

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

Resolution or Ordinance (Blue) _____
Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green) _____
Other Business (Pink) _____

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *John*

DATE: July 17, 2008 (B of T) Date: August 21, 2008

TITLE: ZBA 08-09: 1601 S. Main St.

SUBMITTED BY: Department of Community Development *WLD*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition 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. (DISTRICT #3)

The Zoning Board of Appeals recommended approval of this petition with conditions.

Please place this item on the August 21, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:
Review (as necessary):

Village Attorney X _____
Date _____

Finance Director X _____
Date _____

Village Manager X _____
Date _____

David A. Hulseberg

8/10/08

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: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP *WH*
Acting Director of Community Development

DATE: August 21, 2008

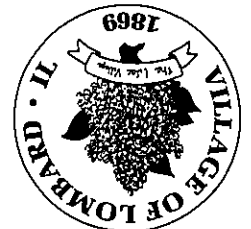
SUBJECT: ZBA 08-09; 1601 S. Main Street

Please find the following items for Village Board consideration as part of the August 21, 2008 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 08-09; and
3. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials. The Zoning Board of Appeals recommended approval of the zoning actions associated with the petition.

VILLAGE OF LOMBARD
 255 E. Wilson Ave.
 Lombard, Illinois 60148-3931
 (630) 620-5700 Fax (630) 620-8222
 www.villageoflombard.org



August 21, 2008

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

William J. Mueller
 Village President
 Brigitte O'Brien
 Village Clerk

Subject: ZBA 08-09; 1601 S. Main Street
 Dear President and Trustees:

Trustees
 Greg Alan Gron, Dist. 1
 Richard J. Tross, Dist. 2
 John "Jack" T. O'Brien, Dist. 3
 Dana L. Moreau, Dist. 4
 Laura A. Fitzpatrick, Dist. 5
 Rick Soderstrom, Dist. 6

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.

David A. Hulseberg
 Village Manager

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.

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

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.

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

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").

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.

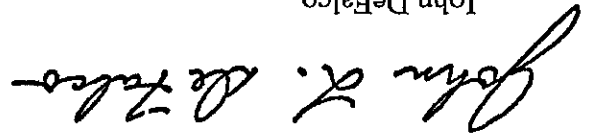
Chairperson Defalco stated that an ornamental fence would give the desired protection and would be preferable. He stated that the Zoning Board of Appeals had heard a similar case involving a property on Hammerschmidt Avenue with a pool and a school nearby. The ZBA approved the variation in that case.

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

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals
FROM: Department of Community Development
PREPARED BY: Stuart Moynihan Associate Planner

TITLE

ZBA 08-09; 1601 S. Main St.: 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.

GENERAL INFORMATION

Petitioner/Owner:

Mary Ann Girardi
1601 S. Main St.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning:

R2 Single Family Residential District

Existing Land Use:

Single Family Residence

Size of Property:

approximately 9,800 square feet

Surrounding Zoning and Land Use:

North: R2PD Single Family Residential Planned Development; developed as Christ the King Church.

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

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

West: CR Conservation/Recreation District; developed as Glenn Westlake Middle School and Manor Hill Elementary School

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 history of the property.
4. Plat of Survey prepared by Glen D. Kirsch Land Surveyor, Inc, dated August 4, 1992, with proposed fence location.

DESCRIPTION

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.

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.

