

MAY 27, 2015

Title

ZBA 15-05

Petitioner & Property Owner

Renee Connors
601 N. Grace Street
Lombard, IL 60148

Property Location

601 N. Grace Street
(06-05-202-009)
Trustee District #4

Zoning

R2 Single Family Residence
(Lombard Heights Subdivision)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

Variations to allow a six foot (6') high solid fence in a corner side yard that 1.) does not consist of open-construction decorative materials, and 2.) is located within the clear line of sight area.

Prepared By

Matt Panfil, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing to replace an existing five foot (5') high chain-link fence with a six foot (6') high solid wood fence within their corner side yard (Sunset Avenue frontage).

APPROVALS REQUIRED

There are two (2) distinct variations requested by the petitioner. First, Section 155.205 (A)(1)(c)(ii) of the Village of Lombard Zoning Ordinance allows for six foot (6') high fences in a corner side yard only if it consists of open-construction decorative materials. "Fence-open construction" is defined by the Zoning Ordinance as a fence which has over its entirety at least seventy-five percent (75%) of its surface area in open space which affords a direct view through the fence. As the proposed fence is entirely opaque, a variance is required.

Second, Section 155.205 (A)(1)(e)(ii) of the Zoning Ordinance requires fences more than two feet (2') tall and located within the clear line of sight area to be of an open construction design. In regards to instances where a private residential driveway intersects an improved right-of-way or street, Section 155.802 defines the clear line of sight area as, "the area formed by the intersection of the edge of the pavement of such private drive with the improved rights-of-way or street, twenty feet (20') away from the point of intersection."

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size: 13,650 sq. ft.
Fence Height 6'

Reqd. Setbacks & Proposed Dimensions (in parens.)

Front (west) 30' (26.4')
Side (north) 6' (29.5')
Corner Side (south) 20' (9.2')
Rear (east) 35' (130.8')

Submittals

- 1. Petition for Public Hearing;
- 2. Response to Standards for Variation; and
- 3. Plat of Survey, prepared by ARS Surveying Service, LLC, dated November 19, 2003 and submitted April 22, 2015.

As a portion of the fence is located in a clear line of sight area and is of a solid construction design, a second variance is required.

EXISTING CONDITIONS

In addition to the existing fence, the property is improved with a two-story frame single family residence with a detached garage. In order to help place the request in its proper context, planning staff offers the following:

Surrounding Zoning & Land Use Compatibility

| | Zoning Districts | Land Use |
|--------------|------------------|--------------------|
| North | R2 | Single Family Home |
| South | Sunset Ave. / R2 | Single Family Home |
| East | R2 | Single Family Home |
| West | Grace St. / 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 the following comments regarding the project:

- 1. A portion of the existing fence appears to cross the eastern property line. Any new fence is required to be constructed only on the petitioner's property; and
- 2. Based on the fence alignment with the detached garage, there is less of a concern about the fence creating visibility issues because the existing garage causes the same level of impairment to the clear line of sight area.

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 the response to the Standards for a Variation concerns were raised regarding safety.

In order to be granted a variation each of the Standards for a Variation (responses attached) must be affirmed. Staff finds that standards two, three, and six have been affirmed. In regards to the standards that staff finds to insufficiently affirmed, staff notes the following:

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 a six foot (6') high solid fence, especially when located in a clear line of sight area, is a matter of need, but rather a matter of preference, and is therefore not a true hardship. If a six foot (6') high solid fence is a necessity, the petitioner may, by right, construct such a fence twenty feet (20') north of the southern property line instead of within the corner side yard and clear line of sight area.

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') high solid fence rather than either a six foot (6') high fence of open construction decorative materials or a four foot (4') high solid fence. In regards to the encroachment into the clear line of sight area, the petitioner can either angle the fence in such a manner so as to avoid the encroachment, or construct a fence of an open construction.

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.*

Standard five is partially affirmed in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to be detrimental to the public welfare or injurious to other property or improvements. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to the public welfare. While PES is correct in their statement that the proposed fence will not increase the already obstructed view due to the location of the existing garage, staff must take into account the fact that the existing detached garage is a nonconforming structure, and if it were to be demolished, a new garage would have to conform to the required twenty foot (20') corner side yard setback.

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

Similar to standard five, staff finds that standard seven is partially affirmed in in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to endanger public safety. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to public safety. Staff does acknowledge that the sidewalk along Sunset Avenue shifts to the south in the area of the private driveway, allowing for an increased level of

visibility beyond what would be possible if the sidewalk ran exactly parallel to the property line. While the configuration of the existing sidewalk may allow for visibility that functionally creates a clear line of sight area, there is no guarantee that the curvilinear sidewalk will be maintained in perpetuity.

