

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: William T. Lichter, Village Manager

DATE: November 30, 2006 (B of T) Date: December 7, 2006

TITLE: ZBA 06-20: 614 E. Berkshire Avenue

SUBMITTED BY: Department of Community Development  
*WTL*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted.
2. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted.
3. A variation from Section 155.205(A)(1)(e) to allow a solid fence within a clear line of sight area. (DISTRICT #4)

The Zoning Board of Appeals recommended approval of variation #1 and #2 with conditions and denial of variation #3.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

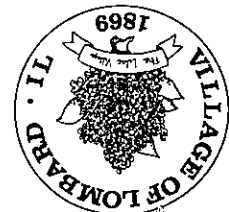
Village Manager X

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

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:** William T. Lichter, Village Manager

**FROM:** David A. Huliseberg, AICP *DAH*  
Assistant Village Manager/Director of Community Development

**DATE:** December 7, 2006

**SUBJECT:** ZBA 06-20: 614 E. Berkshire Avenue

Attached please find the following items for Village Board consideration as part of the December 7, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
  2. IDRC report for ZBA 06-20;
  3. An Ordinance granting approval of two of the requested variations; and
  4. Plans associated with the petition.
- Please contact me if you have any questions regarding the aforementioned materials.

**VILLAGE OF LOMBARD**

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Lombard, IL 60148-3926  
(630) 620-5700 FAX: (630) 620-8222  
TDD: (630) 620-5812  
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Village President  
William J. Mueller

Village Clerk  
Brigitte O'Brien

**Trustees**

- Greg Alan Gron, Dist. 1
- Richard J. Tross, Dist. 2
- John "Jack" T. O'Brien, Dist. 3
- Steven D. Seiby, Dist. 4
- Kenneth M. Florey, Dist. 5
- Rick Soderstrom, Dist. 6

December 7, 2006

Mr. William J. Mueller

Village President, and

Board of Trustees

Village of Lombard

**Subject: ZBA 06-20; 614 E. Berkshire**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted;
2. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted; and
3. A variation from Section 155.205(A)(1)(e) to allow a solid fence within a clear line of sight area.

The Zoning Board of Appeals conducted a public hearing on September 27, 2006. Joseph G. Laspisa, attorney for the petitioner, presented the petition. Mr. Laspisa described the property and noted that it was a double lot that previously had a six-foot wood privacy fence. The fence had deteriorated over time until a portion on Berkshire collapsed. The property owner replaced that portion and then removed and replaced the rest of the fence.

The petitioner then addressed the Standards for Variations. The location of the shed and AC unit prevent compliance with the 20-foot setback and the property owner experienced thefts during the time that the fence was missing. The property is unique in that it is a reverse corner lot. The owner wished to replace the fence for both security and the visual aspect, and no permit was necessary to replace the first

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

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

25 percent of the fence. There is no clear line of sight issue because the fence is 20 feet from the street pavement and there have been no known vehicle accidents at that location. There are three other corner properties in the area with six-foot high solid fences. Mr. Laspisa concluded by stating that his client had no intention to skirt the law and requests that his petition be approved.

Chairperson Defalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson Defalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property previously had a legal nonconforming six-foot high solid fence within the corner side yard and within the clear line of sight areas along both sides of the driveway. The fence also abutted the front yard of the adjacent property and had several sections that were in disrepair. The petitioner removed the entirety of the nonconforming fence and replaced it with a similar six-foot high solid fence. The Zoning Ordinance contains provisions that allow nonconforming fences to remain with the intention that, once a nonconforming fence reaches the end of its useful life, any replacement fence will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance. As such, the petitioner's replacement of the fence removed any legal nonconforming rights and requires that the new fence meet the four-foot height restriction and clear line of sight requirements.

The petitioner raised several issues within the Response to the Standards for Variations with regard to privacy and crime. However, a variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area. Staff cannot support the variation for the following reasons. Six-foot high fences are not permitted within front yards or corner side yards due to the visual obstruction they create. Similarly, there are additional restrictions placed upon fences that abut a neighbor's front yard to prevent a such a fence from blocking the view from the front yard of the neighboring property.

Ms. Backensto stated that three similar fences were mentioned within the petitioner's Response to Standards, but none of these fences were ever granted zoning relief. Staff conducted a review of all fence variations granted since 1996 and found only one case within one-half mile of the subject property. Therefore, if any of the identified nonconforming fences were to be replaced, the replacement fencing would be required to meet all code regulations.

