

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

\_\_\_\_\_  
  X    
\_\_\_\_\_

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

TO: PRESIDENT AND BOARD OF TRUSTEES  
FROM: David A. Hulseberg, Village Manager *D.A.H.*  
DATE: May 10, 2011 (B of T) Date: May 19, 2011  
TITLE: ZBA 11-03: 1147 E. Adams Street  
SUBMITTED BY: Department of Community Development *WLS*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:

1. A variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6').

The Zoning Board of Appeals recommended approval of this petition with conditions.

Staff is requesting a waiver of first reading.

Please place this item on the May 19, 2011 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *David A. Hulseberg* \_\_\_\_\_ Date 5/11/11

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:** David A. Hulseberg, Village Manager

**FROM:** William Heniff, AICP,  
Director of Community Development *WH*

**DATE:** May 19, 2011

**SUBJECT:** ZBA 11-03; 1147 E. Adams St.

Please find the following items for Village Board consideration as part of the May 19, 2011 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 11-03; and
3. Plans associated with the petition.

The Zoning Board of Appeals recommended approval of this petition with conditions.

As the fence has already been erected, staff is requesting a waiver of first reading.

Please place this petition on the May 19, 2011 Board of Trustees consent agenda.





## VILLAGE OF LOMBARD

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

**Village President**  
William J. Mueller

May 19, 2011

**Village Clerk**  
Brigitte O'Brien

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

**Trustees**

Greg Alan Gron, Dist. 1  
Keith T. Giagnorio, Dist. 2  
Zachary C. Wilson, Dist. 3  
Peter Breen, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
William "Bill" Ware, Dist. 6

**Subject: ZBA 11-03; 1147 E. Adams St.**

Dear President and Trustees:

**Village Manager**  
David A. Hulseberg

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6') for the subject property located within the R2 Single-Family Residence District.

*"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 Zoning Board of Appeals conducted a public hearing on April 27, 2011.

Chairperson DeFalco opened the meeting for public comment.

*"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."*

John Schwarz, 1147 E. Adams, presented the petition. Mr. Schwarz stated that his family has lived on the subject property for 23 years and have been residents of Lombard for 35 years. He added that there was a six (6) foot fence at its current location when they purchased the property. He stated that the fence was in a state of disrepair and needed to be replaced. He stated that the Village would not issue him a permit because the fence was too tall in the corner side yard, but he went ahead and did it anyways. He stated that the extra height is needed because their property abuts a five story condo building. He stated that there are no clear line of sight issues. He then stated that the notification letters were all sent to his neighbors and nobody opposed the fence. He added that all of the condo owners were sent the letter and the association did not have a problem with the fence.

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

There was nobody in the audience in favor or against the petition. Chairperson DeFalco then requested the staff report.

Michael Toth, Planner I, presented the staff report. The subject property is located at the southwest corner of Adams and Addison Streets. The petitioner is requesting a variation to allow for a solid wood fence at a height of six feet (6') in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Addison Street side of the property. The previously existing non-conforming fence was removed by the property owner and reconstructed to its original height. The new fence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

The petitioner purchased the subject property in the late 1980's. At the time of purchase, the subject property contained a solid wood fence at six feet (6') in height located within the required twenty (20) foot corner side yard. The petitioner recently removed the old fence and replaced it to its original height and location. Six foot high fences are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

Within the response to standards, the petitioner raised concerns relative to the level of privacy between the subject property and that of the multi-family property to the south, known as Jackson Terrace Condominiums. Jackson Terrace Condominiums is a multi-family condominium development located directly to the south of the subject property within the R4 – Limited General Residence District. The Jackson Terrace Condominiums consists of two multi-story buildings – the easternmost building being 5-stories and the westernmost building is 3-stories. The rear yard of the subject property directly abuts the 5-story Jackson Terrace Condominium building.

The maximum building height in the R4 – Limited General Residential District is three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. Furthermore, the number of single family properties that directly abuts property in the R5 – General Residence District is very minimal. Mr. Toth added that there are a total of 10,028 R2 – Single-Family Residential parcels in the Village of Lombard. He added that of those 10,028 parcels in the R2, 58 of those lots directly abut a parcel of land in the R4 – Limited General Residential District, which equates to .005%. Furthermore, 32 R2 parcels directly abut a parcel of land in the R5 –General Residential District, which equates to .003%.

