

April 18, 2002

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

Subject: ZBA 02-04: 821 S. Elizabeth Street

Dear President and Trustees:

Your Zoning Board of Appeals transmits for your consideration its recommendation on the above-referenced petition. The petitioner requests variations to the Lombard Zoning Ordinance requirements regarding fences within clear line-of-sight areas, and a variation to allow a six foot (6') tall fence in the corner side yard, where a four foot (4') tall fence is permitted, in the R2 Single-Family Residence District.

Ms. Edie Maka, property owner, 821 South Elizabeth Street, presented the petition. She stated her appeal to the ZBA in regard to his request for a variance regarding fences within a clear line-of-sight area and a variation to allow for a six foot high fence in the corner side yard. She explained that in 1999 they applied for and received a permit for a new garage and e ex driveway on the property. She noted that she worked closely with Village staff during the process and that building and drainage inspectors were out at the site frequently to monitor the progress. Also as part of the improvements, they installed a new 6 foot high fence between the driveway and their house within the corner side yard. She described the fence as six feet in height made of PVC and injected with concrete. She noted that the inspectors did not comment on the location of the fence as these improvements were being made. She was unaware of any fence problems until she received a notice about a year ago that stated that the fence was not in compliance.

Mr. Joseph Maka, property owner, noted that the existing fence does angle where the driveway and the line-of-sight triangle meet. He noted that the previous fence located on the property has slats that also created an obstruction, but was never considered a problem.

April 18, 2002
Re: ZBA 02-04
Page 2

Chairperson DeFalco then opened the meeting for public comment. Speaking in favor of the petition was Rick Maka, 239 West Taylor Road, Lombard. He noted that he is the son of the petitioner and he feels that the fence is not a concern.

Also speaking on behalf of the petitioner was Richard Tross, District 2 Village Trustee. Mr. Tross noted the history of the case and reference a letter sent by staff in 2001 relative to the fence that stated that a fence variation could be supported by staff. He noted that the petitioner's fence does include a consideration of the line-of-sight issue as the corner of the fence near the driveway is angled. He noted that this fence is far superior to the old fence on the property. He also noted that as a practical matter, while the fenced in area is within a corner side yard, this area serves as their rear yard.

No one spoke against the petition.

Chairperson DeFalco then requested the staff report.

William Heniff, Senior Planner, stated that the petitioner erected a fence in 1999 to replace an existing 6-foot high fence that had to be removed when a new garage was constructed. A fence permit was not required by the Village at that time but the Zoning Ordinance required a 20-foot line of sight triangle where the driveway meets the public sidewalk. The Code also required a fence in a corner side yard to be no more than 4 feet in height. The fence was built of solid vinyl at 6 feet in height and an approximate 5-foot line of sight triangle allowed at the driveway. However the height and location of the fence is not per code.

He noted that staff does not support the request as the 5-foot line of sight triangle that was left at the driveway is still considered a safety hazard and a hardship associated with the property has not been shown. Also the ordinance requiring the line of sight triangle and the maximum four-foot height requirement for the corner side yard was in place when the fence was built. Although staff does not support either the request for a variation for the 20-foot line of sight triangle or the 6-foot fence in a corner side yard the line of triangle is the most serious deviation from the Zoning Ordinance.

He concluded by stating that the standards for variation were not met and therefore staff recommends denial of the petition.

Chairperson DeFalco then asked for comments among the ZBA members.

Ms. Newman asked why this petition was being brought forward at this time. Ms. Maka noted that she received a letter from the Village to apply to the ZBA for zoning relief to address the fence encroachment issue.

April 18, 2002
Re: ZBA 02-04
Page 3

Chairperson DeFalco reviewed the history of the permit and inquired as to whether the fence was depicted on the 1999 plans. In response, the petitioner referenced a thin line on the plans that was intended to represent the new fence. She also noted that the angled line at the driveway corner was placed on the site plan to show a field change to the fence once it was constructed.

Mr. Melarkey referenced two similar cases heard by the ZBA on Edson Street and on Emerson Street for fence relief for previously constructed fences. He noted that the ZBA recommended modifications to those fences and also recommended denial of relief in the line-of-sight encroachments.

Mr. Polley inquired if the fence could be modified to increase the opacity and therefore provide some visibility within the line-of-sight area.

Mr. Tross concluded by stating that he thought that the relief requested was reasonable given the specifics of this case.

Chairman DeFalco then asked if anyone was ready to make a motion.

Mr. Melarkey moved that the Zoning Board of Appeals recommend denial of the petition. Ms. Newman seconded the motion.

The vote was as follows:

Newman:	Yes
Melarkey:	Yes
Polley:	No
Chairperson DeFalco:	Yes

As there were not four votes for the motion, the ZBA makes no recommendation on the petition.

After the vote concluded, Mr. Tross asked for a clarification of the vote.

Mr. Melarkey moved that the Zoning Board of Appeals recommend **approval** of a variation in fence height in the corner side yard from 4 feet to 6 feet. Ms. Newman seconded the motion.

The vote to approve the fence height variation only was as follows:

Newman:	Yes
Melarkey:	Yes
Polley:	Yes
Chairperson DeFalco:	Yes

April 18, 2002
Re: ZBA 02-04
Page 4

Mr. Melarkey then moved that the Zoning Board of Appeals recommend denial of the variation in the fence requirements within the clear line-of-sight area. Ms. Newman seconded the motion.

The vote to approve the fence height variation only was as follows:

Newman:	Yes
Melarkey:	Yes
Polley:	No
Chairperson DeFalco:	Yes

As there were not four votes for the motion, the ZBA is sending the variation pertaining to fences within the clear line of sight area forward with **no recommendation**.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

JDF:WJH
att-