

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES  
FROM: William T. Lichter, Village Manager  
DATE: August 26, 2004 (B of T) Date: September 2, 2004  
TITLE: ZBA 04-10: 7 W. Greenfield Avenue (Request to Continue to November 4, 2004)  
SUBMITTED BY: Department of Community Development *DLK*

BACKGROUND/POLICY IMPLICATIONS:

Your Zoning Board of Appeals transmits for your consideration a petition requesting that the Village approve a variation from Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the permitted fence height in a required front and corner side yard from four feet (4') to four and a half feet (4.5'), for the subject property located within the R2 Single Family Residential Zoning District. (DISTRICT #5)

The Zoning Board of Appeals recommended approval of this petition.

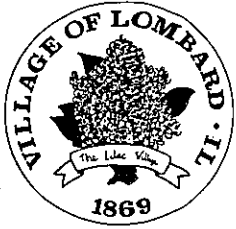
Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *W. T. Lichter* \_\_\_\_\_ Date *8/26/04*

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.





## VILLAGE OF LOMBARD

255 E. Wilson Ave.  
Lombard, Illinois 60148  
630/620-5700 FAX: 630/620-8222  
TDD: 630/620-5812  
www.villageoflombard.org

**Village President**  
William J. Mueller

**Trustees**  
Joan DeStephano, Dist. 1  
Richard J. Tross, Dist. 2  
Karen S. Koenig, Dist. 3  
Steven D. Sebby, Dist. 4  
Kenneth M. Florey, Dist. 5  
Rick Soderstrom, Dist. 6

**Village Manager**  
William T. Lichter

September 2, 2004

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

**Subject: ZBA 04-10; 7 W. Greenfield**

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:

Approve a variation from Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the permitted fence height in a required corner side and front yard from four feet (4') to four and a half feet (4.5').

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

The Zoning Board of Appeals conducted a public hearing on August 25, 2004. Mr. Timothy Moore and Mrs. Cathy Moore presented the petition. Mr. Moore stated the fence was sold as a four-foot fence. He stated that they spent time investigating different fences after contacting the Village about the maximum height requirements. He stated that they checked with the salesperson upon selection of the fence. Mr. Moore stated that after the fence was installed he measured the fence and discovered that the fence was actually four and a half feet tall. He notified the contractor and then called the Village and was informed of the enforcement policy. He stated that they decided to proceed with the variation request. Mr. Moore stated that they do not wish to alter the fence since the ornamentation is what causes it to exceed code. He stated that their yard is unique in the sense that it does not have a backyard and fronts Main Street. Mr. Moore stated that the neighbors like the fence. He stated that he feels that they selected a fence that compliments the neighborhood well.

Chairperson DeFalco then opened the meeting for public comment. Mr. Karl Hillman and Mrs. Jean Hillman, 233 N. Main, stated that they are the neighbors to the south of the Moore family. Mr. Hillman stated that the fence is a beautiful fence and believes that it is prudent given that they have four children. Mrs. Hillman

stated that the fence doesn't obstruct vision since it is not a privacy fence. She stated that the fence is better than the landscaping often found on corner lots.

Mr. Phil Pollard, of Complete Fence, stated that he was the fence contractor. Mr. Pollard stated that the petitioners were diligent about researching the code requirements and acknowledged the error on his part. He stated that the fence was listed as a four-foot fence, however in small print the manufacturer's specifications noted the fifty-two inch height. Mr. Pollard stated that this is the first time that a situation like this has occurred. He stated that the fence is beautiful and he would hate to see it torn down. He stated that he hoped some leniency could be given.

Angela Clark, Planner I, presented the staff report. Ms. Clark stated that 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 in front and corner side yards and of the enforcement procedures. Ms. Clark stated that 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. Ms. Clark stated that the code does not identify the type of fence when referring to height, therefore granting such a variation would not prevent the placement of other types of fences also of open construction, such as chain link, within front and corner side yard areas. She also noted that there were no physical hardships of the petitioner's lot that prevented compliance with the ordinance, but rather the contractor's erroneous placement of a taller fence.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Bedard noted the assembly of the fence. He asked if disassembling the screws could drop down the fence. Mrs. Moore stated that the ornamental part of the fence was not attached, therefore the fence would still exceed code.

Chairperson DeFalco noted the sphere and posts. He stated that if the fence were measure horizontally it would measure forty-six inches, but the posts would still measure fifty-two inches even if the fence were lowered. He stated that the code identifies fence height at the highest point including ornamentation or posts.

Mr. Moore stated that altering the fence would not match what they had purchased. He stated that he understands that code is code, however he believes that the code is meant to protect. He stated that there were no visibility issues with the fence and hoped there was some leeway that could be given for the fence.

Mr. Polley asked if the code considers this type of fence. He stated that the codes should be written more carefully. Ms. Clark stated that the code does not reference the type of fence when referring to height.

Mrs. Newman stated that in previous cases the concern has been visibility. She stated that there is not any visibility issue here.

Chairperson DeFalco reiterated that there was not an issue of visibility. He stated that the fence is attractive, however the ordinance does not take into consideration the openness of fences or ornamentation. He stated that the fence height regulations have been workshopped before the Plan Commission in the past and the decision was to leave the code as it is currently written.

Mrs. Newman asked was the workshop in response to board on board fences or open construction fences. Ms. Clark stated that she believed the issue was board on board fences.

Chairperson DeFalco stated that two months ago a fence appeared before the Zoning Board for a wrought iron fence in an industrial area. The request stated that the fence was 75% open. He stated that the ordinance is meant to provide visibility and safety. He stated that the ZBA couldn't dispute the ordinance and that their responsibility is to determine hardship.

Mr. Young stated that the contractor has taken responsibility for the error. He asked if there were any bonds that the contractor had to place with the Village. Ms. Clark stated that bonds are not required for fences.

Mr. Pollard stated that there would be costs involved to modify the fence.

Mr. Young asked if the height was discovered after the fence was erected. Mr. Pollard stated that he wasn't aware until the petitioner notified him.

Mr. Young asked if the fence could be constructed at three feet. Mr. Pollard stated that it could.

Mrs. Moore stated that a neighbor has a three-foot fence that the children love to climb. They felt that the four-foot fence was more appropriate.

Mr. Pollard stated that most communities are concerned with visibility and openness and that aesthetics typically aren't considered. He asked if there was room for review of this.

Chairperson DeFalco stated that the Board of Trustees has the ability to table the petition and research this further, but it is not under the purview of the Zoning Board.

Mr. Moore asked if that were a possibility. Ms. Clark stated that the action would have to come from the Board of Trustees.

Mr. Young stated that the hardship is on the contractor.

Chairperson DeFalco stated that the hardship is on the homeowner. He stated that the owners tried to comply and notified both the Village and the contractor.

Dr. Corrado asked if a stipulation could be placed that any future repair or replacement of the fence be restricted to four feet if the variation were to be approved.

Chairperson DeFalco stated that if a portion of the fence were damaged the repair would be regulated to four feet while the rest of the fence was still four and a half feet.

Mr. Young stated that the variation should be addressed as a definitive yes or no. He asked if the board had made such stipulations in the past. Mr. Corrado stated that they had. Mr. Young asked if they were adhered to by the Board of Trustees. Mr. Corrado stated that they had.

Mr. Bedard noted the previous meeting's fence petition. He stated that he noted items such as visibility should be addressed by the code considering it wasn't an issue with these fences due to location or open construction.

Chairperson DeFalco stated that this case brings the perfect opportunity for review of the fence code regulations.

Dr. Corrado asked if a review of the requirements could be included in the recommendation. Chairperson DeFalco discussed whether or not the recommendation could be worded in such a way that this could be accommodated.

