staff offers the following:

Surrounding Zoning & Land Use Compatibility

| | Zoning Districts | Land Use |
|-------|------------------|--------------------|
| North | R2 | Single Family Home |
| South | Sunset Ave. / R2 | Single Family Home |
| East | R2 | Single Family Home |
| West | Grace St. / R2 | Single Family Home |

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no issues or concerns regarding the project.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:

Private Engineering Services (PES) has the following comments regarding the project:

1. A portion of the existing fence appears to cross the eastern property line. Any new fence is required to be constructed only on the petitioner's property; and
2. Based on the fence alignment with the detached garage, there is less of a concern about the fence creating visibility issues because the existing garage causes the same level of impairment to the clear line of sight area.

Public Works:

The Department of Public Works has no issues or concerns regarding the project.

Planning Services Division:

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties

in the area. Within the response to the Standards for a Variation concerns were raised regarding safety.

In order to be granted a variation each of the Standards for a Variation (responses attached) must be affirmed. Staff finds that standards two, three, and six have been affirmed. In regards to the standards that staff finds to insufficiently affirmed, staff notes the following:

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 does not agree that the construction of a six foot (6') high solid fence, especially when located in a clear line of sight area, is a matter of need, but rather a matter of preference, and is therefore not a true hardship. If a six foot (6') high solid fence is a necessity, the petitioner may, by right, construct such a fence twenty feet (20') north of the southern property line instead of within the corner side yard and clear line of sight area.

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.*

Similar to standard one, staff finds the alleged difficulty to be a matter of personal preference for a six foot (6') high solid fence rather than either a six foot (6') high fence of open construction decorative materials or a four foot (4') high solid fence. In regards to the encroachment into the clear line of sight area, the petitioner can either angle the fence in such a manner so as to avoid the encroachment, or construct a fence of an open construction.

5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Standard five is partially affirmed in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to be detrimental to the public welfare or injurious to other property or improvements. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to the public welfare. While PES is correct in their statement that the proposed fence will not increase the already obstructed view due to the location of the existing garage, staff must take into account the fact that the existing detached garage is a nonconforming structure, and if it were to be demolished, a new garage would have to conform to the required twenty foot (20') corner side yard setback.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

Similar to standard five, staff finds that standard seven is partially affirmed in in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to endanger public safety. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to public safety. Staff does acknowledge that the sidewalk along Sunset Avenue shifts to the south in the area of the private driveway, allowing for an increased level of

visibility beyond what would be possible if the sidewalk ran exactly parallel to the property line. While the configuration of the existing sidewalk may allow for visibility that functionally creates a clear line of sight area, there is no guarantee that the curvilinear sidewalk will be maintained in perpetuity.

In consideration of precedent, staff has identified five (5) similar cases that appeared before the Zoning Board of Appeals within the last ten (10) years. Each case involves a solid fence that exceeds the maximum height for a fence in a corner side yard as well as a solid fence within a clear line of sight area. Also, each case pertains to a single-family home located within a residential zoning district.

Of the five (5) cases, staff recommended that the Zoning Board of Appeals recommend denial of the requested clear line of sight area variation each time. Staff also recommended denial of the six foot (6') high fence in a required corner side yard each case, except one (ZBA 06-13). In ZBA 06-13 staff recommended approval of the fence height variation because the petitioner was proposing a six foot (6') high solid fence to encroach into the corner side yard setback only along a twenty foot (20') segment of the rear property line. The petitioner constructed a four foot (4') high fence along the street frontage.

| CASE NO. | DATE | ADDRESS | SUMMARY | ZBA | BoT |
|-----------------------------|-----------------------------|-----------------------|--|--|--|
| ZBA 06-13 & ZBA 07-01 | 9/21/2006 & 2/15/2007 | 501 N. Garfield St. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 6-0 & Denial, 5-0 | Denial, 6-0 & Denial, 4-2 |
| ZBA 06-20 | 12/7/2006 | 614 E. Berkshire Ave. | 6' tall solid fence within a corner side yard, rear yard abutting the front yard of an adjacent lot, and clear line of sight area. | Modified to remove fence from Clear Line of Sight Area | |
| ZBA 09-11 | 1/21/2010 | 617 E. Berkshire Ave. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 5-0 | Denial, 6-0 |
| ZBA 10-02 | 5/20/2010 | 302 S. Grace St. | 6' tall solid fence within a corner side and clear line of sight area | Denial, 5-0 | Denial, 5-0 |
| ZBA 11-02 | 6/2/2011 | 403 W. Ethel Ave. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 6-0 | Modified to remove from Clear Line of Sight Area |

If the Zoning Board of Appeals were to consider granting zoning relief to the property, staff recommends that said relief be limited to a five foot (5') solid wood fence located in the same location as the existing five foot (5') high chain link fence in the corner side yard, but not within the clear line of sight area.

FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations, in their entirety, for the requested variations. 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 aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **do not comply** with the Standards for a Variation required 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 Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 15-05.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT A: PETITIONER'S RESPONSES TO STANDARDS FOR VARIATIONS

- 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;*

1. Home is located at 601 N. Grace St. House faces Grace St., yard and driveway are located on Sunset. Property is classified as a corner lot, would like variance to install fence on Sunset only. Since yard faces Sunset, a 6' privacy fence would ease the concerns I have for the safety of my children and pet.

