

January 15, 2004

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

**Subject: ZBA 03-28; 825 E. Maple Avenue**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five and one-half feet (5.5') in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on December 17, 2003. Scott Hall, property owner and petitioner presented the petition. He opened his presentation by noting that the constructed fence height is approximately five feet, two inches. He then inquired about the references in the staff report from Building and Private Engineering that stated that they had no comments on the petition.

He then discussed the history of the fence, noting that it was constructed earlier in 2003. While the intention was to meet the four-foot height requirement, he proceeded to add lattice to the fence as an aesthetic improvement.

He then discussed the standards for variations. He noted that as the fence is of vinyl construction, it cannot be consistently level to grade. The property does slope away from the house to the street.

He stated that they constructed the fence in order to provide greater privacy to their property. They want a secure area for their children. He also referenced traffic concerns along Maple Street. He also noted that while the relief requested is for his front yard, it actually functions as a side yard.

Regarding the increase in fence height, he noted that the additional height was for a lattice treatment on top of the fence. The lattice does allow for light and air and makes for a more attractive fence overall. Without the lattice, the fence has no character.

He noted that the neighbors are okay with the fence as constructed. He did ask them about their proposed fence before he did the improvements and they were fine with the proposed improvements. He also noted a solid fence within the corner yard at the other end of the block on Maple Avenue.

Chairperson DeFalco then opened the meeting for public comment.

Speaking in favor of the request was Mike Bowers, 821 E. Maple. He noted that his property abuts the petitioner's property and he is okay with the fence as proposed.

Richard Fortier, 901 E. Maple, stated that the fence is an improvement to the neighborhood and the lattice makes it look better.

No one spoke against the petition.

William Heniff, Senior Planner, presented the staff report. Mr. Heniff stated that the petitioner applied for and received a fence permit for the placement of a four-foot solid vinyl fence in the required front yard. Code Enforcement staff received a complaint regarding the height of the fence and upon investigation determined that the fence exceeded the maximum height restriction. The fence is four feet in height and an additional twelve inches of lattice was added to the fence.

Responding to the petitioner's question, he noted that the inter-departmental comments that stated that there were no comments or concerns relates to the fact that the requested relief does not relate to their area of expertise. For example, an increase in fence height would not increase the amount of flooding on a particular property. Therefore, they would not have comments on this issue. Also for clarification, staff advertised the fence request for five and one-half feet so that if there was a slight deviation in overall height beyond the petitioner's stated fence height, an amended public hearing would not be required.

He then discussed the staff recommendation of denial. The four-foot height restriction is intended to ensure that proper visibility is maintained as well as preserving the overall visual aesthetics of the neighborhood. While the placement of the petitioner's fence may not serve as an impediment to traffic, the fence abuts the front yard of the neighboring property. Staff typically does not support relief for fences greater than four feet in height in corner side or front yards where the proposed fence would be adjacent to a neighboring front yard.

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. 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. Staff finds that the hardship has not been created by the ordinance, but rather the petitioner's decision to not build according to the permit issued. While there is another property on the petitioner's block with a six-foot fence in the corner side yard, a fence permit is not on file for the property. Given the condition of the fence, staff believes that the fence was erected prior to the enactment of permits for fences. Staff finds that a fence greater than four feet in height within the corner side or front yard detracts from the character of the block.

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

Mr. Bedard asked about where the Code Enforcement complaint came from. Staff said it was an anonymous complaint received by staff.

Chairperson DeFalco asked about the contractor who installed the fence. Mr. Hall said he was the one who put up the fence. He also noted that fence posts only come in selected sizes (48", 62" and 70") and meeting code would be difficult. He could build a fence that meets code, but it would not look right. The additional height gives them much more relief from traffic on Maple.

Mr. Polley asked if they looked at an alternative type of fencing, such as a chain-link fence? Mr. Hall stated that the solid fence addresses their sound concerns.

Ray Bartels, 812 E. Maple, stated that he owns property on the same block as the petitioner and he does not object to the fence request as it is aesthetically pleasing and is a great addition to his property.

Mr. Bedard stated that he has had experience with sight obstruction issues when he was on the Traffic and Safety Committee. He expressed a concern that the fence forces a driver to "nose" their car further out into the intersection to get a clear view of traffic on Maple. The petitioner rebutted to state that this was not a problem and that the fence does meet all line of sight requirements as defined in the Zoning Ordinance.

Mary Hinkle, 830 E. Maple, stated that she thought the fence is beautiful and the site lines are okay. There is no difference between a four and a five-foot fence, they do not have much of a yard and the fence insulates the property from the street.

Mr. Bedard reiterated his concern regarding the sight impacts of the fence on traffic and on the block.

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After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the proposed variation did not comply with the Standards of the Zoning Ordinance. Therefore, the Zoning Board of Appeals by a roll call vote of 5 to 0 recommended denial of ZBA 03-28.

Respectfully,

**VILLAGE OF LOMBARD**

John DeFalco  
Chairperson  
Zoning Board of Appeals

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