Mrs. Newman asked if the ordinance itself was creating the hardship. Chairperson DeFalco stated that it is not the ordinance that creates the hardship because the fence could be constructed at a lower height.

Re: ZBA 04-10  
September 2, 2004  
Page 5

Mr. Moore stated that if the fence were denied they would get a fence at the appropriate height. He stated that they know that they can have a fence, yet they are asking that the openness be considered.

Chairperson DeFalco stated that since no bonds or inspections are required for fences we place the homeowner in a position where they have to work out any discrepancies with the contractor.

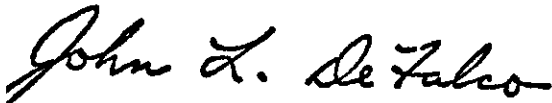
Mr. Young stated that given the ordinance it is difficult to approve a variation. He asked how the board could convey to the Board of Trustees that the ordinance should be reviewed.

Chairperson DeFalco stated that if no direction were given from the Zoning Board the item would not be on the consent agenda and would therefore be open for discussion. He asked that the discussion regarding review of the requirements be reflected in the minutes.

After due consideration of the petition and testimony presented the Zoning Board of Appeals found that the proposed variation does comply with the Standards of the Zoning Ordinance. Therefore the Zoning Board of Appeals recommended approval of ZBA 04-10 by a roll call vote of 5 to 1.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco  
Chairperson  
Zoning Board of Appeals

att-





**VILLAGE OF LOMBARD**  
**INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals

HEARING DATE: August 25, 2004

FROM: Department of Community  
Development

PREPARED BY: Angela Clark, AICP  
Planner I

**TITLE**

**ZBA 04-10; 7 W. Greenfield Avenue:** The petitioner requests that the Village approve a variation from Section 155.205 (A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the permitted fence height in a required front and corner side yard from four feet (4') to four and a half feet (4.5'), for the subject property located within the R2 Single Family Residential Zoning District.

**GENERAL INFORMATION**

Petitioner/Owner: Timothy and Catherine Moore  
7 W. Greenfield Avenue  
Lombard, IL 60148

**PROPERTY INFORMATION**

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Single Family Residence

Size of Property: 10,500 square feet

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District; Single Family Residences  
South: R2 Single Family Residence District; Single Family Residences  
East: R2 Single Family Residence District; Single Family Residences  
West: R2 Single Family Residence District; Single Family Residences

## ANALYSIS

### SUBMITTALS

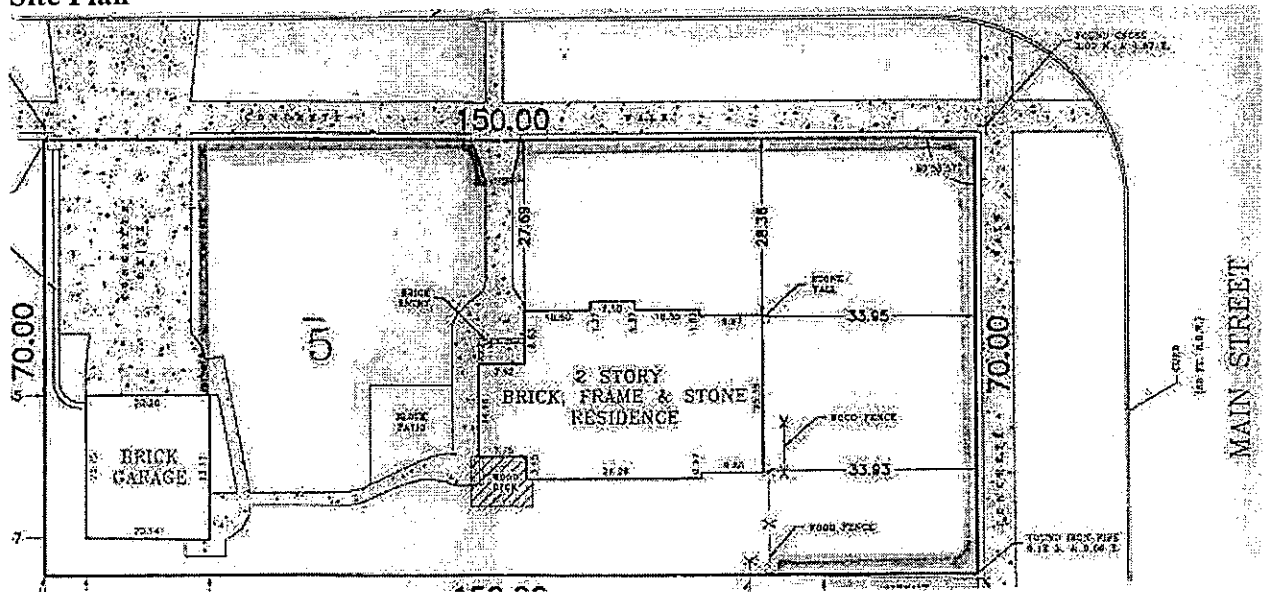
This report is based on the following documents, which were filed with the Department of Community Development on June 24, 2004.

