

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals HEARING DATE: June 27, 2007
FROM: Department of Community PREPARED BY: Michael S. Toth
Development Associate Planner

TITLE

ZBA 07-09; 130 E. Sunset Avenue: The petitioner requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted; and
2. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required front yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted.

GENERAL INFORMATION

Petitioner/Property Owner: James Bachman
130 E. Sunset Avenue
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District
Existing Land Use: Residential
Size of Property: 14,800 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 May 24, 2007.

1. Petition for Public Hearing.
2. Response to the Standards for Variation.
3. Plat of Survey, prepared by Schlaf-Sedig & Associates, Inc, dated September 23, 1999.
4. Site plan, prepared by the petitioner, showing fence location.
5. Photographs depicting previous fence and proposed areas for new fence.

DESCRIPTION

The subject property is located at the northwest corner of Sunset Avenue and Garfield Street. There is a portion of legal nonconforming five (5) foot high solid fence along Sunset Avenue. The petitioner wishes to maintain the current building line and replace the existing five (5) foot fence (to the same height) and add an additional thirty eight and half (38.5) feet of five (5) foot fence along the eastern and northern portions of the property that would adjoin the permitted six (6) foot fence along the northern property line. As the petitioner's proposed fence is to be located within the required front yard setback and adjacent to a neighboring properties front yard setback, the four (4) foot height restriction and clear line of sight provision are required.

INTER-DEPARTMENTAL REVIEW COMMENTS

Private Engineering Services

The PES Division has no comment on this petition after visiting the site and seeing no impact to the sight distance triangle.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

Fire and Building

Upon review of the above referenced request for variations in fence heights at the corner property, the Fire Department/Bureau of Inspectional Services has the following comment:

That the new fence height not interfere with any line of sight for emergency vehicles.

PLANNING

The subject property previously had a legal nonconforming five-foot high solid fence within the corner side yard and within the clear line of sight area located along the corner of Garfield Street and Sunset Avenue. The proposed fence would also abut the front yard of the adjacent property to the north along Garfield. The petitioner wishes to replace the legal nonconforming fence with a similar five-foot high solid fence. The Zoning Ordinance contains provisions that allow nonconforming fences to remain with the intention that, once a nonconforming 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. As such, the petitioner's replacement of the fence removed any legal nonconforming rights and requires that the new fence meet the four-foot height restriction and clear line of sight requirements.

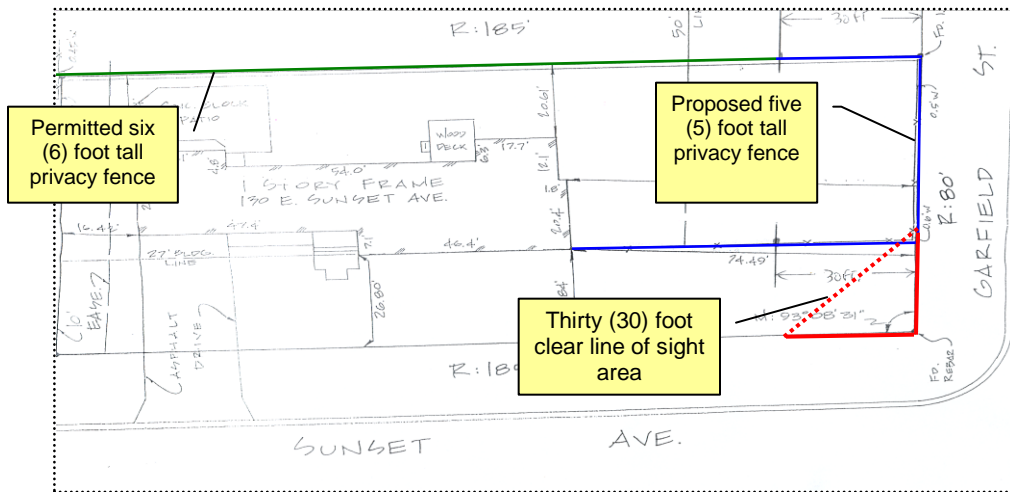
The petitioner raised several issues within the Response to the Standards for Variations with regard to privacy and safety. However, a variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area. Staff cannot support the variation for the following reasons. Five-foot high fences are not permitted within front yards or corner side yards due to the visual obstruction they create. Similarly, there are additional restrictions placed upon fences that abut a neighbor's front yard to prevent as such a fence from blocking the view from the front yard of the neighboring property.

It is noted that the petitioner's house is located outside of the required twenty (20) foot side yard setback located along Sunset Avenue. By right, the petitioner would have the right to construct a six (6) foot high fence, starting from the southeast corner of the house – extending forty-four (44) feet to the east. To prevent fluctuation in height, the petitioner wishes to maintain the contiguous five (5) feet of fence for aesthetic purposes along Sunset Avenue.

Clear Line of Sight

Upon original submittal, the existing fence was to be replaced in its exact location with a four (4) foot portion of the replacement being located within a clear line of sight area. To bring the fence into compliance to the letter of the Ordinance, the petitioner readily agreed to comply with any clear line of sight issues. On the southeast corner of the existing fence, a four (4) foot portion is located within the thirty (30) foot clear line of site area located along Sunset Avenue and Garfield Street. As such, the petitioner has agreed to address the issue by placing the fence on an angle, as

to not interfere with the aforementioned clear line of sight area. By replacing the fence, the property would no longer have any clear line of sight issues.



Southeast portion of the fence that would be angled to alleviate the clear line of sight issue.

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.

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. The subject property is a reverse corner lot as its front yard abuts the front yard of the adjacent property at 610 N. Garfield. The Zoning Ordinance has specific fence regulations that apply to all reverse corner lots in relation to the abutting properties.

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 ordinance has not caused the hardship as the fence could have been constructed per the ordinance requirements. The hardship has been created by the petitioner as a result of the preference for the fence's height and location.

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, staff recommends 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 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 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 07-09.

Zoning Board of Appeals

Re: ZBA 07-09

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Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager

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c: Petitioner

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