

August 21, 2008

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

Subject: ZBA 08-09; 1601 S. Main Street

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. 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.

The Zoning Board of Appeals conducted a public hearing on June 25, 2008. Mary Ann Girardi, owner of the subject property, presented the petition. Mrs. Girardi stated that she used to live on Kenilworth Avenue and had to move to her new home due to repeated flooding. Following the move, the property at 1601 S. Main Street was annexed into the Village. She stated that the existing pool was already there when she and her husband moved in. The existing six (6) foot fence was also there at the time but has now fallen into disrepair.

Mrs. Girardi stated that a four (4) fence would present a safety issue as there are three schools in the immediate area. She expressed fear that a child might be tempted to climb the fence and enter the pool. She stated that she hopes to replace the fence with exactly what is currently on the property.

Chairperson DeFalco opened the meeting for public comment. No one spoke for or against the petition. Chairperson DeFalco then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. Mr. Moynihan stated the subject property is located at the southeast corner of Main Street and 16th Street. The petitioner is requesting a variation to allow the installation of a new solid wood fence six (6) feet in height in the corner side yard where a maximum of four (4) feet is allowed. The proposed fence would be constructed along the corner side lot line. The fence would replace an existing six (6) foot fence in the same location which has fallen into disrepair.

The residence on the subject property is setback approximately eight (8) feet from the corner side property line and therefore does not comply with the required twenty (20) foot corner side yard setback. However, the residence was constructed prior to the improvement of the 16th Street right-of-way and was not functionally a corner lot at the time the residence was constructed. The subject property was annexed in 1992. The existing six (6) foot fence was also constructed prior to both the right-of-way improvements and annexation. The fence was legally constructed according to the DuPage County Zoning Ordinance at the time.

Staff can support a variation due to the unique history and current situation on the property. Both the residence and fence were legally constructed. When the property was annexed, the house and the fence became legal non-conforming structures. The layout in the back yard, which has remained essentially unchanged since annexation, effectively negates the right to a six (6) foot fence at or beyond the required twenty (20) foot set back. Concrete that surrounds the pool as well as portions of walkways would be left outside the fence creating an awkward situation on the property.

Staff recommends that the petition be approved subject to the two conditions in the staff report.

Chairperson DeFalco opened the meeting for discussion among the members.

Mr. Polley asked the petitioner what type of fence they had in mind.

Mrs. Girardi stated that the fence was a solid wood fence when she moved into the house. She indicated that she would like to keep the same type of fence. She stated that she has even considered removal of the pool, but it was too expensive.

Chairperson DeFalco stated that the Village Code states that pool should have fences around them not less than four (4) feet in height. He stated that the neighboring property along 16th street has a six (6) foot wrought iron fence. He told the petitioner that she could have a fence of the same type without a variation.

Mrs. Girardi stated that she has pets that might get through that kind of fence and that a wrought iron fence would be too expensive for her budget.

Chairperson DeFalco stated that expense is not a hardship. However, there may be a hardship stemming from the new road. He also stated that he understood the desire for a six (6) foot fence because of the safety issue with so many children nearby.

Mrs. Girardi stated that the fence might have openings between the pickets. Those openings would be approximately one and one-half inches (1½").

Re: ZBA 08-09
August 21, 2008
Page 3

Chairperson DeFalco stated that openings of that width would not be the seventy-five percent (75%) open construction required for a fence in the corner side yard. He then asked how the fence would affect the driveway on the neighboring property to the east.

Mr. Moynihan stated that the driveway would be unaffected as it is nearly seventy (70) feet away from the fence.

Chairperson DeFalco stated that an ornamental fence would give the desired protection and would be preferable. He stated that the Zoning Board of Appeals had heard a similar case involving a property on Hammerschmidt Avenue with a pool and a school nearby. The ZBA approved the variation in that case.

On a motion by Mr. Corrado and a second by Mr. Polley, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve 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 subject to the following conditions:

1. The fence shall be installed in accordance with the site plan submitted as part of this petition.
2. The petitioner shall apply for and receive a building permit for the fence prior to construction.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals