

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: April 18, 2005

FROM: Department of Community
Development

PREPARED BY: Angela Clark, AICP
Planner II

TITLE

PC 05-11; Text Amendments to the Lombard Zoning Ordinance: The Village of Lombard requests a text amendment to the following sections of the Lombard Zoning Ordinance:

1. Amend Section 155.205 to increase fence height to six feet in corner side yards.
2. Amend Section 155.205 to address fence posts, ornamentation, and drainage allowance areas when measuring fence height.
3. Amend Section 155.802, Definitions amending the definition of "Fence-Solid Construction"

ANALYSIS

In response to the direction provided to staff in workshop sessions from the Plan Commission and the Zoning Board of Appeals as well as Village Board discussion earlier this year, staff is bringing forward text amendments for corner side yard fences. Staff has drafted language to reflect the direction provided by the Zoning Board and Plan Commission.

As a companion to these amendments, staff is also bring forward amendments that would modify fence height calculations and would modify the definition of solid fences to preclude chain link fences with slats from the definition.

Attachment A includes the responses to standards for text amendments.

INTER-DEPARTMENTAL REVIEW COMMENTS

Private Engineering Services

The Private Engineering Services Division has no comments.

Engineering - Public Works

The Department of Public Works has no comments or changes to the petition.

Fire and Building

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

Planning

Current Corner Side Yard Fence Regulations

Fences or walls in required front and corner side yards are generally not permitted to exceed four feet in height. The four foot corner side yard fence requirements apply to traditional corner side yards (where two rear and corner side yards abut each other) as well as reverse corner lots (where the rear yard of a lot abuts the front yard of an adjacent lot). Fences within clear line of sight areas are limited to two feet in height unless they are at least 75% open.

The Zoning Board of Appeals discussed the current fence regulations at its December 2004 meeting. The members recommended that the requirements should remain unchanged for fences less than four feet in height. The ZBA stated that solid six-foot fences on reverse corner side yards would be unacceptable due to the impact they would have on the front yard of neighboring properties. The ZBA suggested that fences located in corner side yards could be permitted to be greater than four feet, but less than six feet in height provided that the entire fence consists of open construction and was decorative or ornate in nature. Staff was directed to compose a definition for decorative or ornate that would incorporate a 75% open component as well as reflect wrought iron or comparable materials.

The Plan Commission discussed the current fence regulations at their February 21, 2005 meeting. The Plan Commission noted that this item had been discussed previously and the Commission felt that the fence requirements should remain unchanged. The members concurred with the ZBA comments stating that solid six-foot fences are inappropriate on reverse corner lots. The Plan Commission recommended that the regulations for fences that are four feet in height or less remain unchanged. They did concur with the ZBA recommendation that if the code was to be changed, they could support a text amendment to allow for fences up to six feet in height, provided that the fence was a decorative or ornate open fence that would incorporate a 75% open component as well as reflect wrought iron or comparable materials.

The proposed text amendments are intended to provide additional flexibility for abutting corner yards only. Reverse corner yards would be held to the four-foot requirement already existing within Code. Staff is suggestion this distinction so as to minimize any visual impact of the fences on the front yard of adjacent residences.

Other Fence Amendments

While not previously discussed by the Village Board, staff offers two additional text amendments. The first amendment provides for a small amount of flexibility in the fence height calculation to account for minor grade changes, installer error or drainage concerns. This amendment would also allow property owners to install decorate fence caps on solid fences to break up a “solid wall effect”.

The last item would also change the definition of solid fence construction to specifically exclude chain link fences with slats as a solid fence. Past experience finds that plastic slate deteriorate after a few years. Over time, what was constructed as a solid fence becomes functionally an open fence

and the screening element is lost. This amendment would preclude the use of chain link fencing with slats from being used for trash enclosure and other solid screening activities.

Proposed Text Amendments

The following are the proposed text amendments for the Zoning Ordinance. **Proposed changes to the ordinances are denoted by striking out old text and underlining new text.**

155.205 FENCES, WALL, AND HEDGES

A. Fences and Walls

1. Fences or Walls in Residential Districts

c. Permitted Height

- 1) Fences or walls in any residential district shall not exceed six feet (6') in height, except that where a lot in a residential district abuts property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such business, office or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height.
- 2) Fences or walls in required front and corner side yards shall not exceed four feet (4') in height. Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six (6) feet in height provided the following conditions are met:
 - a) The fence, in its entirety, must consist of decorative materials such as wrought iron or a comparable material (chainlink fences being specifically excluded);
 - b) The fence, in its entirety, must be a minimum of seventy-five percent (75%) open space in total for every one (1) foot of linear dimension.

