



# Village of Lombard

Village Hall  
255 East Wilson Ave.  
Lombard, IL 60148  
villageoflombard.org

## Minutes Zoning Board of Appeals

*John DeFalco, Chairperson  
Mary Newman, Raymond Bartels,  
Greg Young, Keith Tap,  
Ed Bedard and Val Corrado  
Staff Liaison: William Heniff*

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Wednesday, January 22, 2014

7:30 PM

Village Hall Board Room

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### Call to Order

### Pledge of Allegiance

### Roll Call of Members

**Present** 5 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, and Ed Bedard  
**Absent** 2 - Keith Tap, and Val Corrado

### Public Hearings

[130659](#)

#### **ZBA 14-01: 444 S. Westmore/Meyers Road**

Requests that the Village grant a variation from Section 155.205 (A)(1) (c)(ii) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five feet (5'), located within the R2 Single-Family Residential Zoning District (Robertson's Westmore Subdivision). (DISTRICT #5)

*Mrs. Missy Simek presented the petition stating she is the homeowner. The property is on a four lane road with traffic going thirty (30) miles per hour and there is a bus stop nearby. She has four children and is concerned about their safety. Mrs. Simek said she has noticed this house since she was in high school and was excited when it went up for sale. Mrs. Simek talked about many advantages of living in Lombard and her neighborhood. She also mentioned problems due to the corner lot such as theft, loitering, and car accidents. The fence was installed in the summer of 2012 and she and her husband specifically picked an aluminum fence with over seventy-five percent (75%) open space. The fence is four feet six inches (4'6") tall with five inch (5") post caps. Mrs. Simek said the extra six inches makes a big difference in safety from people and cars. Since installing the fence numerous people have complimented them on the yard and fence. The parkway on Westmore-Meyers Road has been reduced over the years and the taller fence assists in keeping the yard safe.*

*Mr. Tony Simek also spoke as a homeowner and asked for the variance to be granted. He reviewed the handout he received when he applied for the fence permit and used that as a guide when the fence was constructed. He said the fence helped improve the neighborhood for the better. Mr. Simek cited two previous fence height variance approvals from the IDRC report: ZBA 08-10 and ZBA 04-10. The property in ZBA 04-10 inspired him to install an aluminum open style fence. Mr. Simek said he feels their property is unique because of the nonconforming setback due to the reduced parkway on Westmore. He cited safety as a reason for the fence from issues like trespassing and cars drag racing. If the fence was lowered to four feet his daughters could reach and open the latch. He stated that not being a fence contractor he did not know anything was wrong when the fence was installed.*

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

*Mr. Mike Stalzer spoke in favor of the petition. He stated that he has driven by the house many times during his commute to work and the house was in disrepair. He believes the fence helped turn the house around.*

*Ms. Christine M. Simek also spoke in favor of the petition. She has witnessed accidents at the intersection of Westmore-Meyers Road and Washington Boulevard. She said the fence helps make the house more livable for a family and for child safety.*

*Matt Panfil, Senior Planner, stated that the IDRC report is to be entered into the public record in its entirety.*

*Mr. Panfil stated that a fence permit was issued to the property owners in July, 2012. The fence permit was for a four foot (4') tall aluminum fence with a minimum seventy-five percent (75%) open space design. Because the Village does not perform inspections for new fences, it was not until last fall that the Village was notified via complaint that the fence exceeded four feet (4') in height and may be located within the public right-of-way. Therefore, to maintain the fence at its existing height a variance is required. No clear line of sight or corner side yard fence height variances are required because the fence is of an open space design. In regards to the location of the fence within the right-of-way, the ZBA cannot grant any type of variance that allows a fence to be located within the right-of-way. Planning staff will work with the petitioners and other Village departments to resolve the situation.*

*Mr. Panfil mentioned that one of the previous cases mentioned by the*

*petitioner, ZBA 04-10, was similar to this case in that the petitioners purchased and installed fences that were slightly taller than expected.*

*Mr. Panfil then concluded that despite the fence already being constructed, the review cannot take that into consideration and therefore staff concludes that there is no unique physical hardship that prevents the fence from being four feet (4') in height. Mr. Panfil added that if the ZBA were to make a motion to recommend approval of the requested variance, it would be with the condition that the fence must be located on the petitioners' property to make clear that the ZBA is not approving a fence within the right-of-way.*

*Chairman DeFalco then opened the meeting for discussion by the ZBA members.*

*Mr. Bartels asked why the issue of the fence location potentially being on Village owned right of way property was not resolved prior to the meeting and if that should be determined first. Mr. Panfil said that matter is not under the purview of the ZBA and for the ZBA to only consider the height variance. Staff will work with the property owners to come to an agreement regarding the fence location. Mr. Bedard concurred.*

