

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
 X Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: August 29, 2006 (B of T) Date: September 7, 2006

TITLE: ZBA 06-13: 501 N. Garfield St.

SUBMITTED BY: Department of Community Development *get*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of the following actions on the subject property located within the R2 Single Family Residential District:

1. A variation to 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)(2) to allow a solid fence within a clear line of sight area.
- (DISTRICT #4)

The Zoning Board of Appeals recommended approval of item number #1, the variation to increase fence height in a corner side yard(subject to conditions), and denial of item #2, the variation to allow a solid fence within a clear line of sight area.

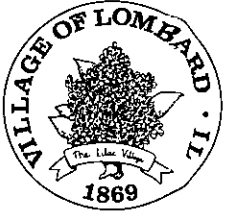
The petitioner is also requesting a waiver of public hearing fees.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <i>W. Lichter</i>	Date <i>8/30/06</i>

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development *Delt*

DATE: September 7, 2006

SUBJECT: ZBA 06-13: 501 N. Garfield

Attached please find the following items for Village Board consideration as part of the September 7, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-13;
3. An Ordinance granting approval of a variation from the fence height requirements for fences in a corner side yard;

This petition consists of two variation requests for an existing fence on the subject property. The first variation is to allow for a six-foot high fence in a corner side yard. The Zoning Board of Appeals recommended approval (6-0) of this request. The second request is to allow for a solid fence within a clear line of sight area. The Zoning Board of Appeals recommended denial of this request (6-0).

The petitioner is also requesting a waiver of fees associated with the petition. Please find the written request attached.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD

255 E. Wilson Avenue
Lombard, IL 60148-3926
(630) 620-5700 FAX: (630) 620-8222
TDD: (630) 620-5812
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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

September 7, 2006

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

Subject: ZBA 06-13; 501 N. Garfield Street

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of a variation to 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') and a variation from Section 155.205(A)(1)(e)(2) to allow a solid fence within a clear line of sight area.

The Zoning Board of Appeals conducted a public hearing on September 7, 2006. Mike Mallon, owner of the property, presented the petition. He stated that the only usable area of his yard was to the east of the house. He mentioned that in April he started getting bids from fence contractors and after coming into the Village to inquire about fence regulations, he realized that he couldn't construct the fence as planned. He noted that he spoke with David Hulseberg (Director of Community Development) and Trustee Sebby regarding a fence variation. He said they would support a variation for fence height, but he will still have make an application and go through the variance process. Mr. Mallon stated that Mr. Hulseberg pointed out that an open fence was needed along the driveway and street.

Mr. Mallon mentioned that the fence contractor contacted him because he had an opening in his schedule. Mr. Mallon stated that he did not anticipate a problem with installing the fence right away since he had been assured that the variance would be approved. He noted that the fence along the driveway is open, but does not meet the 75% open requirement. He stated that chain link and wrought iron which are 75% open would not be appropriate and would not fit in. He noted that his fence is not too different from other fences in town. He stated that he doesn't see the Village's position on why 75% open is necessary in the clear line of sight area.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business to create a distinctive sense of spirit and an outstanding quality of life."

"The *Mission* of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Michelle Kulikowski, Planner I, presented the staff report. She summarized the staff report dated July 26, 2006 addressing the requested variation to allow a six foot (6') fence in the corner side yard for the property at the northeast corner of Berkshire Avenue and Garfield Street. The petitioner is proposing to install a fence enclosing the portion of his lot east of the residence. Most of the fencing would be four feet (4') in height, but along the rear property line, a solid six foot (6') fence would extend from the northeast corner of the lot to a point eleven feet from the corner side property line. The remaining eleven feet (11') along the rear property line would have a four foot (4') fence and the transition from a four foot (4') fence to a six foot (6') fence would be aligned with the building line of the residence on the adjacent property.

Ms. Kulikowski noted that the residence on the subject property is setback twenty three feet (23') from the corner side property line and complies with the corner side yard setback, but the adjacent property to the east is only setback eleven feet (11') from the corner side property line, similar to many of the corner lots along Berkshire Avenue. Staff can support the variation because the subject property is not a reverse corner lot, and therefore, the solid six foot fence would not be adjacent to any portion of the front yard of the adjacent property to the east. There is a precedent for granting variations to allow a six foot (6') fences in corner side yards when they are aligned with the building line of a residence (ZBA 05-06). The six foot (6') fence will not alter the essential character of the neighborhood as it will be aligned with the building line of the majority of the residences along Berkshire Avenue, consistent with the intent of the fence height regulations for corner lots. She pointed out that the original staff report did mention that the portion of the four foot (4') fence within the clear line of sight of the driveway must be of open construction, and the Zoning Ordinance defines an open construction fence as a fence which has over its entirety at least 75% of its surface area in open space which affords a direct view through the fence

Ms. Kulikowski summarized Addendum One to the staff report noting that the Zoning Board of Appeals had continued the petition at the June 28, 2006 meeting in order to allow the petition to be re-advertised with an additional variation request. She noted that prior to the June 28th meeting, the petitioner installed the fence, and the portion of the fence within the clear line of sight area did not meet the open construction requirement. She stated that Section 155.205(A)(1)(e)(1) of the Lombard Zoning Ordinance states that fences over two feet (2') in height can be located within a clear line of sight area if they are of open construction. She referenced the definitions of "open construction fence" and "solid construction fence". She noted that the petitioner's fence in the clear line of sight area for the driveway consists of four inch (4") pickets with a two inch (2") opening and by definition, the fence is considered a solid fence, as it only maintains approximately 33% of the surface area as open space.

