140245
(DISTRICT #4)

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

____X____ 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: Scott R. Niehaus, Village Manager

DATE: July 7, 2014 (B of T) Date: July 17, 2014

TITLE: ZBA 14-08; 551 N. LaLonde Avenue

SUBMITTED BY: Department of Community Development

BACKGROUND/POLICY IMPLICATIONS:
Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.205 (A)(1)(c)(ii) 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'), within the R2 Single-Family Residence District (Lombard Vista Subdivision). (DISTRICT #4)

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial of the variation. Therefore, this petition is being forwarded to the Village Board of Trustees with no recommendation.

Please place this petition on the July 17, 2014 Board of Trustees meeting under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):
Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____

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: Scott R. Niehaus, Village Manager

FROM: William Heniff, AICP, Director of Community Development

DATE: July 17, 2014

SUBJECT: **ZBA 14-08; 551 N. LaLonde Avenue**

Please find the following items for Village Board consideration as part of the July 17, 2014 Village Board meeting:

1. Zoning Board of Appeals referral letter;

2. IDRC report for ZBA 14-08;

3. An Ordinance granting approval of a requested variation; and

4. Supporting documentation associated with the petition.

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial of the variation. Therefore, this petition is being forwarded to the Village Board of Trustees with no recommendation. Please place this petition on the July 17, 2014 Board of Trustees meeting under Items for Separate Action.

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VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

July 17, 2014

Mr. Keith Giagnorio
Village President, and
Board of Trustees
Village of Lombard

Subject: ZBA 14-08; 551 N. LaLonde Avenue

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.205 (A)(1)(c)(ii) 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'), within the R2 Single-Family Residence District (Lombard Vista Subdivision).

The Zoning Board of Appeals conducted a public hearing on June 25, 2014.

Mr. Patrick McKenna, homeowner, presented the petition. Mr. McKenna stated that he has lived in the existing home for three (3) years and is now looking to replace the existing four foot (4') tall solid wood fence with a new six foot (6') tall solid wood fence in the same location. Mr. McKenna stated that his lot is unique because LaLonde Avenue runs perpendicular to his backyard. Also, his existing fence appears even lower than four feet (4') from the right-of-way due to a change in grade. Due to the unique intersection of LaLonde Avenue and Sunset Avenue Mr. McKenna is concerned about safety and privacy.

Chairperson DeFalco questioned if there was anyone present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.

Matt Panfil, Senior Planner, submitted the IDRC Report into the public record in its entirety. Mr. Panfil reiterated that the request is because there is a unique t-intersection on the north side of the petitioner's lot which raises security, safety, and privacy concerns. Also, the t-intersection causes traffic to face, and at night focus vehicle headlights, directly into the petitioner's rear yard.

Mr. Panfil stated that staff found the petitioner to meet standards for variation item numbers two, three, five, six, and seven. While staff did not find standards one and four to be affirmed, special consideration of the circumstances was warranted. Primarily, the request for a six foot (6') tall fence instead of a four foot (4') tall fence was found to be a matter of preference rather than need, but the Lombard Zoning Ordinance does not anticipate for the uniqueness of lots like the subject property. Revising the Zoning Ordinance to account for such lots would only be for the benefit of a few properties within the Village.

In consideration of precedent, Mr. Panfil stated that staff identified approximately seventeen (17) similar cases that involved a solid fence located within a corner side yard that appeared before the ZBA since 2005. Of the seventeen (17) cases, only one, ZBA 05-06, involved anything similar to a t-intersection. In this instance there was a slightly offset intersection, not a full t-intersection.

Mr. Panfil concluded that because there are few properties within the Village that are similar to the subject property, recommending approval would not set a long range precedent that could be commonly applied to other properties. Also, because the subject property is not a reverse corner lot, there is less of a visual impact to the neighbor to the east.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Mr. Tap asked if the new fence would be in the same location as the existing four foot (4') tall fence to which Mr. McKenna affirmed. Mr. McKenna added that the existing fence is in poor condition and in need of replacement.

Mr. Tap asked for and received clarity from staff as to where on the lot a four foot (4') tall fence is the maximum allowed. Mr. Tap then stated that he did not see a clear line of sight issue within the neighboring home. Mr. McKenna responded that he has approached the neighbor to the east who did not object to his proposal.

Chairperson DeFalco asked the petitioner which street is busier, Sunset Avenue or LaLonde Avenue. Mr. McKenna responded that Sunset Avenue generally has the most traffic, usually westbound. Mr. DeFalco continued by asking if the headlights from vehicles affect the petitioner's enjoyment of his rear yard. Mr. McKenna responded yes.

Chairperson DeFalco asked the petitioner if his new six foot (6') tall fence could be built twenty feet (20') off of the property line. Mr. McKenna responded that the fence could be built in that location. Chairperson DeFalco stated that if the fence could be built twenty feet (20') off of the property line then no variation would be needed. Chairperson DeFalco stated that the headlights only face directly into the petitioners yard when traveling south on LaLonde Avenue and turning left onto Sunset Avenue. Chairperson DeFalco then informed the petitioner that there have been similar requests on other corner lots which have not been granted.

Mr. McKenna reiterated that his primary concern was for safety and he believed that the additional fence height would help protect his children from passersbys and would make the fence more visible to motorists. Chairperson DeFalco disagreed and stated that it would be

possible to build a six foot (6') tall fence compliant with Village Code and still have a safe and approximately sixty-three foot (63') wide enclosed rear yard. Chairperson DeFalco reminded the petitioner that the ZBA needs to find a true hardship in order to grant the requested variation.

Mr. Bedard stated that he finds a hardship and made a motion, seconded by Mr. Bartels, that the ZBA recommend the corner side yard fence height variation for approval by the Village Board, subject to three (3) conditions.

Dr. Corrado asked why the Village requires no more than a four foot (4') tall fence within corner side yards. Chairperson DeFalco responded that fences can obstruct neighbors' views. Mr. McKenna stated that he believes the fence will be an aesthetic improvement and is an investment into the property.

Chairperson DeFalco then discussed with Mr. Bartels as to what would happen if the fence were to be extended to the front of the house.

The ZBA then voted 3-3 on Mr. Bedard's motion for approval of the requested variation.

On a motion by Ms. Newman and a second by Dr. Corrado, the ZBA voted 3-3 on the motion to deny the requested variation.

As the ZBA could not obtain four (4) votes to either approve or deny the requested variation, the fence height in a corner side yard variation is forwarded to the Village Board with no recommendation.

Respectfully,

VILLAGE OF LOMBARD

John L. DeFalco

John DeFalco
Chairperson
Zoning Board of Appeals

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ZONING BOARD OF APPEALS

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

551 N. LaLONDE AVE

JUNE 25, 2014

Title

ZBA 14-08

Petitioner & Property Owner

Patrick McKenna
551 N. LaLonde Avenue
Lombard, IL 60148

Property Location

551 N. LaLonde Avenue
(06-05-210-001)
Trustee District #4

Zoning

R2 Single Family Residence
(Lombard Vista Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

A variation to allow a six foot (6') tall solid fence where four feet (4') is the maximum height allowed in the required corner side yard.

Prepared By

Matt Panfil, AICP
Senior Planner

LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing to replace an existing four foot (4') tall solid fence with a six foot (6') tall solid fence along a portion of the northern property line (Sunset Avenue frontage), the entire eastern property line, and a portion of the southern property line. A significant amount of the proposed fence is to be located within the corner side yard.

The petitioner has requested a fence taller than that permitted by Village Code for the purpose of security, safety, and privacy due to the fact that N. LaLonde Avenue comes to a T-intersection at the middle of the north end of their property. The T-intersection causes traffic to face, and at night focus vehicle headlights, directly into their rear yard.

APPROVALS REQUIRED

Section 155.205 (A)(1)(c)(2) states that fences or walls in required front and corner side yards shall not exceed four feet (4') in height. In instances such as this, where a corner side yard abut another corner side yard, fences may be increased up to six feet (6') in height provided that they are constructed of decorative materials and are at least seventy-five percent (75%) open space. Because the petitioner is seeking approval of a six foot (6') tall solid fence, a variation is required.

There are no clear line of sight area issues with the subject property or the proposed fence.

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size:	10,448 sq. ft.
Fence Height	6'

Reqd. Setbacks & Proposed Dimensions (in parens.)

Front (west)	30' (36.1')
Side (south)	6' (9.0')
Corner Side (north)	20' (25.1')
Rear (east)	35' (51.8')

Submittals

1. Petition for Public Hearing;
2. Response to Standards for Variation; and
3. Plat of Survey prepared by ARS Surveying Service, LLC, dated August 5, 2011

EXISTING CONDITIONS

The property is improved with a two-story brick and frame single family residence with an attached garage and a concrete patio at the rear of the house. In order to help place the request in its proper context, planning staff offers the following:

Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	Sunset Ave / R2	Single Family Home
South	R2	Single Family Home
East	R2	Single Family Home
West	LaLonde Ave / R2	Single Family Home

INTER-DEPARTMENTAL REVIEW

Building Division:
The Building Division has no issues or concerns regarding the project.