Staff does not support the variation request to allow a solid fence within a clear line of sight area as it poses a safety hazard. The purpose of the open construction fence requirement is to provide visibility of pedestrians and oncoming traffic.

In order to be granted a variation the petitioner must show that they have affirmed each of the "Standards for Variation." The standards have not been affirmed. Staff finds that there are no conditions related to the property that prevent compliance with the fence height regulations or clear line of sight requirements. The conditions are not unique to the subject property. The subject property is a reverse corner lot as its rear yard abuts the front yard of the adjacent property at 522 N. Vista. The Zoning Ordinance has specific fence regulations that apply to all reverse corner lots and clear line of sight areas within the Village. The ordinance has not caused the hardship as the fence could have been constructed per the ordinance requirements. The hardship has been created by the petitioner as a result of the preference for the fence's height and location. The requested relief would be detrimental to the public welfare as visibility of pedestrians and traffic is diminished.

Staff recommends that the petition be denied in its entirety. However, the existing single-family residence has a corner side yard setback of only 15 feet. If the Zoning Board of Appeals finds that it would be appropriate to continue the building line established by the residence, a variation could be granted with the condition that the fence be shifted 15 feet off the property line. If such a variation is considered for approval, the petitioner should be required to obtain a fence permit.

Chairperson DeFalso then opened the meeting for discussion by the Board Members.

Mr. Young asked if the fence had been professionally constructed. The petitioner stated that it was installed by Suburban Fence in North Riverside.

Mr. Bedard asked if the property owner had been aware that the replacement of the remaining 75 percent of the fence required a permit. The petitioner stated that he was aware of that requirement.

Chairperson DeFalso stated that solid four-foot high fences are allowed within corner side yards, but not within a clear line of sight area. He noted that the property has two garages and asked if cars were kept in the garage facing Vista. The petitioner confirmed that they were. Chairperson DeFalso noted that there is a school one block southeast of the subject property. He asked if it were possible that a six-foot high solid fence could impair the view of the sidewalk from a vehicle backing out of the property. The petitioner stated that it was possible but was not a genuine safety issue as no accidents had occurred where a car could not see someone on the sidewalk.

Mr. Bedard stated that the lack of known accidents at that particular location did not preclude the existence of a possible safety hazard.

Chairperson Defalco mentioned a case at School and Division where the ZBA members had recommended denial and the board concurred, demonstrating a history of concern with the safety of pedestrians.

Mrs. Newman asked which direction the gates opened. The petitioner stated that they open into the property.

Mr. Polley asked about the purpose of the fence. The petitioner stated that the fence for privacy and security, and the fence was there when the owner purchased the property and that no neighbors have come in to express concerns over the fence. Chairperson Defalco noted that future neighbors may not have the same opinions.

Dr. Corrado noted that they should have come in for a permit as soon as they replaced more than 25 percent of the fence.

Mr. Bedard stated that he was not inclined to be in favor of the petition at present, but they could look at alternatives if the homeowner were present.

Chairperson Defalco stated that a six-foot high open, ornamental fence would provide security if not privacy and there are other options to preserve a clear line of sight. He asked where the shed was indicated on the plat of survey. The petitioner said the shed is to the east of the deck, but even if the shed were accommodated the AC unit would still need to be moved. He added that a six-foot high ornamental fence would not stop intruders.

Mrs. Newman asked if they had filed police reports during the time that the fence was down. The petitioner stated that the homeowners had been able to temporarily fix the fence.

Chairperson Defalco stated that, if the petition was denied, the fence would need to be removed and no new request could be made for one year. He stated that if the petitioner were willing to discuss ways to minimize the impact of the fence, the ZBA could consider those at the next meeting. He had great concern about the clear line of sight issues as well as the proximity of the fence to the sidewalk.

Mr. Young stated that the fence could be dropped down to four feet.

Mr. Bedard added that the fence could be angled.

Mr. Young stated that he had no problem with the six-foot fence provided it was out of the sight triangle.

Mrs. Backensto asked to confirm that the petitioner would ask his client about having a six-foot fence outside of the clear line of sight areas. The petitioner stated that he would discuss that with his client and requested that the ZBA table the petition to the next meeting.