Ms. Kulikowski presented background information regarding fence regulations in the Village of Lombard. She stated that previous fence regulations prohibited fences within clear line of sight areas, but a 1999 text amendment to the Zoning Ordinance allowed fences within clear line of sight areas provided that any fence over two feet (2') in height was of open construction. She mentioned that the text amendment included definitions for open construction and solid fences distinguishing that that a fence had to be at least 75% open to be deemed an open construction fence. She also

mentioned that the text amendment also reduced the clear line of sight triangle at the intersection of a private driveway with a public street from thirty feet (30') to twenty feet (20'). She stated that a later text amendment in 2000 established the requirement for fence permits, and as a result of the new permit requirement, staff conducted a field study of all of the fences in Lombard creating an inventory of all of the fences that did not comply with current regulations. Ms. Kulikowski commented on the photographs of non-conforming fences submitted by the petitioner.

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

Mr. Young asked whether the petitioner received a fence permit. Ms. Kulikowski noted that a permit was not issued.

Mr. Young asked staff to refresh his memory with regard to the fence variation granted last year for the property at 734 S. Elizabeth. Ms. Kulikowski stated that the property owner had received a fence permit, but did not install the fence to meet the 75% open requirement for the portion within the clear line of sight. She stated that the Village Board of Trustees approved the variation with a condition that the fence be modified so as to leave a seven foot (7') clear line of sight triangle.

Chairperson DeFalco asked whether he had a professional company install the fence and whether that company does work in Lombard.

Mr. Mallon stated that he hired Brothers Fence out of Villa Park to install the fence.

Mr. Polley noted that they probably do a lot of work in Lombard and should be familiar with our regulations. He also stated that a child on the sidewalk would not be able to see a car backing out of the driveway because of the fence.

Mr. Mallon mentioned that the definition for solid fence stated that a chain link fence with slats was not a solid fence and he felt it was contradictory. He also asked about shrubs and hedges on corners in the clear line of sight area.

Ms. Kulikowski responded to the petitioner's comments. She noted that the Zoning Ordinance has provisions requiring solid fence enclosures for garbage dumpsters. She stated that the definition for solid fence was worded as such to prevent chain link fences with slats from being used for trash enclosures. She also noted that along property lines and in the clear line of sight area, hedges or any landscaping intended to create a visual screen are subject to the same height restrictions as fences.

Mr. Young asked if violations would be issued for the fences in the photographs submitted by the petitioner.

Ms. Kulikowski stated that those properties that did not receive a permit and were not on the 2000 non-conforming fence inventory could be subject to Code Enforcement Action.

Chairperson DeFalco noted that when the Village started requiring fence permits, notification letters were sent to local fence companies. He asked if staff could send a letter notifying Brothers Fence Company of Lombard's fence regulations.

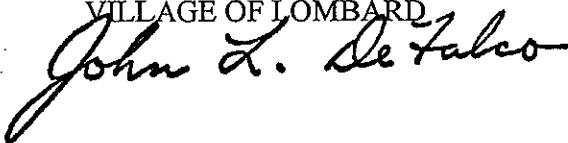
After due consideration of the petition and testimony presented, the Zoning Board of Appeals found that the requested variation to allow a six foot (6') fence in a corner side yard complied with the Standards of the Zoning Ordinance. Therefore, on a motion by Mr. Bedard and a second by Mr. Polley, the Zoning Board of Appeals recommended approval of the aforementioned variation associated ZBA 06-13 by a roll call vote of 6 to 0, subject to the following conditions:

1. The fence shall be modified in order to comply Section 155.205(A)(1)(e) pertaining to fences within the clear line of sight area.
2. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
3. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

In consideration of the second variation, the Zoning Board of Appeals found that the requested variation to allow a solid fence within a clear line of sight area did not comply with the Standards of the Zoning Ordinance. Therefore, on a motion by Dr. Corrado and second by Mr. Polley the Zoning Board of Appeals recommended denial of the aforementioned variation associated with ZBA 06-13 by a roll call vote of 6 to 0.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco
Chairperson
Zoning Board of Appeals

att-

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

TO:	Zoning Board of Appeals	HEARING DATE:	August 23, 2006
FROM:	Department of Community Development	PREPARED BY:	Michelle Kulikowski, AICP Planner I

TITLE

ZBA 06-13; 501 N. Garfield: The petitioner requests approval of the following actions on the subject property located within the R2 Single Family Residential District:

1. A variation to 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)(2) to allow a solid fence within a clear line of sight area.

GENERAL INFORMATION

Petitioner/Property Owner: Michael J. Mallon
501 N. Garfield St.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Residential

Size of Property: 8,558 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

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on June 5, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated May 14, 1996, and prepared by American Survey Co.
4. Site plan, prepared by the petitioner, showing proposed fence type and location.
5. Photographs, taken by the petitioner, and dated August 11, 2006.

