

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals HEARING DATE: June 25, 2008

FROM: Department of Community PREPARED BY: Stuart Moynihan
 Development Associate Planner

TITLE

ZBA 08-08; 151 E. Berkshire Ave.: 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 front yard from four feet (4') to six feet (6') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Owner: Karen Herbert
 151 E. Berkshire Ave.
 Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single Family Residential District

Existing Land Use: Single Family Residence

Size of Property: approximately 9,300 square feet

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District; developed as Single Family Residences

South: R2 Single Family Residence District; developed as Single Family Residences

East: R2 Single Family Residence District; developed as Single Family Residences

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

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on June 2, 2008.

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Written response, prepared by the petitioner, describing the property as it relates to the proposed fence and the need for a variation.
4. Plat of Survey prepared by Kabal Engineering Company, dated February 24, 1973, with proposed fence location.

DESCRIPTION

The subject property is located at the southeast corner of Berkshire Avenue and Garfield Street. The petitioner is requesting a variation to allow the installation of a fence six (6) feet in height in the required front yard where a maximum of four (4) feet is allowed. The proposed fence would be constructed approximately twenty (20) feet from the front lot line, thereby encroaching ten (10) feet into the required thirty (30) foot front yard. The petitioner states that a six (6) foot fence is necessary to provide privacy during usage of an elevated deck on the property. The fence would be placed in its proposed location because it is intended to enclose a recently constructed garden wall and future garden.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no comments on the subject petition.

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 the subject petition.

PLANNING

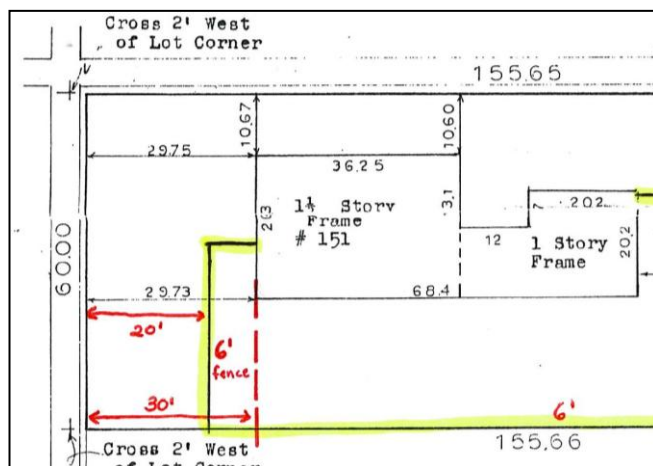
The residence on the subject property was constructed so that the primary entrance and front of the home face Berkshire Avenue. No door faces Garfield Street. The petitioner has indicated in her

written response and response to the Standards for Variations that the yard along Berkshire Avenue is functionally the front yard rather than the yard along Garfield Street. However, the yard along Berkshire Avenue was previously established as the corner side yard in ZBA 06-01. As the residence was constructed ten and six tenths (10.6) feet from the corner side lot line, it is considered a legal non-conforming structure. This ZBA case granted a variation on the subject property to reduce the corner side yard setback from twenty (20) feet to six (6) feet to allow for the construction of a roofed-over entry stoop. If the petitioner were to be allowed to designate the yard abutting Berkshire Avenue as the front yard, it would cause a non-conformity with regard to the required front yard and rear yard setbacks. As the petitioner's action would then be the cause of the non-conformity, a variation would be necessary for the entire home.

Even if Garfield Street was established as the corner side yard, the setback for a six (6) foot fence would still be thirty (30) feet on the subject property. The reason for this is that the Lombard Zoning Ordinance states that where a rear yard abuts the front yard of an adjacent lot the maximum fence height shall be four (4) feet. In this alternate situation, the rear yard of 151 E. Berkshire would abut the thirty (30) foot front yard setback of 437 N. Garfield St.

Response to Standards

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area. While the petitioner has raised concerns about privacy and safety, a hardship has not been established on the property. A fence could be installed set back thirty (30) feet which would provide privacy on the deck and in the garden. This can be inferred from the site plan and photograph below:



In order to be granted a variation the petitioner must show that they have affirmed each of the "Standards for Variations." The following standards have not been affirmed:

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 are no conditions related to the property that prevent compliance with the fence height regulations. The petitioner's property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship. The property is relatively flat, and a six (6) foot fence set back thirty (30) feet would provide the desired privacy.

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 majority of nearby residences along Berkshire Avenue are oriented in a manner similar to the home on the subject property in that their primary entrances face Berkshire Avenue. With regard to these properties, the primary entrances are considered to be facing the corner side yard. Therefore, fences in those front yards would be regulated in the same manner.

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.*

Staff finds that the fence could be constructed per the ordinance requirements either by lowering the fence height to four (4) feet or changing the location so that the fence is outside the front yard. The hardship has been created by the petitioner as a result of the preference for the fence's height and location.

Staff recommends that the petition be denied on the grounds that a hardship has not been demonstrated.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** 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 **denial** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation **does not 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 **denial** of ZBA 08-08.

Zoning Board of Appeals

Re: ZBA 08-08

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Inter-Departmental Review Group Report Approved By:

William J. Heniff, AICP

Acting Director of Community Development

WJH

c: Petitioner

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