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.

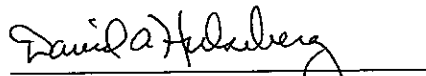
2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.* The petitioner's lot is comparable to other corner lots in the single-family residential 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:



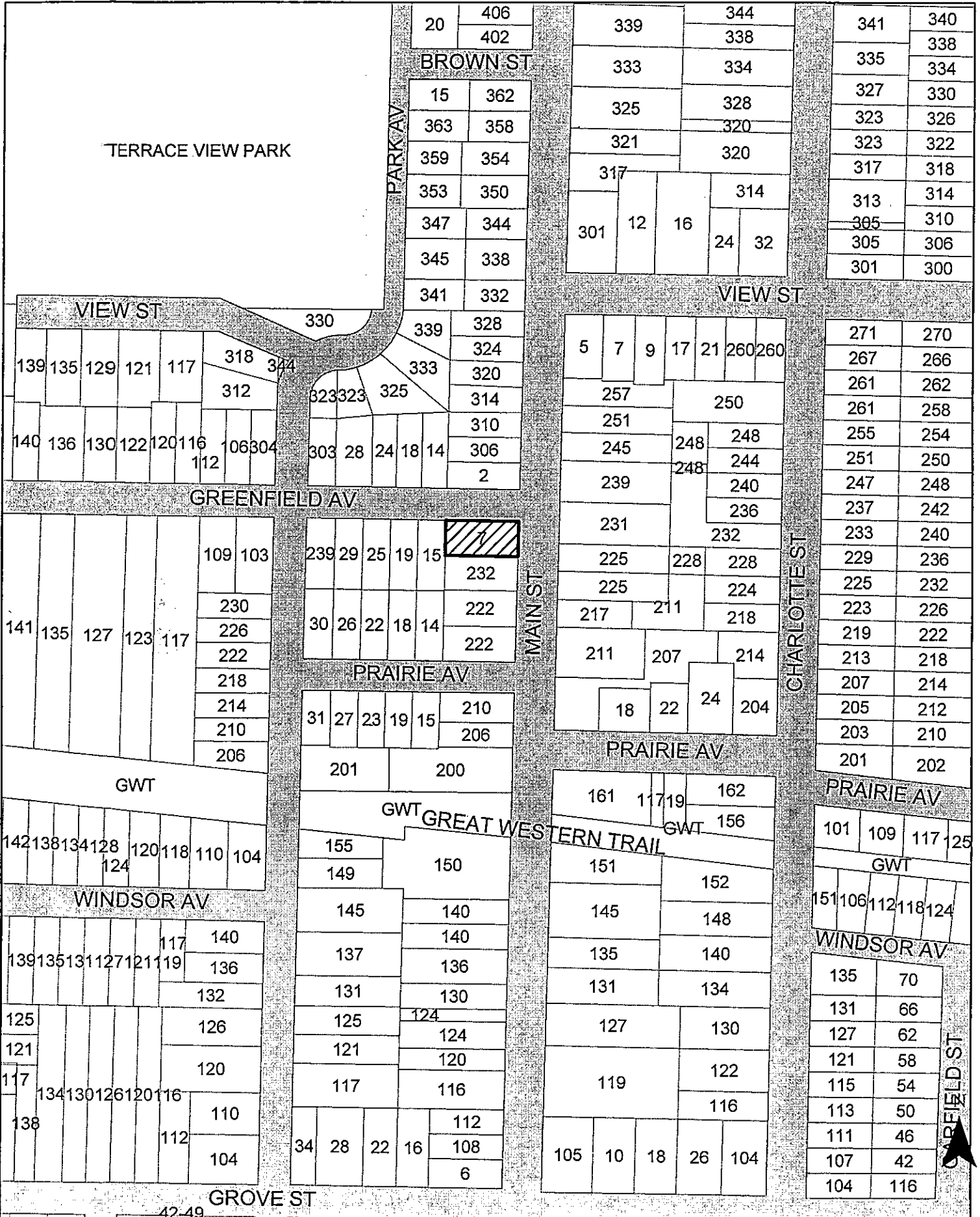
David A. Hulseberg, AICP  
Director of Community Development