DESCRIPTION

At the June 28th Zoning Board of Appeals meeting, The Zoning Board of Appeals continued the public hearing for ZBA 06-13 in order to allow the petition to be re-advertised to include an additional variation request. The original request was to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6'). Staff noted in the staff report that the portion of the proposed fence within the clear line of sight area for the driveway would be required to be of open construction (75% open). Prior to the June 28th meeting, the fence was installed, and the portion of the fence within the clear line of sight area did not meet the open construction requirement. The petitioner is now requesting an additional variation to allow a solid fence within a clear line of sight area.

ANALYSIS

Staff previously discussed the fence height variation in the original staff report, and is still in support of the requested relief. Therefore staff will only address in this report the request to allow a solid fence within a clear line of sight area in this addendum report.

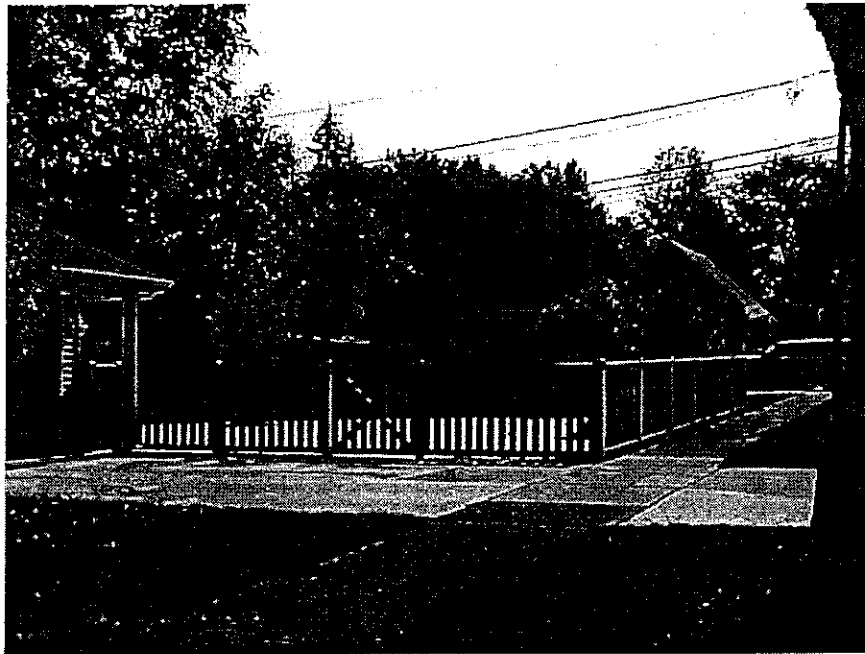
Background

Section 155.205(A)(1)(e)(1) of the Lombard Zoning Ordinance states that fences over two feet (2') in height can be located within a clear line of sight area if they are open construction. The Zoning Ordinance defines "*open construction fence*" and "*solid construction fence*" as follows:

FENCE-OPEN CONSTRUCTION is a fence which has over its entirety at least 75% of its surface area in open space which affords a direct view through the fence.

FENCE-SOLID CONSTRUCTION is a fence which has over its entirety less than a minimum of seventy-five percent (75%) open space in total for every one (1) foot of linear dimension. Chain link fences with slats do not constitute a solid fence.

The petitioner has installed a four foot (4') fence in the clear line of sight area for the driveway consisting of four inch (4") pickets with a two inch (2") opening. By definition, the fence is considered a solid fence as it only maintains approximately 33% of the surface area as open space.



Non-conforming fences

The Village of Lombard did not have standardized fence regulations for all zoning districts until the 1990 Zoning Ordinance. In addition to fence height restrictions, the Ordinance also established clear line of sight areas and prohibited fences within any clear line of sight area. Restrictions for fences within clear line of sight areas were loosened in 1999 as a result of text amendments to the Zoning Ordinance (PC 99-23). The new restrictions allowed fences within clear line of sight areas provided that any fence over two feet (2') in height was of open construction. The text amendment included definitions for open construction and solid fences distinguishing that a fence had to be at least 75% open to be deemed an open construction fence. The text amendment also reduced the clear line of sight triangle at the intersection of a private driveway with a public street from thirty feet (30') to twenty feet (20'). Staff introduced with the 1999 text amendments an additional amendment that would require building permits for fences, but it wasn't until a later text amendment in 2000 (PC 00-05) that the Zoning Ordinance was changed to require permits. As a result of the new permit requirement, staff conducted a field study of all of the fences in Lombard and created an inventory of all of the fences that did not comply with current regulations.

Staff has not pursued code enforcement action against the properties listed in the 2000 non-conforming fence inventory. Without a previous requirement for fence permits, it is difficult to determine when a fence was installed and whether it is legal non-conforming. The inventory is used to help track the non-conforming fences installed before 2000 so that they can come into compliance when it is time for the fence to be replaced. It is also used to distinguish between non-conforming fences installed before 2000 and those installed after 2000 without a permit.

