

ANALYSIS

SUBMITTALS

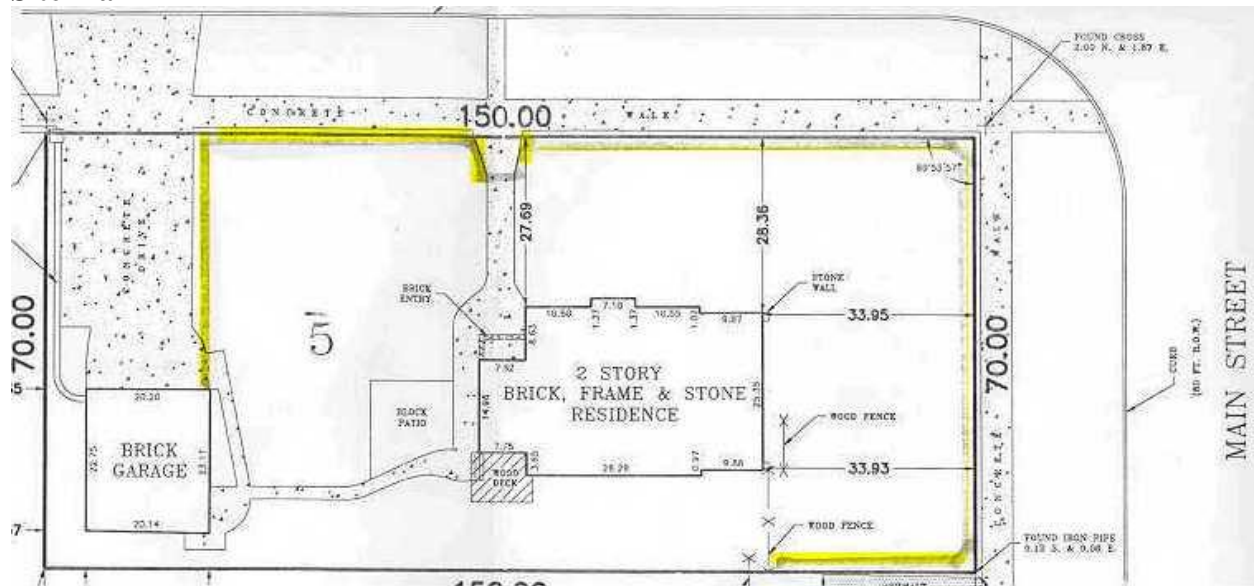
This report is based on the following documents, which were filed with the Department of Community Development on June 24, 2004.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated May 27, 2003, prepared by Preferred Survey Inc.
4. Photographs of the Subject Property
5. Fence Contractor's Agreement
6. Fence Specifications

DESCRIPTION

The subject property is located on the southwest corner of Greenfield Avenue and Main Street. The petitioner's contractor placed a four and one-half foot aluminum fence in the front and corner side yards of the property where only four feet is allowed. To allow the fence to remain as is, a variation is requested.

Site Plan



ENGINEERING

Private Engineering Services

From an engineering or construction perspective, PES has no comments.

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 this petition.

PLANNING

The petitioners applied for and received a building permit to construct a four-foot, aluminum fence in the front and corner side yards of their property. The petitioners' fence contractor contacted staff after the fence was installed and asked what the regulations were regarding fence height on corner lots as well as the enforcement procedures for fences that exceeded the requirements. The contractor stated that the fence that was installed was slightly higher than four feet. Staff informed the contractor that four feet is the maximum allowable fence height within front and corner side yards and that enforcement could come in the form of a complaint or if staff noticed the installation of a new fence that exceeded the height requirements. The contractor was also informed that in light of the Village's reliance on citizen complaints regarding fence height enforcement there were no guarantees that a violation would not be issued at some point in time for the fence. The property owner later contacted staff to verify the requirements and stated that they ordered a four-foot fence yet upon installation discovered that it was actually four and a half feet. Staff informed the petitioner that a variation was necessary to keep the fence at the current height.

As stated in previous cases, increasing the four-foot maximum height in corner side yards was workshopped before the Plan Commission, which recommended that the current requirements remain in place. Therefore, staff maintains previous recommendations to not support an increase in fence height in residential front and corner side yards. While the petitioner's fence is an attractive fence and poses no risk to the visibility of pedestrian, bicycle, and vehicular traffic, staff finds that supporting the variation would be inconsistent with previous recommendations. Granting such a variation could encourage the placement of other types of fences also of open construction, such as chain link, within front and corner side yard areas. Furthermore, granting of a variation requires that the petitioner show that they affirmed each of the "Standards for Variation". Staff finds that the following standards are not affirmed.

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that there is no demonstrated physical hardship, nor are there any unique topographical conditions related to this property that would prevent compliance with the ordinance. Staff concurs with the petitioner's assessment that increased traffic is experienced on the corner lot. However this is not

unique to the subject property, but rather characteristic of corner lots in general. The petitioners note within their response to the Standards for Variations that they believed they ordered a four-foot fence and received the incorrect fence height due to a salesperson's error. Staff finds that this is not ground for a hardship and correction of the error lies with the contractor rather than granting relief from the ordinance.

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.* The petitioner's lot is comparable to other corner lots in the single-family residential district. Staff finds that there are not any unique differences between the petitioner's lot and others with the same classification.
3. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.* Staff finds that the hardship has not been created by the ordinance, but rather a personal preference for a higher fence height and more specifically the installation of the fence outside of the code requirements.

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 accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 04-10.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

att-
c: Petitioner

Zoning Board of Appeals

Re: ZBA 04-10

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