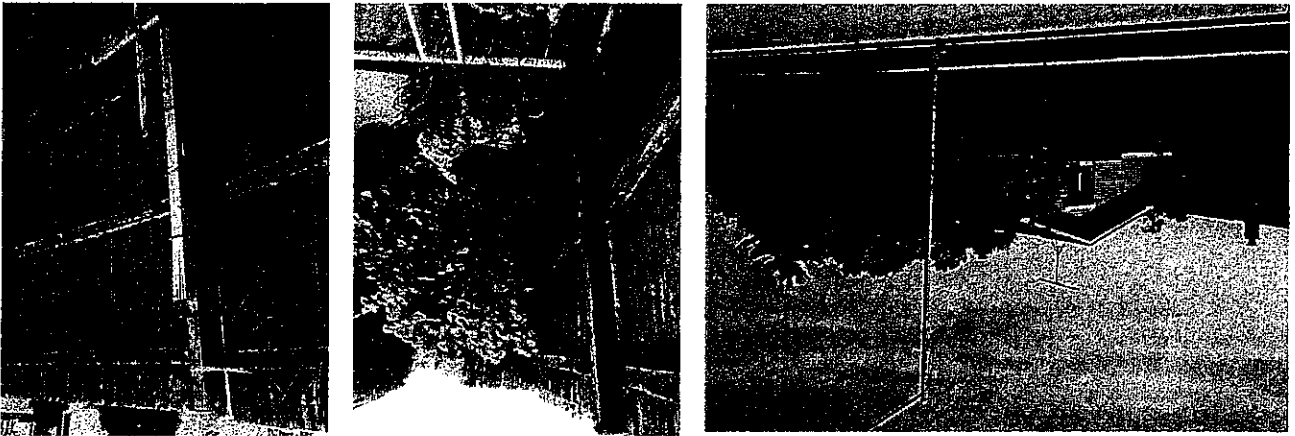
FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments on the subject petition.

PLANNING

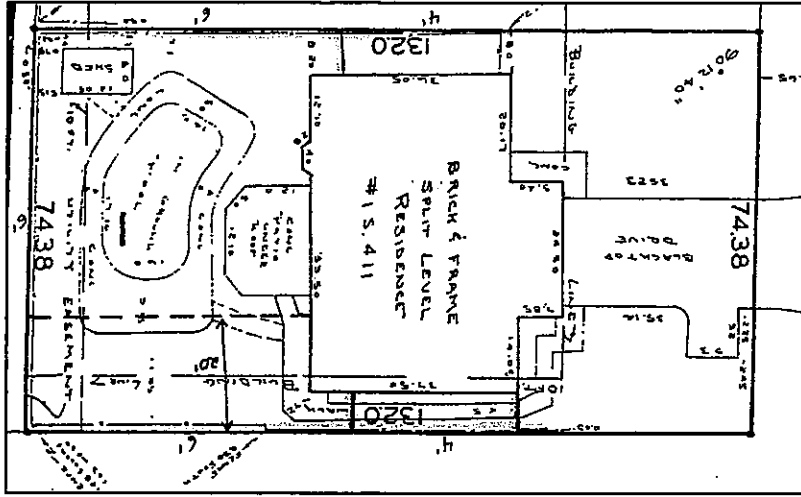
The residence on the subject property is setback approximately eight (8) feet from the corner side property line and therefore does not comply with the required twenty (20) foot corner side yard setback. However, the residence was constructed prior to the improvement of the 16th Street right of way and 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. Section 37-4-7-2 (c) states, "SIDE/REAR YARDS: An open or solid fence may be erected to a height not to exceed six (6) feet above grade...." There were no separate provisions for fences in corner side yards. This fence is now in disrepair and in need of replacement.



The petitioner has expressed concerns about privacy and safety. The existing-in ground pool had already been constructed at the time the petitioner and her husband purchased the home. The surrounding area of the subject property contains three schools: Christ the King Elementary School, Glenn Westlake Middle School, and Manor Hill Elementary School. The petitioner is concerned about the safety of children that might be tempted to climb a four (4) foot fence to enter the pool.

While privacy and safety concerns may be legitimate on the subject property, they are not necessarily demonstrative of a hardship. However, 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. This is shown in the site plan below:



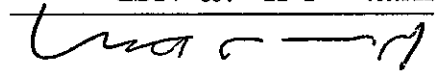
FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has 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 **approval** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation **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 08-09, 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.

