

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

TO: Zoning Board of Appeals HEARING DATE: April 28, 2010  
FROM: Department of Community Development PREPARED BY: Michael S. Toth  
Planner I

**TITLE**

**ZBA 10-02; 302 S. Grace Street:** The petitioner 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').
- 2) A variation from Section 155.205(A)(1)(e) of the Lombard Zoning Ordinance to allow a solid wood fence six feet (6') in height in the clear line of sight area.

**GENERAL INFORMATION**

Petitioner/Owner: Nicole DiGiacomo  
302 S. Grace St.  
Lombard, IL 60148

**PROPERTY INFORMATION**

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Single Family Residence

Size of Property: approximately 9,891 square feet

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District; developed as Single Family Residences

South: R2 Single Family Residence District; developed as Single Family Residences

East: R2 Single Family Residence District; developed as Single Family Residences

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

## **ANALYSIS**

### **SUBMITTALS**

This report is based on the following documents, which were filed with the Department of Community Development on March 25, 2010.

1. Petition for Public Hearing.
2. Response to the Standards for Variation.
3. Plat of Survey, prepared by ARS Surveying Services, dated April 21, 2008.

### **DESCRIPTION**

The subject property is located at the southwest corner of Grace Street and Ash Street. The petitioner is requesting a variation to allow for the replacement of an existing solid wood fence six feet (6') in height in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Ash Street side of the property and conflicts with the clear line of sight area where the driveway meets the public right of way. As the existing non-conforming fence would be removed in its entirety, the new fence would be required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

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

#### **ENGINEERING**

##### **Private Engineering Services**

The PES Division of Community Development has the following comment on the above petition:

- 1) For safety, the fence shall conform to the Village's line-of-sight requirements.

##### **Public Works Engineering**

Public Works Engineering has no comments regarding this request.

#### **FIRE DEPARTMENT**

The Fire Department has no comments regarding this request.

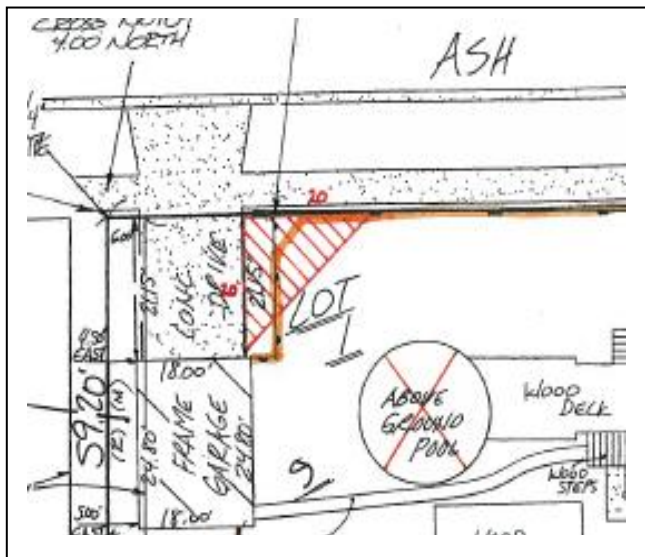
#### **BUILDING DIVISION**

The Building Division has no comments in reference to ZBA 10-02; 302 S. Grace Street.

## PLANNING

The subject property currently has an existing solid wood fence six feet (6') in height within the corner side yard and within the clear line of sight area. The Zoning Ordinance allows non-conforming fences to remain in existence provided that once a non-conforming fence reaches the end of its useful life any replacement fence will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance.

The existing fence currently stands within the clear line of sight triangle at the driveway on the subject property. The proposed fence is indicated by the orange line below. The clear line of sight area at the intersection of the driveway and the public right-of-way is formed as a triangle with legs extending twenty feet (20') north along the property line and twenty feet (20') west along the driveway. The clear line of sight triangle is shown in red. Staff notes that the pool no longer exists on the subject property.



CLEAR LINE OF SITE AREA (EXISTING VS. PROPOSED)



EXISTING FENCE IN CLEAR LINE OF SITE AREA

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 has raised concerns regarding safety on the property due to the presence of two canines. Specifically, the petitioner states that canines would be able to physically jump over a four (4) foot fence and slip through a fence that is 75% open construction (as required of a fence greater than two (2) feet in height in the clear line of sight area). While staff recognizes that some of these concerns are reasonable, staff does not believe these concerns are demonstrative of a hardship associated with the geographic state of the property.

In order to be granted a variation the petitioner must show that they have affirmed each of the “Standards for Variation.” The following standards have not been affirmed:

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 are no conditions related to the property that prevent compliance with the fence height regulations. The petitioner’s property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship. The property is relatively flat and the existing topography does not impact the ability of the property owner from meeting the fence height provisions. There are no conditions which prevent the fence from being removed from the clear line of sight area.

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.*

Staff finds that the conditions are not unique to the subject property. Many other properties with a similar layout and design have been able to meet the established regulations. Canine ownership and the proximity to a collector street are not unique or even rare circumstances in the Village.

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.*

Staff finds that the fence could be constructed per the ordinance requirements by lowering the fence to four feet (4’). The fence could also be moved out of the clear line of sight area or constructed to be seventy-five percent (75%) open. The hardship has been created by the petitioner as a result of the petitioner’s preference for the fence’s height and location.

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

As stated above, the fence in the clear line of sight area could be a danger to public safety.

Staff recommends that the petition be denied in its entirety. However, if the Zoning Board of Appeals finds that it would be appropriate to grant a variation for fence height, staff recommends

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Re: ZBA 10-02

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that petitioner adhere to the submitted plans and address the clear line of sight issue. Also, the petitioner should be required to obtain a fence permit for the proposed fence.

## **FINDINGS AND RECOMMENDATIONS**

The Department of Community Development has determined that the information presented **has not 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 **denial** of the aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **do not 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 **denial** of ZBA 10-02.

Inter-Departmental Review Group Report Approved By:

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William Heniff, AICP  
Director of Community Development

c: Petitioner