*Mr. Bartels asked if the petitioner was told the fence should be four feet (4') tall. Mr. Panfil said it is written on the attached building permit. Mrs. Simek said there was confusion over the decorative tops and the code when a corner side yard abuts another corner side yard. Chairman De Falco confirmed with staff that the requirement for a four foot (4') tall fence is only for the front yard, therefore since this is a corner side yard, the majority of the lot could have a six foot (6') tall fence. Mr. Panfil agreed.*

*Chairman De Falco asked when the plat of survey was done. Mr. Panfil stated that the plat was dated 2005. Mr. Simek stated the fence posts are in concrete. He added that the plat may be incorrect since the plat shows an asphalt, rather than concrete, driveway and he also believes the northwest corner of the plat is not drawn correctly.*

*Mr. Young asked if the sidewalk was in the same place. Mrs. Simek said the road was redone in 2006 but was not sure about the sidewalk. There was confusion over right-of-ways and easements which was cleared up by Mr. Panfil.*

*Chairman De Falco said the ZBA cannot make a decision on where the fence is located. He brought up a fence nearby that received a variance for a solid wood fence in a corner lot that was approved. He added that he sees a value in this fence.*

*Ms. Newman said the fence reminds her of a past case on Greenfield Avenue which promoted changes in the ordinance.*

*Mr. Bartels asked what happens if the fence is on Village owned property. Mr. Panfil said the fence will need to be moved and the Village would work with the homeowner to minimize the impact.*

*Mr. Young asked if it can be recommended for approval without any conditions. Mr. Panfil said the condition could be changed, but suggested a condition be maintained regarding establishing the location of the fence and/or that the fence needs to be on the homeowner's property.*

*Mr. Bedard said there is a possibility that the fence would be on the homeowner's property and it would not need to be moved. Ms. Newman said the Building Division requested these conditions, they did not require them.*

**On a motion by Mr. Bartels and a second by Ms. Newman, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve the variation associated with ZBA 14-01, subject to no conditions. The motion carried by the following vote:**

**Aye:** 5 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, and Ed Bedard

**Absent:** 2 - Keith Tap, and Val Corrado

[130660](#)

**ZBA 14-02: 321 E. Madison Street**

Requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District: A variation from Section 155.210(A)(2)(a) of the Lombard Zoning Ordinance to allow a detached garage to be constructed in the corner side yard. (DISTRICT #6)

*Mr. Tony Balinski said he recently purchased the house with intentions to make improvements. The garage is in poor shape and he does not want it to be a safety hazard. A new garage would be safer. Chairperson DeFalco questioned if there was anyone present to speak in favor of or against the petition.*

*Kim Ryan, a neighbor, said the garage has been leaning. She is very happy for a new garage to be constructed since it has been in disrepair for a while.*

*Matt Panfil, Senior Planner, stated that the IDRC report is to be entered into the public record in its entirety.*

*Mr. Panfil stated that the petitioner intends to build the new garage in the exact same location as the existing garage and will not be expanding past the existing encroachment. Mr. Panfil pointed out that because of the unique angling of the home and garage only approximately sixteen percent (16%) of the garage's total area is within the corner side yard.*

*Mr. Panfil stated that because of the unique angling of the home, staff finds that requiring the petitioner to locate the new garage entirely in the corner side yard would negatively impact the front yard of the property to the south even more than allowing the garage in its existing location.*

*Mr. Panfil concluded that it is for these reasons that staff recommends approval of the requested variance.*

*Chairman DeFalco then opened the meeting for discussion by the ZBA members.*

*Chairman DeFalco questioned why the ordinance does not cause a hardship since the property could have been built before the ordinance was in effect. Mr. Panfil agreed this could be the case and that the age of the home could not be verified.*

**On a motion by Mr. Bedard and a second by Mr. Bartels, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve the variation associated with ZBA 14-02, subject to the following conditions:**

- 1. The plans for the proposed detached garage replacement shall not exceed the dimensions of the existing garage.**
- 2. The petitioner shall apply for and receive a building permit for the proposed plans.**
- 3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.**

**The motion carried by the following vote:**

**Aye:** 5 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, and Ed Bedard

**Absent:** 2 - Keith Tap, and Val Corrado

## **Business Meeting**

## **Approval of Minutes**

A motion was made by Greg Young, seconded by Mary Newman, to approve the minutes of the December 18, 2013 meeting. The motion passed by a unanimous vote.

## **Planner's Report**

## **New Business**

## **Unfinished Business**

## **Adjournment**

A motion was made by Greg Young, seconded by Mary Newman, to adjourn the meeting at 8:34 p.m. The motion passed by a unanimous vote

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John DeFalco, Chairperson  
Zoning Board of Appeals

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William J. Heniff, AICP, Director of Community Development  
Zoning Board of Appeals