

**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**

	<b>Zoning Districts</b>	<b>Land Use</b>
<b>North</b>	Sunset Ave / R2	Single Family Home
<b>South</b>	R2	Single Family Home
<b>East</b>	R2	Single Family Home
<b>West</b>	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  


**EXHIBIT B: PLAT OF SURVEY / SITE PLAN**