*On a motion by Mr. Young, seconded by Mr. Bedard and passed by a roll call vote of 6-0, ZBA 06-20 was continued to allow the petitioner to revise his plans.*

The Zoning Board of Appeals reopened the public hearing on November 29, 2006. Joseph G. Laspisa, attorney for the petitioner, presented the petition. Mr. Laspisa stated that the plans have been modified per the ZBA's request. The northeast corner of the fence has been eliminated so that the fence now starts at the garage and extends directly north to the property line. On the south side of the garage the fence has been changed to run at an angle that would preserve the full 20-foot clear line of sight triangle.

Chairperson Defalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson Defalco then requested the staff report.

Jennifer Backensto, Planner II, stated that the ZBA members have been provided with revised fence plans that do not encroach into the clear line of sight area, and staff had nothing new to add to the original staff report.

Chairperson Defalco then opened the meeting for discussion by the Board Members.

Mr. Young asked if the ZBA could vote on the requested pieces of relief individually so that the fence height variations could be approved and the clear line of sight variation could be denied. Ms. Backensto stated that they could either vote on the petition as a whole or vote on the items individually.

Chairperson Defalco asked about the clear line of sight requirements. Ms. Backensto stated that a minimum clear distance of 20 feet is required on both sides of the driveway, so the plans should reflect that.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 5-1, submits this petition to the Corporate Authorities with a recommendation of approval for the requested fence height variations, subject to the following conditions:

1. The variations shall be limited to the requested relief for fence height and a 20-foot clear line of sight triangle shall be preserved on both sides of the driveway.

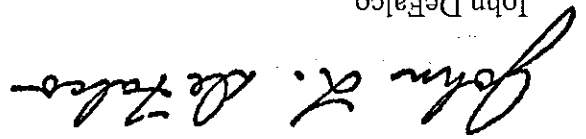
2. The proposed fence shall be developed in compliance with the revised site plan, prepared by the petitioner and date-stamped October 23, 2006.

3. The petitioner shall apply for and receive a building permit for the fence.

4. In the event that the fence is damaged or destroyed more than fifty percent of its value, any new fence shall meet the full provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD



John DeFalco  
Chairperson

Zoning Board of Appeals

at-



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

**TO:** Zoning Board of Appeals  
**FROM:** Department of Community Development  
HEARING DATE: September 27, 2006  
PREPARED BY: Jennifer Backensto, AICP  
Planner II

**TITLE**

**ZBA 06-20; 614 E. Berkshire Avenue:** The petitioner requests approval of the following actions on the subject property located within the R2 Single-Family Residence District:

1. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted;
2. A variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted; and
3. A variation from Section 155.205(A)(1)(e) to allow a solid fence within a clear line of sight area.

**GENERAL INFORMATION**

**Petitioner:** Joseph G. Laspsa  
96 W. Moreland, #14  
Addison, IL 60101  
**Relationship of Petitioner:** Attorney for property owner  
**Property Owner:** Nicholas Boulahanis  
614 E. Berkshire  
Lombard, IL 60148

**PROPERTY INFORMATION**

**Existing Zoning:** R2 Single Family Residential District  
**Existing Land Use:** Residential  
**Size of Property:** 14,770 square feet

Surrounding Zoning and Land Use:

North:	R2 Single Family Residence District; Single Family Residences
South:	R2 Single Family Residence District; Single Family Residences
East:	R2 Single Family Residence District; Single Family Residences
West:	R2 Single Family Residence District; Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on August 23, 2006.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey, prepared by Tyler Oaks Illinois Professional Land Surveyors, dated October 23, 2001.
4. Site plan, prepared by the petitioner, showing fence location.
5. Photographs depicting previous fence (painted) and newly constructed fence (unpainted).

DESCRIPTION

The subject property is a double lot located at the northwest corner of Berkshire Avenue and Vista Avenue. Previously, there was a legal nonconforming six-foot high solid fence within the corner side yard and within the clear line of sight areas along both sides of the driveway. The petitioner removed the entirety of the nonconforming fence and replaced it with a similar six-foot high solid fence. The petitioner's replacement of the fence requires that the new fence now meet the four-foot height restriction and clear line of sight requirements.

ENGINEERING

Private Engineering Services

From an engineering or construction perspective, PFS has no comments.

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 this petition.

PLANNING

The subject property previously had a legal nonconforming six-foot high solid fence within the corner side yard and within the clear line of sight areas along both sides of the driveway. The fence also abutted the front yard of the adjacent property and had several sections that were in disrepair. The petitioner removed the entirety of the nonconforming fence and replaced it with a similar six-foot high solid fence. The Zoning Ordinance contains provisions that allow nonconforming fences to remain with the intention that, once a nonconforming fence reaches the end of its useful life, any replacement fence will meet current code requirements. In time, this allows for full compliance with the Zoning Ordinance. As such, the petitioner's replacement of the fence removed any legal nonconforming rights and requires that the new fence meet the four-foot height restriction and clear line of sight requirements.