Diagram 1 in the staff report illustrates the subject six (6) foot fence which acts as a privacy screen between the subject property and the Jackson Terrace Condominiums. The Zoning Ordinance allows privacy fences to be six (6) feet in height in the rear yard, but only four (4) feet in height in the corner side yard. The petitioner desires to maintain the six (6) foot tall fence in

the corner side yard to allow for maximum screening from the 5-story condominium building located directly to the south.

Staff finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.

Concluding, Mr. Toth stated that staff is recommending approval of ZBA 11-03, subject to the two conditions outlined in the staff report.

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

Mr. Tap asked the petitioner if the fence was already erected.

John Schwarz explained that the fence was already erected. He stated that the Village would not issue him a permit because the fence was too tall in the corner side yard, but he went ahead and did it anyways because the family dog had broken through the fence. He added that he originally thought he didn't need a permit because he did not need one the last time he replaced the fence. He then stated that it was after the fence was put up that he was told that he needed a variation for the fence because it exceeded the height requirement. He added that he worked with staff to get the variation and would have done it sooner but his wife is dealing with cancer. He then reiterated the fact that there are no clear line of sight issues. He then stated that there are a number of children who pass by his house from Jackson Jr. High. He added the extra height adds privacy to the backyard.

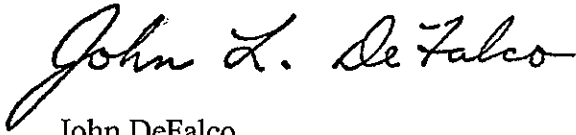
Chairperson DeFalco stated that the old ordinance only allowed for fencing no higher than three (3) in the corner side yard. He then stated that it was later changed to four (4) feet. He mentioned that the Village did catalog the non-conforming fences built before 2000 and stated that the Village then required fence permits after 2000.

On a motion by Corrado and a second by Tap, the Zoning Board of Appeals recommended by a vote of 4 to 1 that the Village Board **approve** the variation associated with ZBA 11-03, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed plans.
2. In the event that the fence is damaged or destroyed to fifty-percent (50%) of its value, the new fence shall meet the required corner side yard setback.

Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink that reads "John L. DeFalco". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

John DeFalco  
Chairperson  
Zoning Board of Appeals

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West: R2 Single Family Residence District; developed as a Single Family Residence

## **ANALYSIS**

### **SUBMITTALS**

This report is based on the following documents, which were filed with the Department of Community Development on March 24, 2011.

1. Petition for Public Hearing.
2. Plat of Survey, prepared by Gentile and Associates, dated August 26, 1988.

### **DESCRIPTION**

The subject property is located at the southwest corner of Adams Street and Addison Street. The petitioner is requesting a variation to allow for a solid wood fence at a height of six feet (6') in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Addison Street side of the property. The previously existing non-conforming fence was removed by the property owner and reconstructed to its original height. The new fence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

### **INTER-DEPARTMENTAL REVIEW COMMENTS**

#### **ENGINEERING**

The PES Division of Community Development has no comments.

#### **PUBLIC WORKS**

Public Works Engineering has no comments.

#### **FIRE DEPARTMENT**

The Fire Department has no comments regarding this request.

#### **BUILDING DIVISION**

The Building Division has no comments.

#### **PLANNING**

The petitioner purchased the subject property in the late 1980's. At the time of purchase, the subject property contained a solid wood fence at six feet (6') in height located within the required twenty

(20) foot corner side yard. The petitioner recently removed the old fence and replaced it to its original height and location. Six foot high fences are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

Within the response to standards, the petitioner raised concerns relative to the level of privacy between the subject property and that of the multi-family property to the south, known as Jackson Terrace Condominiums. Jackson Terrace Condominiums is a multi-family condominium development located directly to the south of the subject property within the R4 – Limited General Residence District. The Jackson Terrace Condominiums consists of two multi-story buildings – the easternmost building being 5-stories and the westernmost building is 3-stories. The rear yard of the subject property directly abuts the 5-story Jackson Terrace Condominium building.