Where properties adjoin railroad right-of-way and the street for which the lot has frontage does not cross said railroad right-of-way, fences or walls along the property line adjoining and paralleling said railroad right-of-way may be six feet (6') in height in the required front or corner side yard.

- 3) Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall be four feet (4').
- 4) Maximum height, as prescribed by this section, shall be permitted to vary by up to three (3) inches to allow for grade changes; clearance under fences for maintenance, footers or other obstacles customary to the use intended to be fenced; or reasonable human error. Fence posts or decorative finials may not cause the fence to exceed the maximum height limitation by more than three (3) inches.

155.802 RULES AND DEFINITIONS

FENCE is a free-standing structure made of metal, wire, wire mesh, masonry, plastic, wood, vinyl or a combination thereof, including gates, rising above ground level, measured from the grade at the location of the fence to the highest point of any component of the fence construction, including posts or any decorative elements, and used to delineate a boundary or as a barrier or means of protection, confinement, or screening.

FENCE – SOLID CONSTRUCTION is a fence which has over its entirety less than a minimum of seventy-five (75%) open space in total for every one (1) foot of linear dimension of its surface area in open space or does not afford a direct view through the fence. Chain link fences with slats do not constitute a solid fence.

RECOMMENDATION:

Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of the request as proposed:

Based on the submitted petition and the testimony presented, the proposed text amendments comply with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission find that the findings included as part of the Inter-department Review Report be the findings of the Plan Commission and therefore, I recommend to the Corporate Authorities **approval** of the text amendments described in PC 05-11.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

DAH: ADC

Attachment A
Response to Standards for Text Amendments

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards and the petitioner's and staff comments are noted below:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*

Should the corner side yard fence amendments be approved, it would apply to all residential corner side yard properties in the Village. The other amendments would be applicable to all properties in the Village.

2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*

The fence height regulations are intended to supplement the Zoning Ordinance building setback provisions. By establishing setbacks, the Ordinance ensures that the front yards of properties remain open and free from visual obstructions. The corner side yard fence amendments are intended to provide additional flexibility to property owners that are seeking additional fence height. However, by keeping the 75% opacity provision and establishing ornamental fence provisions for these fences, the desired effect of providing visible open space along residential block faces is maintained.

3. *The degree to which the proposed amendment would create nonconformity;*

The proposed amendment will create non-conformities for those properties that are using chain link fences with slats as a type of solid fence. If a solid fence is required in the future, the property owner will be required to install a new fence type to meet the Village's screening requirements.

4. *The degree to which the proposed amendment would make this ordinance more permissive;*

The proposed amendments would make the Zoning Ordinance more permissive in two respects. First, for corner side yards, property owners will be able to increase their fence height, but only if the fence is ornamental in nature.

As far as the calculation of overall fence height is concerned, the additional three inches is intended to remove an inconsistency that currently exists within the ordinance. Fence posts and boards are manufactured in six-foot segments. However, Village code also notes that fence shall not block drainage ways. As a result, if the property owner raises the fence a couple of inches to allow for proper drainage flow, they would be in violation of the height regulations. As such additional flexibility is proposed.

Additionally, the additional three inches of fence height for fence post caps and decorative elements is proposed to allow property owners to select posts with an ornamental element that may protrude above the fence line.

5. *The consistency of the proposed amendment with the Comprehensive Plan;*

Staff believes that the proposed amendment would be consistent with the Comprehensive Plan. The amendments will enhance the character of residential neighborhoods by providing additional flexibility for fencing while maintaining the fence opacity standards. Moreover, by removing chain link slat fences, which deteriorate over time, uses that are intended to be segregated will remain out of public view.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

The proposed amendments are intended to mirror the actions and directions set forth by the Corporate Authorities. The Village has a history of amending its Zoning Ordinance to address newly evolving circumstances presented by petition or otherwise. The proposed amendments are consistent with established Village policy in this regard.

With the exception of one case, all of the 2004 petitions requesting variations to residential fence height originated from property owners who obtained permits that depicted a conforming fence or from property owners that did not obtain a permit at all. In 2003, there were four variation requests and all four were denied. The majority of property owners that apply for and obtain permits are complying with the existing zoning regulations. The recommendations as outlined by the ZBA and Plan Commission would keep the solid fence provisions as-is, but would provide property owners with the option to install taller fences while still maintaining the open environment intended by code.