The petitioner has submitted photographs of non-conforming fences in Lombard (See Appendix A). Staff has reviewed the pictures and cross referenced the properties with the 2000 non-conforming fence inventory and building permit files. A table of staff's findings is located in Appendix B. Of the sixteen properties mentioned by the petitioner, one received a variance to allow a solid fence in the clear line of sight and five were listed on the 2000 non-conforming fence inventory. Two properties received a fence permit and did not install the fence per code. The remaining did not receive a permit and were not listed on the 2000 non-conforming fence inventory, and can be subject to Code Enforcement action.

Standards for Variations

Staff does not support the variation request to allow a solid fence within a clear line of sight area as it poses a safety hazard. The purpose of the open construction fence requirement is to provide visibility of pedestrians and oncoming traffic. Staff finds that the hardship in this circumstance has been created by the petitioner. The petitioner was aware that a permit was required to install a fence and chose to install the fence without a permit. Furthermore, the petitioner had applied for a variation to install the fence and was aware of the variance procedures. The petitioner chose to install the fence prior to the public hearing, before any recommendations could be made

by the Zoning Board of Appeals and before any decisions could be made by the Board of Trustees.

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. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.*

Staff finds that the petitioner's property does not have any physical limitations that limit the owner from meeting the intent of the ordinance.

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 regulations for fences within clear line of site areas apply to all properties in all zoning districts.

3. *The alleged difficulty or hardship is shown to be 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 installing the fence without a permit.

4. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Staff finds that granting the request would be injurious due to encroachments in the clear line of sight.

5. *The proposed variation will not impair an adequate supply of light and air to adjacent property and substantially 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.*

Staff finds that the requested relief would negatively impact public safety as visibility of pedestrians and traffic would be diminished.

FINDINGS AND RECOMMENDATIONS

Staff recommends approval of the variation to reduce corner side yard setback for a fence, and denial of the clear line of sight variation. Should the Zoning Board of Appeals concur with this recommendation, staff suggests that prior to consideration by the Board of Trustees, that the

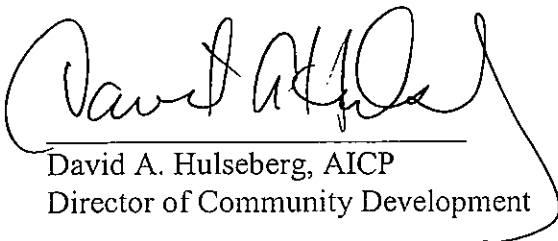
petitioner submit revised plans showing how the design will be changed to meet the rear yard setback.

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variation to increase the maximum allowable fence height, but has not affirmed the standards for variations for the requested variation to allow a solid fence within a clear line of sight area. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation to increase the maximum allowable fence height **does comply** with the Standards for Variation in the Lombard Zoning Ordinance but the requested variation to allow a solid fence within a clear line of sight area does not comply with the Standards for Variations; 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 **partial approval** of ZBA 06-13, subject to the following conditions:

1. The fence shall be modified in order to comply Section 155.205(A)(1)(e) pertaining to fences within the clear line of sight area.
2. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
3. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

Inter-Departmental Review Group Report Approved By:



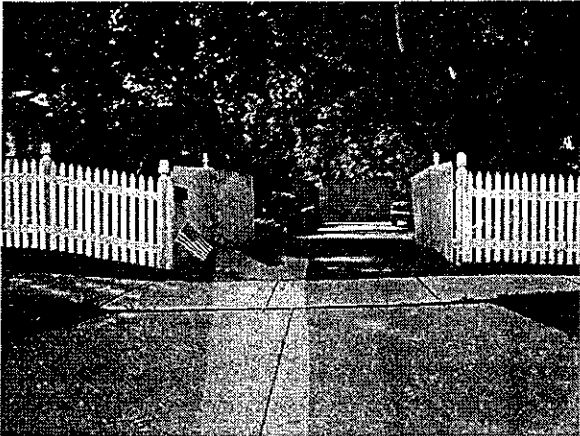
David A. Hulseberg, AICP
Director of Community Development

DAH:MK

att-

c: Petitioner

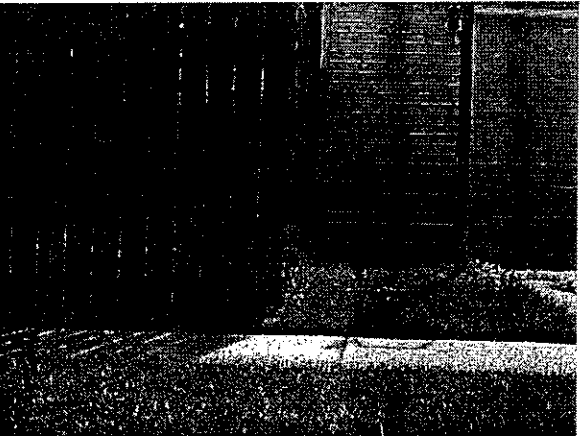
APPENDIX A: Photographs of Non-Conforming Fences