Fire Department:
The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:
Private Engineering Services (PES) has no issues or concerns regarding the project.

Public Works:
The Department of Public Works has no issues or concerns regarding the project.

Planning Services Division:
A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Within their response to the Standards for a Variation, the petitioner raised concerns regarding safety and privacy from vehicles heading south on LaLonde Avenue. The petitioner also stated their belief that the fence is an aesthetic improvement to the existing conditions.

The petitioner also emphasizes the unique characteristic of the property as it is different from a conventional corner lot because LaLonde Avenue runs perpendicular to the middle of their lot.

In order to be granted a variation the petitioner must show that they have affirmed each of the Standards for a Variation (responses attached). Staff finds that standards two, three, five, six, and seven have been affirmed. Standards one and four have not been affirmed but special consideration of circumstances is warranted.

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 does not agree that the construction of six foot (6') tall fence over the existing four foot (4') tall fence is a matter of need, but rather a matter of preference, and is therefore not a true hardship. However, the specific property involved is unique because it is perpendicular to the terminus of the intersection of LaLonde Avenue and Sunset Avenue. This type of T-intersection does not frequently occur within the Village.

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.*

   Similar to standard one, staff finds the alleged difficulty to be a matter of personal preference for a six foot (6') tall fence rather than the existing four foot (4') tall fence and is not a true hardship caused by the Zoning Ordinance. However, the Zoning Ordinance does not anticipate for the uniqueness of lots like the subject property. Rewriting the Zoning Ordinance to account for such lots would only be for the benefit of a few properties within the Village.

While the above standards have not been fully affirmed, special consideration of the circumstances is warranted. As the property is unique due to LaLonde Avenue coming to a T-intersection at the middle of the subject property, approving such a request would not lead to a significant increase in similar requests nor would it significantly alter the character of the surrounding neighborhood.

In consideration of precedent, staff has identified seventeen (17) similar cases that appeared before the Zoning Board of Appeals since 2005. Each case involves a request for a six foot (6') tall solid fence in a corner side yard in a single-family residential zoning district. Only one of the cases was similar in nature to the T-intersection, ZBA 07-09. In this instance the intersection was only offset slightly, and was not a full T-intersection.

Of the seventeen (17) cases, staff recommended that the Zoning Board of Appeals recommend denial of the requested variation thirteen (13) times and approval of the requested variation four (4) times (ZBA 05-06, ZBA 06-13, ZBA 08-07, and ZBA 08-09). Staff supported ZBA 08-07 due to a unique grade change at the location. Staff supported ZBA 08-09 due to unique design circumstances that were approved legally prior to being annexed into the Village. Finally, staff supported both ZBA 05-06 and ZBA 06-13 because they maintained the existing building line of a legally nonconforming structure.

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 05-02	4/21/2005	322 E. Elm St.	6' tall solid wood fence within a corner side yard.	Approval, 4-1	Approval, 6-0
ZBA 05-06	6/2/2005	324 S. Ahrens Ave.	6' tall wood picket fence within a corner side yard (15' off of property line)	Approval, 6-0	Approval, 6-0

ZBA 06-13	9/21/2006	501 N. Garfield St.	6' tall wood picket fence within a corner side yard.	Approval, 6-0	Approval, 6-0
ZBA 06-20	1/4/2007	614 E. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-1	Approval, 6-0
ZBA 07-06	8/9/2007	466 N. Main St.	5' tall solid wood fence within a corner side yard.	Denial, 4-0	Approval, 5-0
ZBA 07-09	8/9/2007	130 E. Sunset Ave.	6' tall solid wood fence within a corner side yard.	Denial, 4-0	Approval, 5-0
ZBA 07-10	8/9/2007	220 W. Central Ave.	6' tall solid wood fence within a corner side yard.	None, 2-2	Approval, 5-0
ZBA 08-04	5/15/2008	1005 E. Washington Blvd.	4' tall solid wood fence with a 1' tall lattice extension within a corner side yard.	Denial, 6-0	Approval, 6-0
ZBA 08-07	8/21/2008	197 S. Lombard Ave.	5' tall solid wood fence within a corner side yard.	None, 3-2	Approval, 6-0
ZBA 08-09	9/4/2008	1601 S. Main St.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 08-14	10/2/2008	242 W. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 08-16	1/15/2009	350 N. Fairfield Ave.	6' tall solid wood fence within a corner side yard.	None, 3-2	Approval, 6-0
ZBA 09-09	10/15/2009	1107 Woodrow Ave.	6' tall solid vinyl fence within a corner side yard.	Approval, 5-0	Approval, 6-1
ZBA 09-11	1/21/2010	617 E. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 10-02	5/20/2010	302 S. Grace St.	6' tall solid wood fence within a corner side yard.	Denial, 1-4	Approval, 6-0
ZBA 11-02	6/2/2011	403 W. Ethel Ave.	6' tall solid fence within a corner side yard.	None, 3-3	Approval, 6-0
ZBA 11-03	5/19/2011	1147 E. Adams St.	6' tall solid wood fence with a corner side yard.	Approval, 4-1	Approval, 6-0
ZBA 13-05	11/7/2013	640 N. Charlotte St.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0

