

070685

Gorman, Dave

From: Tom P. Bayer [TPBayer@KTJNET.com]
Sent: Monday, November 05, 2007 8:12 AM
To: Gorman, Dave
Subject: Structural Mailboxes in Parkways

Dave -

As a follow-up to our discussion relative to your 10/10/07 e-mail, please be advised as follows:

1. In order to allow for a "variation" to the requirements of Section 97.010 of the Village Code, the Village Code would have to be amended to allow for such variations, as the jurisdiction of the ZBA/Plan Commission is limited generally to variations of the subdivision, zoning and sign codes (Chapters 153, 154 and 155 of the Village Code).
2. Even if a variation process was provided for, the granting of a variation would be based on a showing of "hardship." It would be very hard, if not impossible, to show that a mailbox, in compliance with the Village Code, would not adequately serve the postal needs of a particular piece of property.
3. The structural (brick) mailboxes do, potentially, create additional liability for the Village, in that it is more likely that serious injury will occur should a car traveling on the roadway swerve and hit such a mailbox. As the mailbox is located in the Village's right-of-way, and as the Village's only legal obligation relative to mailboxes is to allow them to exist in accordance with the requirements of federal law, the structural (brick) mailboxes, to the extent they are allowed by the Village, create a more solid obstruction immediately off of the curb line. While the property owner who installed the structural (brick) mailbox would have liability, the Village, with its "deep pockets," would also be named in any lawsuit pursuant to the theory that, by allowing the structural (brick) mailbox to exist so close to the pavement, the Village's actions went beyond negligence, and therefore constituted a willful and wanton act (the standard necessary to negate the immunities under the Local Governmental and Governmental Employees Tort Immunity Act).

Tom

-----Original Message-----

From: Gorman, Dave [mailto:GormanD@villageoflombard.org]
Sent: Thursday, November 01, 2007 4:49 PM
To: Bayer, Thomas
Subject: RE: Structural Mailboxes in Parkways

Tom -

Just a friendly reminder that I need a written response from you by 11/7. Thanks.

- Dave

From: Gorman, Dave
Sent: Wednesday, October 10, 2007 4:15 PM
To: Bayer, Thomas
Cc: Anderson, Wes
Subject: Structural Mailboxes in Parkways

Tom -

The Public Works Committee has asked for your opinion as to whether structural (e.g. brick) mailboxes may be allowed in parkways per a variance to Village Code §97.010 and

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whether the Village would be inviting liability or endangering the public by approving such a variance. Staff's opinion is that structural mailboxes (a) impede the Village and utility companies from safe and ready access to underground facilities and (b) are an unacceptable hazard to the driving public.

Our standard operating procedures for structural mailbox violations is as follows:

1. Public Works sends a letter notifying the resident that the mailbox violates Village Code and that it must be removed within 30 days.
2. If the mailbox has not been removed, then Public Works asks the Code Enforcement Division to send a violation letter.
3. If the mailbox still has not been removed within 10 days, a ticket is issued requiring a court appearance.
4. The violation is pursued in court with pertinent fees per §97.999 until the mailbox is removed.

There are currently three structural mailboxes identified as violations. The Village Code sections are below. Please provide your opinion in memo or email form for the Committee's consideration.

David P. Gorman, PE, MPA
 Asst. Dir. of Public Works
 Village of Lombard
 o: (630) 620-5765
 f: (630) 620-5982

§ 97.010 USE AND MAINTENANCE OF PARKWAY

(A) The Village hereby grants a revocable permission for each property owner and/or resident to beautify the portion of the land owned by, or dedicated to the Village and located between said owner's or resident's premises and the adjoining curb line (the parkway area); provided, however, that no encumbrance other than grass and/or those permitted by and planted under the provisions of Title 9, Chapter 99 of the Code of Ordinances are to be established on the parkway area, said establishment shall be done in accordance with all other applicable Village Codes and Ordinances.

(B) It shall be the duty of each owner of or person residing on property abutting on a parkway area to maintain the grass on the parkway by keeping its height at a level which complies with the Village Code. This duty shall extend only to grass and weed cutting and its imposition does not entail any further duties or responsibilities.

(C) United States Postal Service approved mailboxes are permitted within the parkway area only under the following conditions:

(1) The front face of the mailbox, once mounted, shall be six inches (6") to eight inches (8") from the back of the curb, or if no curb is present, from the road pavement, unless otherwise approved by the Postmaster due to road and/or curb conditions.

(2) The distance from grade to the bottom surface of the mailbox shall be forty-one inches (41") to forty-five inches (45"), unless otherwise approved by the Postmaster due to road and/or curb conditions.

(3) Mailbox and mailbox mounting structures shall provide a breakaway feature, as recommended by the Federal Highway Administration and the United States Postal Service, as follows:

(a) The mailbox shall be mounted on a mounting structure of the following sizes and materials and no others:

1) A wood or plastic post of which the area of an average cross section may not be more than sixteen (16) square inches.

2) A metal post not more than two inches (2") in diameter.

(b) Permitted mounting structures shall be affixed as follows:

1) A wood or plastic post shall be embedded in crushed stone in a twelve inch (12") diameter hole to a depth of thirty six inches (36") below grade.

2) A metal post shall be embedded twenty four inches (24") in concrete in a thirty six inch (36") hold of twelve inch (12") diameter.

(c) Mailboxes shall be securely affixed to the required mounting structure.

(4) Residents should take all necessary precautions to prevent damage to any existing utility located in the parkway.

(5) Any nonconforming mailbox or mailbox mounting structure shall be brought into compliance on or before November 15, 2002.

(Ord. 3449, passed 9/5/91; Ord. 5146, passed 6/20/02)

§ 97.999 PENALTY.

Any person, firm, or corporation who or which shall violate any of the provisions of this chapter shall be subject to a fine upon conviction thereof of not less than \$25 nor more than \$750, and each day such violation is permitted to continue shall constitute a separate offense.