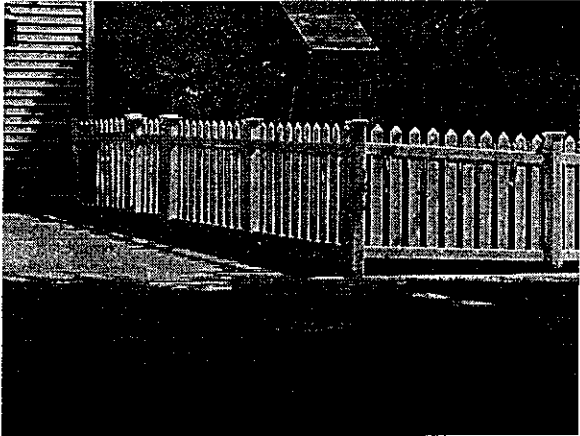
15 E. Pleasant



46 W. Goebel



57 W. Berkshire



100 E. Taylor



117 W. Greenfield



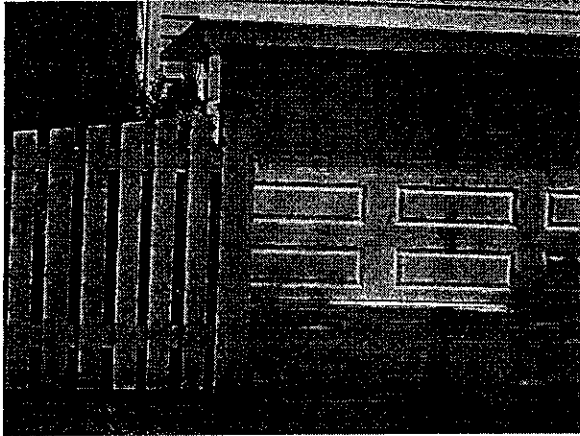
201 W. Madison



253 W. Crystal



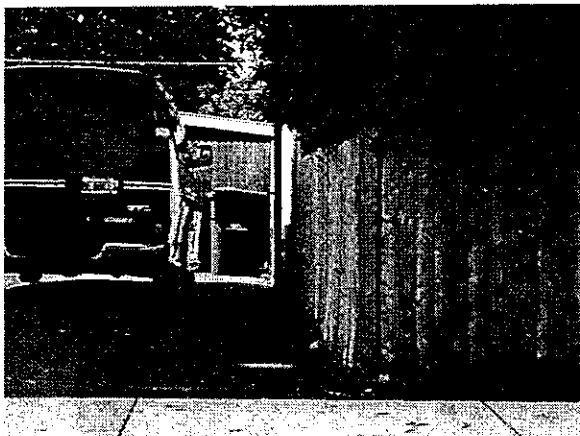
301 N. Charlotte



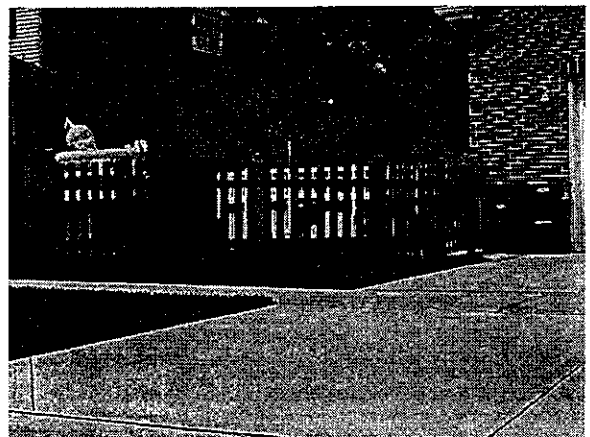
502 N. Main



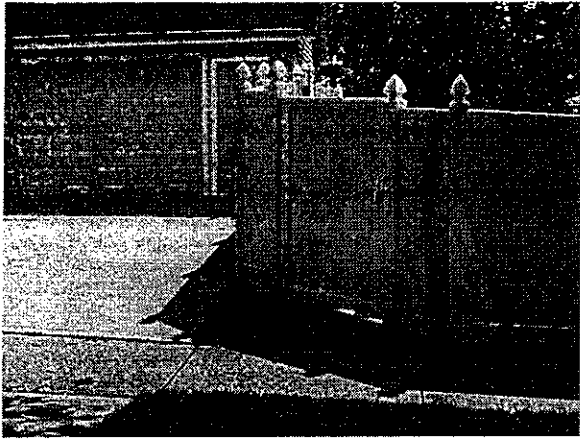
546 N. Main



628 N. Main



734 S. Elizabeth



832 S. Elizabeth



832 S. Main



943 S. Charlotte



946 S. Lombard

APPENDIX B: Summary of Non-Conforming Fence Photographs

Address	Non-Conforming Fence Height	Non-Conforming fence in clear line of sight area	Staff Comments
15 E. Pleasant		X	No permit
46 W. Goebel	X	X	No permit
57 W. Berkshire	X	X	Listed on 2000 non-conforming fence inventory
100 E. Taylor		X	Permit issued in 2004 for picket fence. Installed fence does not meet opacity requirements.
117 W. Greenfield		X	No Permit
201 W. Madison	X	X	Listed on 2000 non-conforming fence inventory
253 W. Crystal	X	X	Listed on 2000 non-conforming fence inventory
301 N. Charlotte		X	Permit issued in 2004 for picket fence. Fence not installed according to plans and does not meet opacity requirements.
502 N. Main	X	X	No Permit
546 N. Main	X	X	No Permit
628 N. Main	X	X	No Permit
734 S. Elizabeth		X	Received a variation (ZBA 05-19)
832 S. Elizabeth	X	X	No Permit
832 S. Main	X	X	Listed on 2000 non-conforming fence inventory
943 S. Charlotte		X	No Permit
946 S. Charlotte	X	X	Listed on 2000 non-conforming fence inventory

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals

HEARING DATE: June 28, 2006

FROM: Department of Community
Development

PREPARED BY: Michelle Kulikowski, AICP
Planner I

TITLE

ZBA 06-13; 501 N. Garfield St.: 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 corner side yard from four feet (4') to six feet (6') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Owner: Michael J. Mallon
501 N. Garfield St.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Residential

Size of Property: 8,558 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

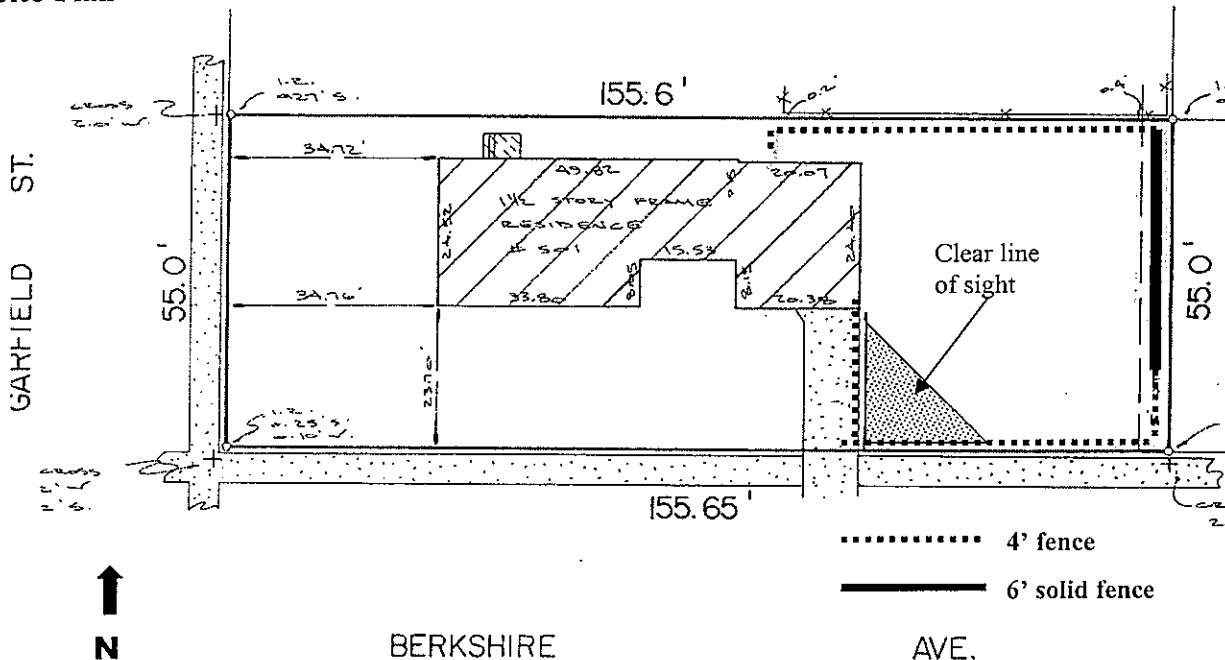
This report is based on the following documents, which were filed with the Department of Community Development on June 5, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, dated May 14, 1996, and prepared by American Survey Co.
4. Site plan, prepared by the petitioner, showing proposed fence type and location.

DESCRIPTION

The subject property is located at the northeast corner of Berkshire Avenue and Garfield Street. The petitioner is proposing to install a fence enclosing the portion of his lot east of the residence. Most of the fencing would be four feet in height, but along the rear property line, a solid six foot (6') fence would extend from the northeast corner of the lot, along the rear property line, to a point eleven feet from the corner side property line. The remaining eleven feet (11') along the rear property line would have a four foot fence. This transition from a four foot fence to a six foot fence would be aligned with the building line of the residence on the adjacent property. The maximum height for fences in the corner side yard is four feet. Because the six foot fence will encroach into the corner side yard, a variation is needed.

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.