The petitioner raised several issues within the Response to the Standards for Variations with regard to privacy and crime. However, a variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area. Staff cannot support the variation for the following reasons. Six-foot high fences are not permitted within front yards or corner side yards due to the visual obstruction they create. Similarly, there are additional restrictions placed upon fences that abut a neighbor's front yard to prevent a such a fence from blocking the view from the front yard of the neighboring property.

Within the petitioner's Response to Standards, three similar fences were mentioned (558 N. Vista, 550 N. Joyce, 400 E. View). None of these fences were ever granted zoning relief. Staff conducted a review of all fence variations granted since 1996 and found only one case within one-half mile of the subject property (ZBA 04-07, granting approval for a six-foot high wrought-iron fence within the front yard of the industrial property at 702 Western Avenue). Therefore, if any of the identified nonconforming fences were to be replaced, the replacement fencing would be required to meet all code regulations.

Staff does not support the variation request to allow a solid fence within a clear line of sight area as it poses a safety hazard. The purpose of the open construction fence requirement is to provide visibility of pedestrians and oncoming traffic.

In order to be granted a variation the petitioner must show that they have affirmed each of the "Standards for Variation." 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 or clear line of sight requirements.
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 subject property is a reverse corner lot as its rear yard abuts the front yard of the adjacent property at 522 N. Vista. The Zoning Ordinance has specific fence regulations that apply to all reverse corner lots and clear line of sight areas 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. Staff finds that the ordinance has not caused the hardship as the fence could have been constructed per the ordinance requirements. The hardship has been created by the petitioner as a result of the preference for the fence's height and location.*

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. Staff finds that the requested relief would be detrimental to the public welfare as visibility of pedestrians and traffic is diminished.*

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. Staff finds that the requested relief would negatively impact public safety as visibility of pedestrians and traffic is diminished.*

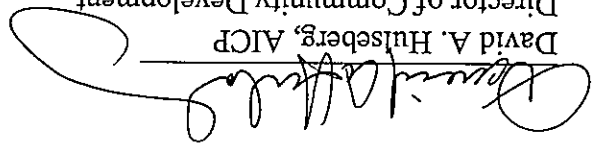
Staff recommends that the petition be denied in its entirety. However, the existing single-family residence has a corner side yard setback of only 15 feet. If the Zoning Board of Appeals finds that it would be appropriate to continue the building line established by the residence, a variation could be granted with the condition that the fence be shifted 15 feet off the property line. If such a variation is considered for approval, the petitioner should be required to obtain a fence permit.

### FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented has not affirmed the Standards for Variations for the requested relief. 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 requested variation:

Based on the submitted petition and the testimony presented, the requested fence height 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 06-20.

Inter-Departmental Review Group Report Approved By:

  
David A. Hulseberg, AICP  
Director of Community Development

DAH:JB

att-

c: Petitioner

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Request for fence variance for 614 East Berkshire

Detailed Response to Section 155.103C.7-Application for Fence Variance

1. Lombard Ordinance requires that the fence adjoining Vista Avenue be set back 20', permissible fence height requirement is 4'. Compliance with this requirement would create a hardship, and not just a mere inconvenience, to the property owner based upon the following:

a) An original 6' fence surrounding the premises was quite old and in a deteriorating condition. See the attached photos depicting a green fence. The section of fence that faced Berkshire Avenue adjacent to Vista Street fell down, and the fence gates facing Vista Street were in disrepair and failing. The homeowner requested a permit from the Village to replace the fence at the areas indicated above. The Village advised him that he would not need a permit if he replaced no more than 25% of the entire fenced area. The homeowner replaced the fence on the aforementioned areas, which was less than 25%, with a brand new wooden fence of the same height as the old fence (i.e. 6').

After he had replaced a portion of the fence, there was a great contrast in appearance between the old, worn fence and the new fence. The color was different; the condition was different, and the remaining old portions of the green fence looked like an eyegore compared to the new fence. See attached photos of the new fence in comparison to the old fence. The homeowner replaced the remaining old fence with the same height of new fence that perfectly matched the section of the fence previously replaced. Now the entire area was newly fenced and of the same appearance and material.