att-

c: Petitioner

# Location Map

ZBA 04-10: 7 W. Greenfield





COMMUNITY DEVELOPMENT

RECEIVED AUG 12 2004

Angela Clark  
Village of Lombard  
255 E. Wilson Ave  
Lombard, IL 60148

Re: Public Hearing ZBA 04-10

I am responding to your notice regarding the property at 7 W. Greenfield Ave., Lombard. I am a neighbor at 239 N. Park Avenue.

As I was walking around the neighborhood one day, I noticed the newly installed fence and thought, what a great addition to the property and the neighborhood it is. Then a few days later I received your notice.

I am in favor of the variation since the fence looks real nice and enhances both the property and the neighborhood.

I am unable to attend the hearing on August 25, 2004.

Sincerely,



Joseph Rieger  
239 N. Park Ave.  
Lombard, IL 60148

Cc: Timothy R & C J Moore  
7. W. Greenfield Avenue  
Lombard, IL 60148





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

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

(ZBA 04-10: 7 W. Greenfield Avenue)

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 I Limited Industrial 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)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height from four (4) feet to four and half (4.5) feet; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 25, 2004 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendations to the Board of Trustees with a recommendation of approval of the requested variation; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals; 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 from four (4) feet to four and a half (4.5) feet.

**SECTION 2:** This ordinance is limited and restricted to the property generally located at 7 W. Greenfield Avenue, Lombard, Illinois, and legally described as follows:

LOT 5 IN ROATH'S QUALITY HILL SUBDIVISION, BEING A SUBDIVISION IN THE SOUTHEAST ¼ OF THE SECTION 6, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1929, AS DOCUMENT 285331, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-06-421-011

**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 \_\_\_\_\_, 2004.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

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

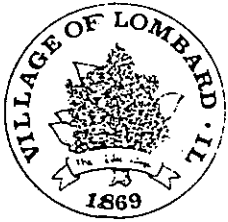
Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

ATTEST:

\_\_\_\_\_  
Barbara A. Johnson, Deputy Village Clerk



## MEMORANDUM

**TO:** William T. Lichter, Village Manager  
**FROM:** David A. Hulseberg, AICP, Director of Community Development  
**DATE:** September 2, 2004  
**SUBJECT:** ZBA 04-10: 7 W. Greenfield Avenue

Attached please find the following items for Village Board consideration as part of the September 2, 2004 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 04-10;
3. An Ordinance granting approval of a variation from the fence height requirements in the R2 District; and

At the request of Trustee Ken Florey, this petition is being tabled until the November 4, 2004 Board of Trustees meeting.

Please contact me if you have any questions regarding the aforementioned materials.