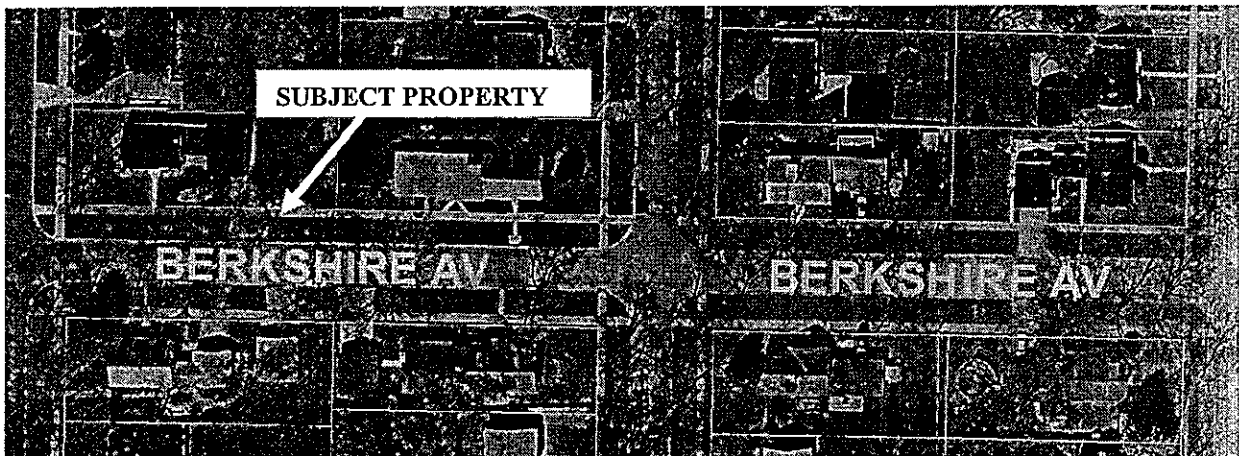
FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments on this petition.

PLANNING

The residence on the subject property is setback twenty three feet from the corner side property line and complies with the corner side yard setback. The adjacent property to the east is only setback eleven feet (11') from the corner side property line, similar to many of the corner lots along Berkshire Avenue. The petitioner is requesting to install a solid six foot (6') fence along the rear property line from the interior side property line to the established building line of the adjacent property. The Zoning Ordinance does not permit six foot (6') fences in corner side yards. The proposed six foot (6') fence would extend nine feet (9') into the corner side yard. Therefore, the petitioner is requesting a variation.

Staff can support the variation for the following reasons. The subject property is not a reverse corner lot, therefore, the solid six foot fence would not be adjacent to any portion of the front yard of the adjacent property to the east. The solid six foot (6') fence will not impact any line of sight areas, as it is more than forty five feet (45') from the driveway and the neighboring property's driveway is located off of Martha. Furthermore, there is a precedent for granting variations to allow a six foot (6') fences in corner side yards when they are aligned with the building line of a residence (ZBA 05-06). The six foot fence will not alter the essential character of the neighborhood as it will be aligned with the building line of the majority of the residences along Berkshire Avenue, consistent with the intent of the fence height regulations for corner lots.



Staff also notes that portion of the four foot (4') fence within the clear line of sight of the driveway on the subject property must be of open construction. The Zoning Ordinance defines an open construction fence as a fence which has over its entirety at least 75% of its surface area in open space which affords a direct view through the fence.

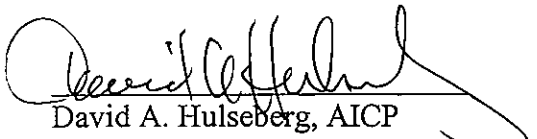
FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has **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 **approval** of the requested variation:

Based on the submitted petition and the testimony presented, the requested fence height variation **does 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 **approval** of ZBA 06-13, subject to the following conditions:

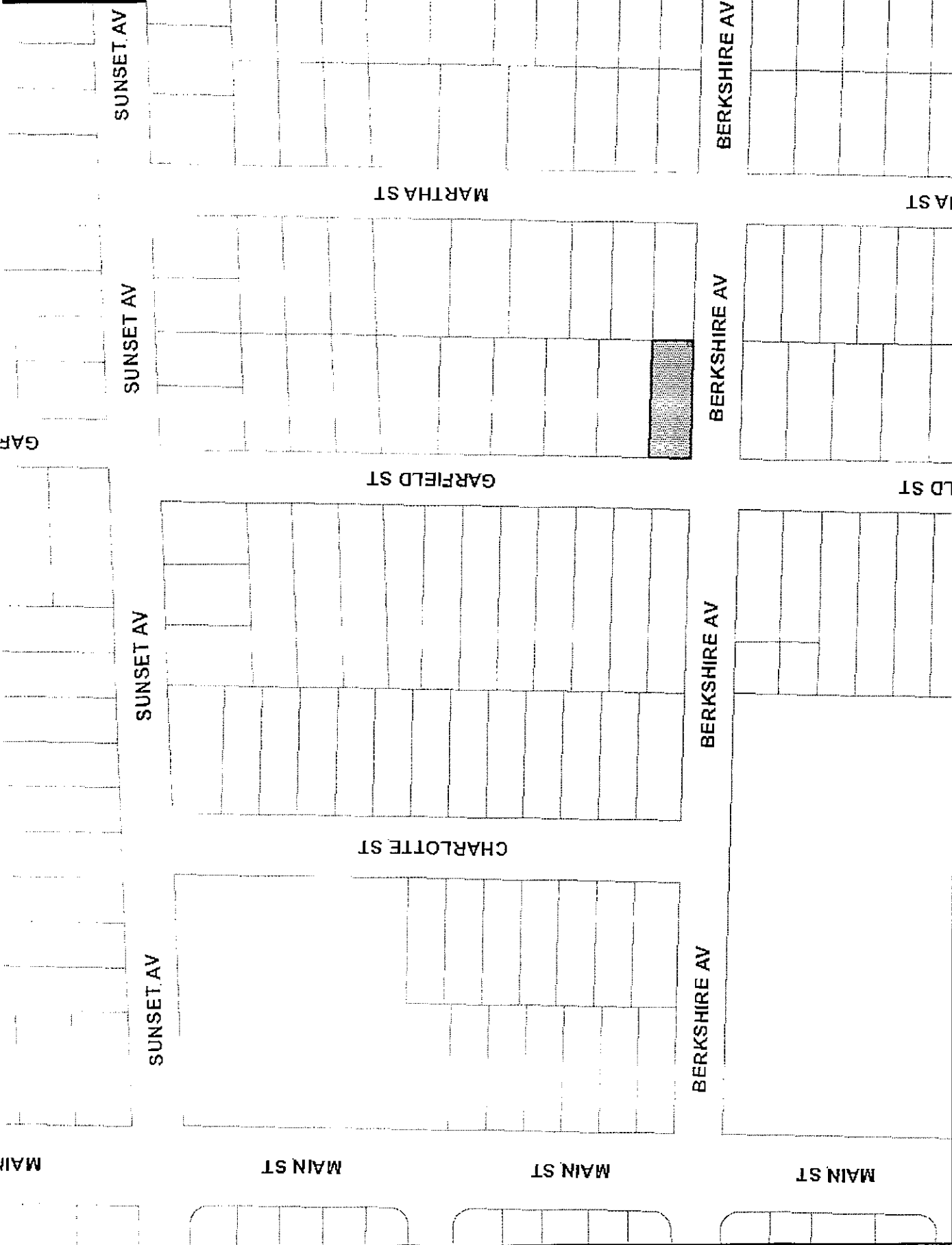
1. The fence shall be installed in accordance with the site plan submitted as part of this petition.
2. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
3. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