- 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;*

2. The condition for why we want the variation to be approved is, the safety of my family. Our backyard faces Sunset, which currently has a 5' chain link fence. Sunset is the only street that runs straight through from Addison Road, in Villa Park, through Main St., Lombard. I have 2 small children (ages 4 and 1) and a dog. I would like them to play in their yard and not worry about cars/ trucks driving by watching/approaching them. People are walking alone or in groups throughout the day, and I don't like they can look into my yard, unobstructed.

My home was involved in a burglary several years ago and I would like my backyard to be as secure as my front yard. The front yard fence was permitted and installed in 2013, with a 6' solid pressure treated wood.

- 3. The purpose of the variation is not based primarily upon a desire to increase financial gain;*

3. The purpose of variation is SAFETY, not financial gain.

- 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;*

4. We have lived in home since June 2006; our interest is to stay on property.

- 5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;*

5. The purpose is variation is detrimental to the safety of my family. Listed in ICRIMEWATCH, from the Village of Lombard website, there are 21 predators listed within a 2 mile radius of my home. One predator is located within one mile from residence, and is considered NON-compliant. My yard is exposed to all who walk or drive by.

My immediate neighbors are in support of the variance I am requesting.

6. *The granting of the variation will not alter the essential character of the neighborhood; and*

6. The fence is a solid 6' pressure treated wood. This type of fence has been used throughout my area.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

7. The 6' solid fence will run along Sunset, which is, an approximate, 110 feet from Grace St. The fence will not impair any natural drainage or cause drainage problems, decrease property values, or increase congestion of the public street.

Nowakowski, Tamara

From: Panfil, Matthew
Sent: Thursday, June 04, 2015 8:02 AM
To: Nowakowski, Tamara
Subject: FW: Village of Lombard - Zoning Board of Appeals Public Hearing - May 27, 2015

From: rconnors27@gmail.com [<mailto:rconnors27@gmail.com>]
Sent: Wednesday, June 03, 2015 10:23 PM
To: Panfil, Matthew
Subject: Re: Village of Lombard - Zoning Board of Appeals Public Hearing - May 27, 2015

Waive for 1st meeting. Will be present for 6/18 meeting.
Thanks-
Renee

Sent from my iPhone

On Jun 3, 2015, at 2:50 PM, Panfil, Matthew <PanfilM@villageoflombard.org> wrote:

Renee:

Items approved by the Zoning Board of Appeals generally appear at two meetings of the Village Board, unless you specifically request a “waiver of first reading.” By requesting a waiver of first reading for the approval associated with the fence variance at 601 N. Grace St. the Village Board will take a final vote at their June 18, 2015 meeting.

You can simply respond to this e-mail requesting a waiver of first reading and that is sufficient for our records. If not, then the item will follow the standard two-reading process at which a final vote would occur on July 16, 2015.

Thank you,

Matt

From: Panfil, Matthew
Sent: Wednesday, May 27, 2015 8:26 AM
To: 'rconnors27@gmail.com'
Subject: Village of Lombard - Zoning Board of Appeals Public Hearing - May 27, 2015

Renee:

Attached is a staff report and agenda for tonight’s Zoning Board of Appeals meeting.

Thank you,

Matt Panfil, AICP

Senior Planner

Village of Lombard

255 E Wilson Ave. Lombard, IL 60148

<image001.png>

Phone: (630) 620-5744

Fax: (630) 629-2374

Email: panfilm@villageoflombard.org

Web: www.villageoflombard.org

Follow us:  <image003.png> 

ORDINANCE NO. _____

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

(ZBA 15-05; 601 N. Grace 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)(ii) of the Lombard Zoning Ordinance for the construction of a six foot (6') high solid fence, that does not consist of open-construction decorative materials, within a corner side yard setback, where four (4') is the maximum height allowed and a variation from Section 155.205(A)(1)(e)(ii) of the Lombard Zoning Ordinance to allow a six foot (6') high wood fence of solid-construction within the clear line of sight area, where fences or walls of open-construction are required; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on May 27, 2015 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variation for a six foot (6') high solid fence, that does not consist of open-construction decorative materials, within a corner side yard setback and denial of the requested variation for a six foot (6') high wood fence of solid-construction within the clear line of sight area; 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 for a six foot (6') high solid fence, that does not consist of open-construction decorative materials, within a corner side yard, subject to one condition, and to deny the requested variation for a six foot (6') high wood fence of solid-construction within the clear line of sight area.

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)(ii) of the Lombard Zoning Ordinance to allow for the construction of a six foot (6') high solid fence, that does not consist of open-construction decorative materials, within a corner side yard setback, where four feet (4') is the maximum height allowed.

Ordinance No. _____

Re: ZBA 15-05

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

1. The petitioner shall construct the fence on only their property.

SECTION 3: This ordinance is limited and restricted to the property generally located at 601 N. Grace Avenue, Lombard, Illinois, and legally described as follows:

LOT 9 IN BLOCK 8 IN LOMBARD HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 28, 1953 AS DOCUMENT 704795 AND CERTIFICATE OF CORRECTION FILED JUNE 9, 1955, AS DOCUMENT 760296, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-05-202-009

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 _____, 2015.

First reading waived by action of the Board of Trustees this _____ day of _____, 2015.

Passed on second reading this _____ day of _____, 2015.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2015

Keith Giagnorio, Village President

ATTEST:

Ordinance No. _____

Re: ZBA 15-05

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Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2015

Sharon Kuderna, Village Clerk

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