In consideration of precedent, staff has identified five (5) similar cases that appeared before the Zoning Board of Appeals within the last ten (10) years. Each case involves a solid fence that exceeds the maximum height for a fence in a corner side yard as well as a solid fence within a clear line of sight area. Also, each case pertains to a single-family home located within a residential zoning district.

Of the five (5) cases, staff recommended that the Zoning Board of Appeals recommend denial of the requested clear line of sight area variation each time. Staff also recommended denial of the six foot (6') high fence in a required corner side yard each case, except one (ZBA 06-13). In ZBA 06-13 staff recommended approval of the fence height variation because the petitioner was proposing a six foot (6') high solid fence to encroach into the corner side yard setback only along a twenty foot (20') segment of the rear property line. The petitioner constructed a four foot (4') high fence along the street frontage.

| CASE NO. | DATE | ADDRESS | SUMMARY | ZBA | BoT |
|-----------------------------|-----------------------------|-----------------------|--|--|--|
| ZBA 06-13 & ZBA 07-01 | 9/21/2006 & 2/15/2007 | 501 N. Garfield St. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 6-0 & Denial, 5-0 | Denial, 6-0 & Denial, 4-2 |
| ZBA 06-20 | 12/7/2006 | 614 E. Berkshire Ave. | 6' tall solid fence within a corner side yard, rear yard abutting the front yard of an adjacent lot, and clear line of sight area. | Modified to remove fence from Clear Line of Sight Area | |
| ZBA 09-11 | 1/21/2010 | 617 E. Berkshire Ave. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 5-0 | Denial, 6-0 |
| ZBA 10-02 | 5/20/2010 | 302 S. Grace St. | 6' tall solid fence within a corner side and clear line of sight area | Denial, 5-0 | Denial, 5-0 |
| ZBA 11-02 | 6/2/2011 | 403 W. Ethel Ave. | 6' tall solid fence within a corner side yard and clear line of sight area | Denial, 6-0 | Modified to remove from Clear Line of Sight Area |

If the Zoning Board of Appeals were to consider granting zoning relief to the property, staff recommends that said relief be limited to a five foot (5') solid wood fence located in the same location as the existing five foot (5') high chain link fence in the corner side yard, but not within the clear line of sight area.

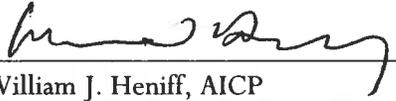
FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations, in their entirety, 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 **denial** of the aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **do not comply** with the Standards for a Variation required 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 Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 15-05.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

EXHIBIT A: PETITIONER'S RESPONSES TO STANDARDS FOR 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;*

1. Home is located at 601 N. Grace St. House faces Grace St., yard and driveway are located on Sunset. Property is classified as a corner lot, would like variance to install fence on Sunset only. Since yard faces Sunset, a 6' privacy fence would ease the concerns I have for the safety of my children and pet.

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;*

2. The condition for why we want the variation to be approved is, the safety of my family. Our backyard faces Sunset, which currently has a 5' chain link fence. Sunset is the only street that runs straight through from Addison Road, in Villa Park, through Main St., Lombard. I have 2 small children (ages 4 and 1) and a dog. I would like them to play in their yard and not worry about cars/ trucks driving by watching/approaching them. People are walking alone or in groups throughout the day, and I don't like they can look into my yard, unobstructed.

My home was involved in a burglary several years ago and I would like my backyard to be as secure as my front yard. The front yard fence was permitted and installed in 2013, with a 6' solid pressure treated wood.

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

3. The purpose of variation is SAFETY, not financial gain.

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;*

4. We have lived in home since June 2006; our interest is to stay on property.

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;*

5. The purpose is variation is detrimental to the safety of my family. Listed in ICRIMEWATCH, from the Village of Lombard website, there are 21 predators listed within a 2 mile radius of my home. One predator is located within one mile from residence, and is considered NON-compliant. My yard is exposed to all who walk or drive by.

My immediate neighbors are in support of the variance I am requesting.

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

6. The fence is a solid 6' pressure treated wood. This type of fence has been used throughout my area.

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

7. The 6' solid fence will run along Sunset, which is, an approximate, 110 feet from Grace St. The fence will not impair any natural drainage or cause drainage problems, decrease property values, or increase congestion of the public street.