Inter-Departmental Review Group Report Approved By:


David A. Hulseberg, AICP
Director of Community Development

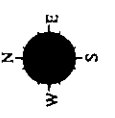
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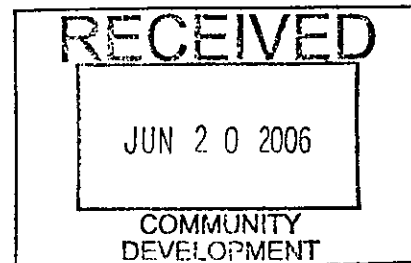
c: Petitioner



1 in. = 175.1 feet

ZBA 06-13: 501 N. Garfield Street





Darla Galam
509 North Garfield Street
Lombard, Illinois 60148.

June 19, 2006

Ms. Michelle Kulikowski, AICP
Planner I
Department of Community Development
255 East Wilson Avenue
Lombard, Illinois 60148

Case No. ZBA 06-13
Parcel No. 06-05-112-007

TO: Zoning Board of Appeals

I think the variance should be granted in the above case number ZBA 06-13 for the property located at 501 North Garfield Street in Lombard.

The few feet of fence involved are in the center of the block and would not obstruct the field of view for drivers. The symmetry and the style of the proposed fence would be spoiled by an irregular height for this short section.

The owners have displayed obvious pride in their property with extensive home remodeling and with landscaping design. The quality cedar traditional style fence will be an attractive addition to our block.

Respectfully submitted,

A handwritten signature in cursive script that reads "Darla Galam". The signature is written in black ink and is positioned below the typed name.

ORDINANCE NO. _____

**AN ORDINANCE APPROVING A VARIATION
OF THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(ZBA 06-13: 501 N. Garfield)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the subject property is zoned R2 Single-Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, 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'); and,

WHEREAS, said application also includes a request for a variation from Section 155.205(A)(1)(e)(2) to allow a solid fence within a clear line of sight area; and

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 23, 2006 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings with a recommendation for approval to the Board of Trustees for the requested fence height variation but not a variation for a fence within a clear line of sight area; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested fence height variation subject to conditions, and to deny all other requested relief.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That a variation is hereby granted from the provisions of Title 15, Chapter 155, 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').

SECTION 2: This ordinance is limited and restricted to the property generally located at 501 N. Garfield, Lombard, Illinois, and legally described as follows:

LOT 7 IN BLOCK 3 IN LILAC SQUARE ESTATES SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL

MERIDIAN, ACCORDIING TO THE PLAT THEREOF RECORDED MARCH 9, 195,
AS DOCUMENT 618090 AND CERTIFICATE OF CORRECTION FILED OCTOBER
15, 1951 AS DOCUMENT 636729, IN DUPAGE COUNTY, ILLINOIS.

Parcel No. 06-05-112-007

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. The fence shall be modified in order to comply Section 155.205(A)(1)(e) pertaining to fences within the clear line of sight area.
2. That the petitioner shall apply for and receive a building permit for the relocation of the fence on the subject property.
3. That the variation shall be limited to the existing residence. Shall the existing residence be reconstructed due to damage or destruction by any means, any fencing on the property shall meet all current height requirements.

SECTION 4: All other relief associated with this petition is hereby denied.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2006.

First reading waived by action of the Board of Trustees this ____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2006.

Ordinance No. _____
Re: ZBA 06-13
Page 3

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

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