Staff finds that because there are so few properties within the Village that are similar to the subject property, recommending approval would not set a long range precedent that could be commonly applied to other properties. Furthermore, because the subject property is not a reverse corner lot, there is a less of a visual impact to the neighbor to the east.

FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the majority of the Standards for Variations for the requested variation. 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 reduce the interior side yard setback **does comply** with the Standards for Variations in the Lombard Zoning Ordinance, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 14-08, subject to the following conditions:

1. The subject property shall be developed in substantial conformance with the site plan drawn by the petitioner on the plat of survey, prepared by ARS Surveying Service, LLC, dated August 5, 2011;

2. The petitioner shall apply for and receive a building permit for the proposed fence;

3. Such approval shall become null and void unless work thereon is substantially under way within twelve (12) months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

Inter-Departmental Review Committee Report approved by:

William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT A: STANDARDS FOR VARIATIONS (AS PREPARED BY PETITIONER)

Standards for Variations
Village of Lombard
McKenna Family
551 N. La Londe Ave

Section 155.103.C.7 of the Lombard Zoning Ordinance

1. Because of the physical surroundings and topographical conditions of this corner lot, La Londe Avenue, when running north to south, comes to a "T" at Sunset Ave. To proceed down La Londe you must weave around. Thus, while at the stop sign vehicles are directly facing our patio and backyard. The main hardship is the danger of the oncoming street and the safety of our young children in the backyard. The higher fence would provide an added visual measure to ensure the driver is aware of their surroundings. In recent years, a vehicle drove through the street and into the backyard through the fence. We believe that with a stronger, taller, and sturdier fence, less destruction would occur were this to happen again, God forbid.
2. We are not a conventional corner lot because we have a street coming perpendicular thorough our home. Additionally, Sunset Ave produces high volume traffic and we lack privacy from passers by. We have two beautiful young girls and we'd like to have the privacy to play in the backyard without the danger of someone lurking over the smaller fence, more accessible fence.
3. There is absolutely no desire to increase financial gain for this variation.
4. There is nobody with a particular interest that has created this difficulty.
5. There is no reason to believe that any detriment to the public or property of the neighborhood would be caused by this variation.
6. The granting of this variation will not alter the essential character of the neighborhood. In fact, by granting this variation, the character will remain intact and may even benefit from the quality and beauty it will bring.
7. This variation will not impair any light or air to adjacent property. Also, this will not increase any dangers of fire or natural drainage. Further, the public safety will not be endangered and my children will be further protected. The property values will not be diminished as a result of this variation.

Patrick McKenna, MPH

ORDINANCE NO. _____

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

(ZBA 14-08; 551 N. LaLonde Avenue)

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 Section 155.205 (A)(1)(c)(ii) 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, a public hearing has been conducted by the Zoning Board of Appeals on June 25, 2014 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings with no recommendation to the Board of Trustees for the requested variation; 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 variation.

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)(ii) 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 shall be granted subject to compliance with the following conditions:

1. The subject property shall be developed in substantial conformance with the site plan drawn by the petitioner on the plat of survey, prepared by ARS Surveying Service, LLC, dated August 5, 2011;

2. The petitioner shall apply for and receive a building permit for the proposed fence; and

3. Such approval shall become null and void unless work thereon is substantially under way within twelve (12) months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

SECTION 3: This ordinance is limited and restricted to the property generally located at 551 N. LaLonde Avenue, Lombard, Illinois, and legally described as follows:

LOT 22 IN BLOCK 7 IN LOMBARD VISTA, BEING A SUBDIVISION OF THE SOUTH ½ OF THE NORTHEAST ¼ AND OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 14, 1927 AS DOCUMENT 243024, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-05-210-001

SECTION 4: 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 _____, 2014.

First reading waived by action of the Board of Trustees this _____ day of _____, 2014.

Passed on second reading this _____ day of _____, 2014.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2014

_____
Keith Giagnorio, Village President

ATTEST:

_____
Sharon Kuderna, Village Clerk

Published by me this _____ day of _____, 2014

_____
Sharon Kuderna, Village Clerk