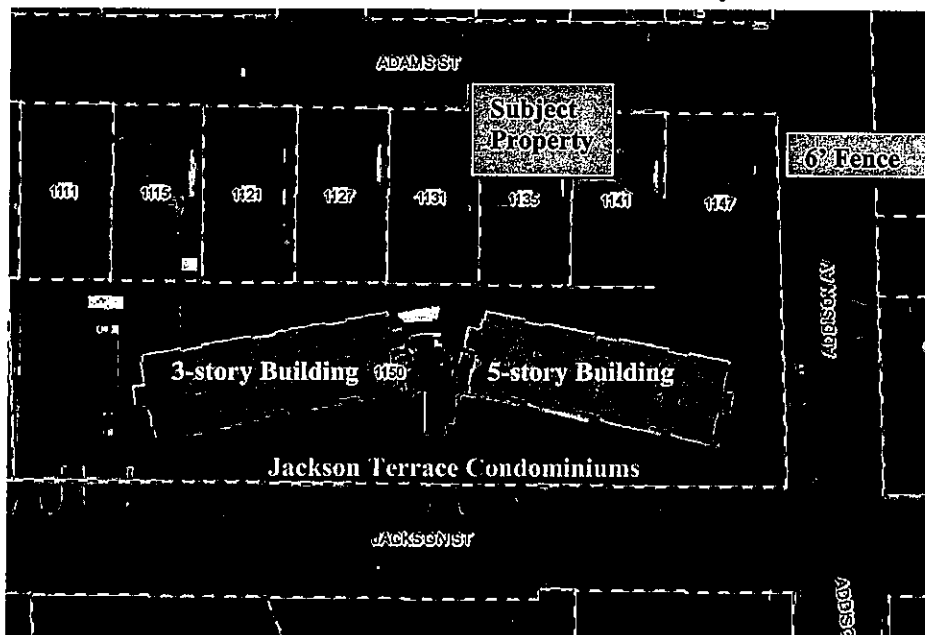


DIAGRAM 1

The maximum building height in the R4 – Limited General Residential District is three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. Furthermore, the number of single family properties that directly abuts property in the R5 – General Residence District is very minimal.

As Diagram 1 illustrates, the subject six (6) foot fence acts as a privacy screen between the subject property and the Jackson Terrace Condominiums. The Zoning Ordinance allows privacy fences to be six (6) feet in height in the rear yard, but only four (4) feet in height in the corner side yard. The petitioner desires to maintain the six (6) foot tall fence in the corner side yard to allow for maximum screening from the 5-story condominium building located directly to the south.

Staff finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any

residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.



SUBJECT FENCE (WITH 5-STORY CONDO BUILDING ALSO SHOWN).

## FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations 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 **approval** of the aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **does 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 **approval** of ZBA 11-03, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed plans.
2. In the event that the fence is damaged or destroyed to fifty-percent (50%) of its value, the new fence shall meet the required corner side yard setback.

Inter-Departmental Review Group Report Approved By:

William Heniff, AICP  
Director of Community Development

c: Petitioner

**Exhibit A –**  
**Standards to 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.*

Staff finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.

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 subject property abuts a 5-story multi-family condominium building located in the R4 – Limited General Residential District. The maximum building height in the R4 – Limited General Residential District is only three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. The number of single family properties that directly abuts property in the R5 – General Residence District is very minimal.

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

If the fence were to be constructed per Code, the fence would have actually cost less.

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.*

The Zoning Ordinance does not allow fences in excess of four (4) feet in height within corner side yards. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. Staff has concluded that there is a demonstrated hardship associated with the physical surroundings that distinguishes the subject property from all other properties in the area.

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.*

With the exception of the height variation, the fence meets all other Code requirements. The additional fence height will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

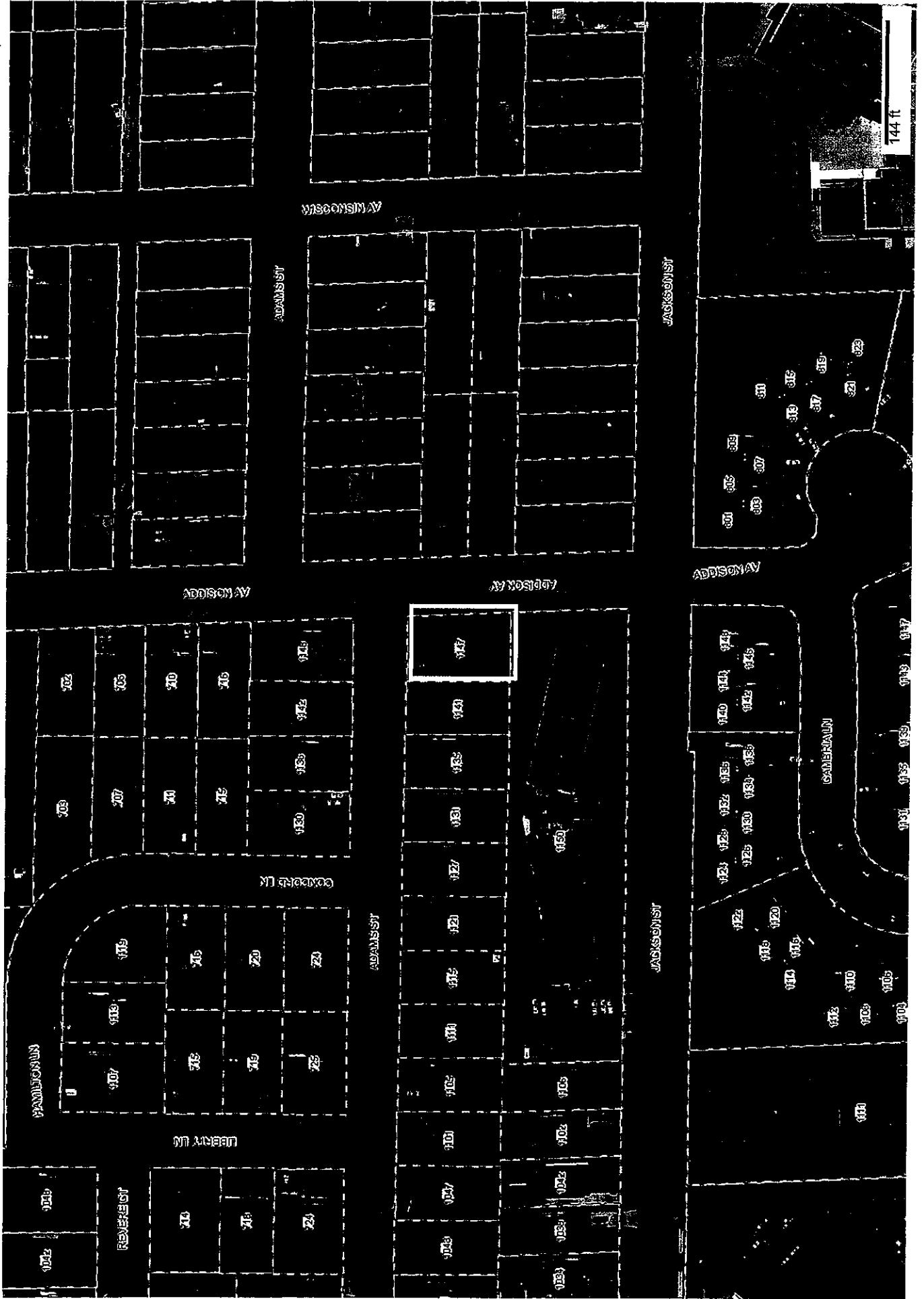
6. *The granting of the variation will not alter the essential character of the neighborhood.*

The fencing on the subject property has existed at its current height and location for decades.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase congestion of 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.*

The additional fence height will not impair an adequate supply of light and air to adjacent property or substantially increase congestion of 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.

# ZBA 11-03: 1147 E. Adams







ORDINANCE NO. \_\_\_\_\_

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

**(ZBA 11-03; 1147 E. Adams St.)**

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 Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6'); and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on April 27, 2011 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; 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.

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)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6').

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

1. The petitioner shall apply for and receive a building permit for the proposed plans.
2. In the event that the fence is damaged or destroyed to fifty-percent (50%) of its value, the new fence shall meet the required corner side yard setback.

Ordinance No. \_\_\_\_\_

Re: ZBA 11-03

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**SECTION 3:** This ordinance is limited and restricted to the property generally located at 1147 E. Adams St., Lombard, Illinois, and legally described as follows:

LOT 40 IN JOSEPH S. GIASE SUBDIVISION UNIT NO. 2, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 13, 1964 AS DOCUMENT R64-16244, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-16-116-018

**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 \_\_\_\_\_, 2011.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

Ordinance No. \_\_\_\_\_

Re: ZBA 11-03

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Published by me this \_\_\_\_\_ day of \_\_\_\_\_, 2011

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Brigitte O'Brien, Village Clerk

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