Inter-Departmental Review Group Report Approved By:



William J. Heniff, AICP

Acting Director of Community Development

WJH

c: Petitioner

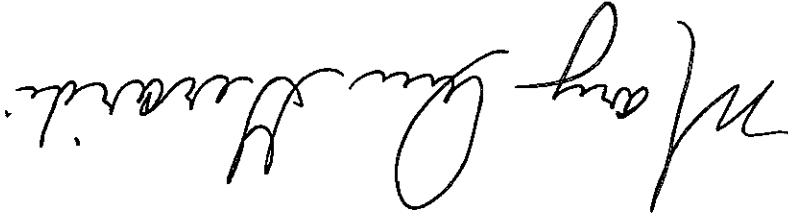
I am Mary Ann Girardi, formerly of 1124 E. Kenilworth. My husband and I bought this house in 1976. We lived there for 16 years. We flooded many times. We took a FEMA loan for \$30,000. After 1 year of spending \$30,000 and fixing the house, we flooded again and everything was ruined, again. So we went to the Village and the Village said they would buy our property at 3rd and Kenilworth. They bought two houses in 1992. My husband and I purchased a house at 15411 Main Street. We immediately incorporated to 1601 S. Main Street, Lombard. At the time we purchased the house there was no street, now known as 16th Street, and no homes were behind me.

My fence is not in dire need of replacement. I want to put up exactly what I have now, a 6 foot fence.

Response to Standards for Variations:

1. My lot was not a corner lot when my husband and I purchased the house. When the Village connected 16th Street to Main Street, it became a corner lot. I would not feel secure having a fence shorter than the current height of 6 feet.
2. I have an in-ground pool. The pool was in the yard when we purchased the house. I live across the street from Christ the King School, also Manor Hill Grad School, and Glen Westlake Middle School. I am afraid that a child will be tempted to climb over a 4 foot fence and drown. Also, being a widow, I would feel more secure with a 6 foot fence. A 4 foot fence would not keep a child from climbing. If there was no pool, I would not be as worried. If someone drowned, I could not live with myself. Also, I have a dog that could jump a 4 foot fence.
3. I only want to build a 6 foot fence for security reasons, not for financial gain. The hardship was caused by my lot being made into a corner lot. The fence and pool already existed when my husband and I purchased the house. The Village ordinances are preventing me from replacing my 6 foot fence.
5. Allowing a 6 foot fence would not be injurious to the neighborhood. I am concerned that because the fence is in need of repair it could collapse or be blown over and injure someone.
6. In no way am I changing the character of the neighborhood.
7. The streets, 16th and Main, will not have any views blocked. I am putting exactly what I now have up.

Thank you,



Mary Ann Girardi

1501

MAIN ST

16TH ST

16TH ST

1601

1602

1605

1606

1611

1610

1613

1614

CHARLOTTE CT

POND

1607

1611

1615

161

161

161

1601 S. Main St



1 in. = 91.9 feet



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

(ZBA 08-09: 1601 S. Main Street)

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 Title 15, Chapter 155, 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'); and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on June 25, 2008 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings with a recommendation for approval to the Board of Trustees for the requested fence height variation; and,

WHEREAS, the President and Board of Trustees does concur with the findings of the Zoning Board of Appeals and have determined that it is in the best interest of the Village of Lombard to approve the requested fence height 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)(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').

SECTION 2: This ordinance is limited and restricted to the property generally located at 1601 S. Main Street, Lombard, Illinois, and legally described as follows:

LOT 1 IN SCHARING SUBDIVISION OF THE NORTH HALF OF LOT 41 IN
FREDERICK BARTLETT'S HILLSDALE FARMS, IN THE SOUTHWEST ¼ OF
SECTION 20 AND THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 19,
TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN,

ACCORDING TO THE PLAT OF SCHARING SUBDIVISION RECORDED MAY 11,
1977 AS DOCUMENT R77-35013, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-20-300-021

SECTION 3: This ordinance shall be granted subject to compliance with 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.

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 _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

Passed on second reading this _____ day of _____, 2008.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk