

September 7, 2006

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

Subject: ZBA 06-19; 601-609 E. St. Charles Road

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of the following actions on the subject property located within the B4 Corridor Commercial District:

1. A variation to Section 155.205(A)(2)(c)(2) of the Lombard Zoning Ordinance to allow an eight-foot high fence in the required front yard where a maximum height of four feet is permitted; and
2. A variation from Section 155.205(A)(2)(e) to allow a solid fence within a clear line of sight area.

The Zoning Board of Appeals conducted a public hearing on August 23, 2006. Brian Carter of Seamless Gutter presented the petition. Mr. Carter stated that the Village Board had only required the replacement of the fence on the 609 E. St. Charles property as that was the only one that had been granted a setback variation. He described the current fence and stated that they need a fence for security reasons. The replacement fence would be smooth and solid.

Mr. Carter stated that meeting the clear line of sight requirement would create a hardship for loading their 22-foot trucks, the backs of which would not be able to reach the overhead door. There would also be an additional cost for saw cutting concrete and additional landscaping. He stated that the arc of the street creates difficult traffic conditions, but the trucks are able to look both ways before exiting the driveway.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The petitioner is requesting variations to allow for the replacement of several sections of legal nonconforming fencing along the north property line. This fence replacement is proposed to satisfy a previous condition of approval that was required as part of a setback variation granted earlier this year.

The Private Engineering Services Division notes that allowing the new fence within the clear line-of-sight area for the driveway would present a hazard to vehicles and pedestrians, particularly due to the curve in the road at this location. There is sufficient room to locate the fence outside of the clear line-of-sight area. Therefore, they recommend denying the variation regarding the clear line-of-sight area.

Ms. Backensto stated that in December 2005, the ZBA heard a case requesting approval of a front yard setback variation to allow for a bay window to be located 10 feet from the front property line (ZBA 05-20). On March 2, 2006, the Village Board approved this request with a condition that the fencing along the north property line be replaced.

Currently, the existing fence varies in height and has sections of solid wood as well as chain link with slats. The proposed replacement fence would be eight feet high and of solid wood construction. The portions of the fence on the far west and far east sides of the property would meet code as eight-foot fences high are permitted within business districts.

Ms. Backensto stated that the portion of the fence located between the 601 & 609 E. St. Charles Road buildings is both within the front yard and the clear line of sight areas for two driveways. The affected driveways are not used by customers and are used only for business vehicles. By Code, fencing within this area could be only four feet high and any sections within a clear line of sight area would need to be of open construction. She referred to a graphic within the staff report illustrating the proposed fencing, front yard setback line, and clear line of sight areas.

Staff finds that this case presents unique circumstances that warrant the granting of a variation. The lot itself is unusually shaped and has a small depth for a commercial property, ranging from 124 feet deep at the west end, increasing to 145 feet at its deepest point, then coming to point at the east end. This configuration undoubtedly contributed to the way the site was laid out and the buildings were constructed in 1956.

Ms. Backensto stated that the granting of these variations will not negatively impact the surrounding neighborhood as there has been fencing in the same location for many years, and the replacement solid wood fence will be a substantial aesthetic improvement over the existing assortment of materials. Furthermore, there is also precedent for this type of relief as a similar

variation request for an eight-foot fence within the front yard and within clear line of sight areas was granted in 2001 for the property across the street at 600 E. St. Charles Road (PC 01-04).

Perhaps most significantly, the hardship in this case has not been created by any person presently having an interest in the property. The existing fence is entitled to remain as a legal nonconforming structure and Code allows the fence to be maintained and repaired. Were it not for the Village requiring its replacement, the existing fence would not need any zoning relief to remain as-is.

With regard to the clear line of sight variations, staff does not object to the fence at 609 E. St. Charles as the petitioner has stated that this driveway is seldom used and, when it is used, serves as an entrance. As such, there is no functional clear line of sight issue. However, the driveway to the east of the 601 E. St. Charles building is a primary exit for the site and is frequently used. The petitioner has stated that that particular driveway cannot serve as an entrance only because the other driveway on the west side of the 601 property has even more obstructed sight lines.

Ms. Backensto stated that in cases where there is a legal nonconforming structure that is to be removed and replaced, staff traditionally makes every attempt to bring the replacement structure into compliance with Code. Accordingly, staff notes that the clear line of sight issue could be eliminated by shifting the fence to the south, outside of the clear line of sight area. The petitioner has stated that they do not wish to move the fence because the area to the south of the fence is necessary for parking and maneuvering. Although staff recommends that the fence be moved as part of its recommendation of approval for the other variations, the Zoning Board of Appeals could strike Condition No. 1 if they feel that there is a practical hardship that prevents the petitioner from meeting the clear line of sight provisions.

Chairperson DeFalco then opened the meeting for discussion by the Board Members. He asked the petitioner if it would be possible to meet the clear line of sight requirements by installing a steel, wrought iron-type fence similar to that installed by the industrial properties nearby on Western Avenue. The petitioner stated that such a fence would not meet their needs as they require a solid fence for security reasons.

Mr. Bedard asked which way the gates open. The petitioner stated that the gates currently open inward and would continue to do so.

Mr. Young stated that he would abstain from voting on this petition.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 6-0, submits this petition to the Corporate Authorities with a recommendation of approval for the requested variation, subject to the following conditions:

1. The petitioner shall apply and receive a building permit for the proposed fence.
2. Any gates located along the fence between the 601 E. St. Charles Road and 609 E. St. Charles Road buildings may not open outward toward St. Charles Road.
3. The finished or decorative side of the fence shall face St. Charles Road.
4. The variations shall be limited to the existing property. Should the property be damaged or destroyed by any means, any new fencing shall meet all provisions of the Lombard Sign Ordinance.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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