

West: R2 Single Family Residence District; developed as a Single Family Residence

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on March 24, 2011.

1. Petition for Public Hearing.
2. Plat of Survey, prepared by Gentile and Associates, dated August 26, 1988.

DESCRIPTION

The subject property is located at the southwest corner of Adams Street and Addison Street. The petitioner is requesting a variation to allow for a solid wood fence at a height of six feet (6') in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Addison Street side of the property. The previously existing non-conforming fence was removed by the property owner and reconstructed to its original height. The new fence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The PES Division of Community Development has no comments.

PUBLIC WORKS

Public Works Engineering has no comments.

FIRE DEPARTMENT

The Fire Department has no comments regarding this request.

BUILDING DIVISION

The Building Division has no comments.

PLANNING

The petitioner purchased the subject property in the late 1980's. At the time of purchase, the subject property contained a solid wood fence at six feet (6') in height located within the required twenty

(20) foot corner side yard. The petitioner recently removed the old fence and replaced it to its original height and location. Six foot high fences are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

Within the response to standards, the petitioner raised concerns relative to the level of privacy between the subject property and that of the multi-family property to the south, known as Jackson Terrace Condominiums. Jackson Terrace Condominiums is a multi-family condominium development located directly to the south of the subject property within the R4 – Limited General Residence District. The Jackson Terrace Condominiums consists of two multi-story buildings – the easternmost building being 5-stories and the westernmost building is 3-stories. The rear yard of the subject property directly abuts the 5-story Jackson Terrace Condominium building.

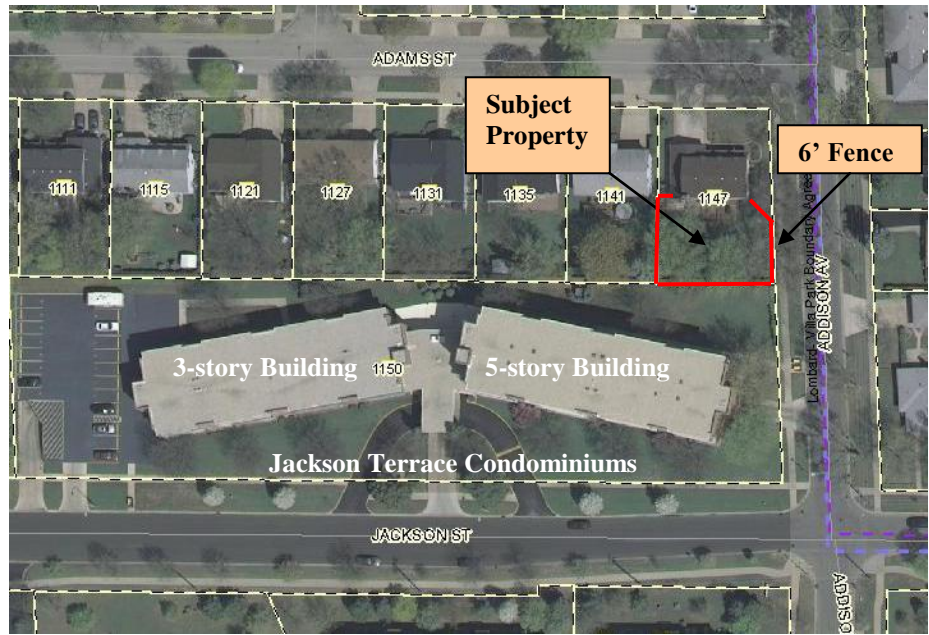


DIAGRAM 1

The maximum building height in the R4 – Limited General Residential District is three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. Furthermore, the number of single family properties that directly abuts property in the R5 – General Residence District is very minimal.

As Diagram 1 illustrates, the subject six (6) foot fence acts as a privacy screen between the subject property and the Jackson Terrace Condominiums. The Zoning Ordinance allows privacy fences to be six (6) feet in height in the rear yard, but only four (4) feet in height in the corner side yard. The petitioner desires to maintain the six (6) foot tall fence in the corner side yard to allow for maximum screening from the 5-story condominium building located directly to the south.

Staff finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any

residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.



SUBJECT FENCE (WITH 5-STORY CONDO BUILDING ALSO SHOWN).

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variations. 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 variations:

Based on the submitted petition and the testimony presented, the requested variations **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 11-03, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed plans.
2. In the event that the fence is damaged or destroyed to fifty-percent (50%) of its value, the new fence shall meet the required corner side yard setback.

Inter-Departmental Review Group Report Approved By:

William Heniff, AICP
Director of Community Development

c: Petitioner

Exhibit A –
Standards to Variations

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 finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.

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.*

The subject property abuts a 5-story multi-family condominium building located in the R4 – Limited General Residential District. The maximum building height in the R4 – Limited General Residential District is only three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. The number of single family properties that directly abuts property in the R5 – General Residence District is very minimal.

3. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

If the fence were to be constructed per Code, the fence would have actually cost less.

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.*

The Zoning Ordinance does not allow fences in excess of four (4) feet in height within corner side yards. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. Staff has concluded that there is a demonstrated hardship associated with the physical surroundings that distinguishes the subject property from all other properties in the area.

5. *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.*

With the exception of the height variation, the fence meets all other Code requirements. The additional fence height will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

6. *The granting of the variation will not alter the essential character of the neighborhood.*

The fencing on the subject property has existed at its current height and location for decades.

7. *The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase congestion of public streets, or 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.*

The additional fence height will not impair an adequate supply of light and air to adjacent property or substantially increase congestion of public streets, or 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.