

ANALYSIS

SUBMITTALS

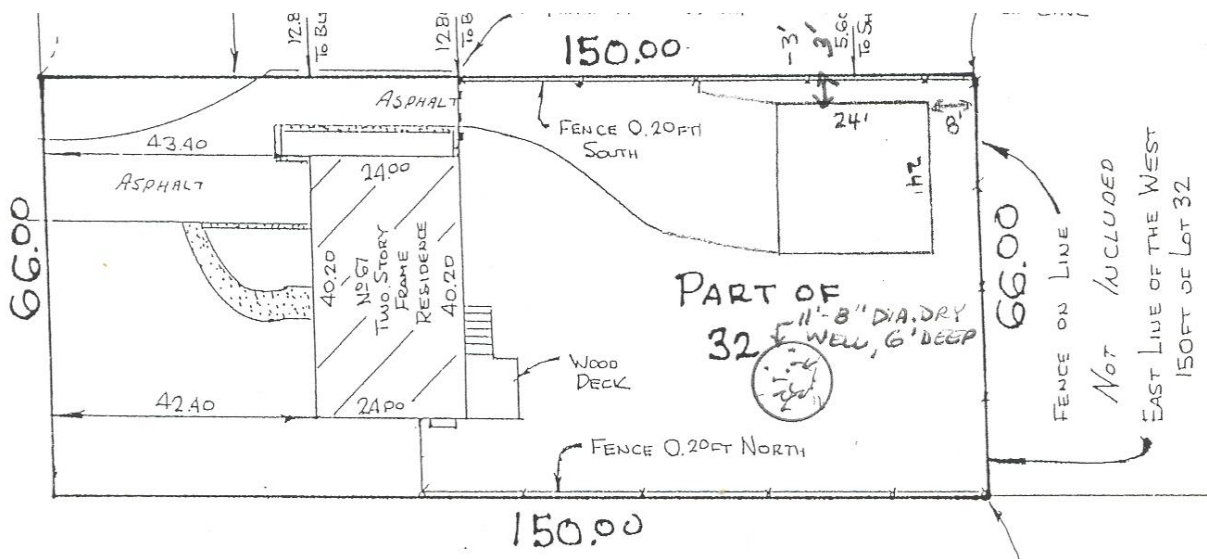
This report is based on the following documents, which were filed with the Department of Community Development on May 20, 2005.

1. Petition for Public Hearing
2. Plat of Survey, dated September 14, 1995, prepared by Response Land Surveying, Inc.

DESCRIPTION

The petitioner applied for and received a building permit to construct a garage that was seventeen feet in height. The petitioner asserts that due to a contractor error the garage was constructed to seventeen feet and seven inches in height. The maximum garage height allowed is seventeen feet measured from grade to the highest point on the structure.

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

Garage heights have posed a problem in the past, regarding how to formulate the proper height. The current requirements are that all garages meet the new maximum height of 17'0". If the builder and/or owner cannot correctly determine the proper height of the garage and build it correctly, they should redo the framing and correct the issue.

PLANNING

In May 2004, the Village Board approved a text amendment to modify the calculation of accessory structure height. Previously, structures were permitted to be a maximum of fifteen feet in height based on a formulated mean height of the roof pitch. In essence a structure could meet the fifteen-foot requirement based on the formula for height yet would measure slightly higher if an overall height were taken. There were a number of concerns voiced by residents and trustees regarding the increasing bulk and two story garages. The approved text amendments regulated garages to a maximum height of seventeen feet when measured from grade to the highest point on the structure. As such, garages constructed prior to the amendment are considered legal nonconforming while new structures must meet the new height requirements.

The petitioner obtained a building permit for a new garage in March 2005. The permit indicated that the garage would be seventeen feet in height. The Building Department failed the garage on the final inspection for exceeding the maximum height requirement. The overall height of the garage is seventeen feet, seven inches. The petitioner states that the height was exceeded due to a contractor error.

Staff cannot support the requested variation for the following reasons. In order for a variation to be granted a hardship unique to the subject property must be demonstrated. Staff finds that a contractor error does not constitute a hardship. Historically staff has recommended denial for requests that resulted from both staff and contractor errors. Furthermore, all Standards for Variations must be met in order to grant a variation. Staff finds that the following Standards for Variations have not been met.

- 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 not any physical attributes of the subject property that would prevent the garage from meeting the height requirements.
- 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 subject property is comparable to other properties with the same zoning designation.

3. *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 alleged difficulty is not caused by the ordinance, but rather a contractor error.
4. *The granting of the variation will not alter the essential character of the neighborhood.* Staff finds that granting the variation would be inconsistent with the intent of the ordinance. The ordinance was drafted to address the expressed concerns of residents and trustees who believed that the height of accessory structures was effecting the character of neighborhoods. Staff finds that granting the variation would be contradictory to that intention and would produce the opposite of the desired effect, which was to reduce the overall height of accessory structures.

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 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 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 05-10.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

att-
c: Petitioner