However, Village ordinance requires that either the fence be moved back an additional 20' from the lot line or that the fence be modified to 4' only. There would be considerable hardship to the owner to move the fence back 20' because that would directly interfere with the use of a utility shed that abuts the rear of the house. That shed contains meters for gas, electric, and water, and contains the telephone access box. To erect the fence 20' beyond its existing location would prevent access to the shed because the fence would block and prohibit access through the single entrance door thereto. The homeowner would further have to relocate the air conditioning compressor that is in the way of the relocated fence. This is not mere inconvenience but hardship.

b.) It would also be a hardship upon the homeowner to install a 4' fence because of the location of the property and the prior criminal history thereto. Vista Street is a very busy thoroughfare due to the fact that it is the first through street heading east. When the fence gates on Vista Street and the section of fence along Berkshire Avenue & Vista Street mentioned above were absent, trespassers entered the property and stole the homeowner's property on two separate occasions. These incidents were of such a nature that they were reported to the Lombard Police. See attached incident report numbers 2006-0104-438 & 2003-1203-58608. The erection of a 4' on the premises will compromise the safety of the homeowner's property and will lead to additional thefts therefrom. The contents of the homeowner's yard a clearly visible with a 4' fence, but not visible with a 6' fence.

2. This property is unique in the relation of the orientation of the home and its back yard to the other homes in the neighborhood. On all of the other corner lots in the neighborhood, the homes on those lots face towards the east or west. This places these homes on the side of the lot that has the greatest distance and hence their front yard faces the street, making a fence unnecessary. For 614 E. Berkshire Ave., the house faces south, on the side of the lot with the shortest distance. Therefore, this property's back yard is adjacent to Vista Street, which as stated before is a busy through street in that neighborhood. All the other houses in the neighborhood are allowed to have a 6' privacy fence in their backyard, with the exception of the property in question. The unique location and orientation of the home as it relates to other houses in the are require a fence variance.

3. As set forth above, an old, worn fence was replaced with a new wood fence of very high quality, which greatly improved the appearance of the property and allowed a consistent appearance throughout the property. The erection of a privacy fence was not to increase financial gain or worth of the property, but was for security and privacy reasons as set forth above. The erection of the new fence was a marked improvement in appearance, durability and safety.

4. As set forth above, the homeowner was allowed to replace up to 25% of his existing fence without a permit. The homeowner replaced his old fence with a new fence of the exact same height (6') in the percentage as allowed by the Village. It is only when he replaced the remaining 75% of the fence, for safety, durability and appearance reasons, that he ran afoul of the ordinance. In order to remain in compliance with the Village Ordinance, the homeowner would have two different types of fences on his property, one that was old,



worn and possibly even dangerous, adjacent to a new wood fence of very high quality. The application of the ordinance in this scenario leads to an absurd result, a mixed fence that compromises the public's safety in addition to being physically unattractive and an eyesore in the neighborhood.

5. The granting of a variance to allow a 6' fence along the perimeter of the property would not be detrimental to the public welfare. As set forth in Paragraph 1 above, when a portion of the previous fence was removed, the property attracted thieves who would enter the premises and remove items without the owner's permission. Now that a privacy fence has secured the property, the area no longer attracts the undesirables. The granting of the variation would not injure other property or improvements in the neighborhood. If the owner was not allowed to retain the fence in its current condition, it would not match the remaining fence that was properly constructed on the premises and would be a visual eyesore as set forth above. The fence as it now exists, and has existed for the last 5 months, for which the variance is requested has not caused any injury to other property or improvements in the neighborhood.

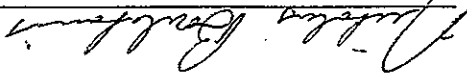
6. The granting of a variance will not alter the essential character of the neighborhood because there are other properties in the same neighborhood that have 6' privacy fences that adjoin neighboring front yards. The properties located at 558 North Vista Street, 550 North Joyce, and 400 East View, all have 6' privacy fences that adjoin each neighbor's front yard. The aforementioned properties have these fences enclosing their properties, which run along their side yards as does the property owner in this case. The granting of a variance in this scenario would in fact bring 614 E. Berkshire in conformity with its neighbors.

7. The granting of a variance to allow a 6' privacy fence cannot result in an increase in the congestion of the public streets, as the height or construction material of a fence is immaterial to traffic congestion. The fence is newly constructed, of quality materials, and would not increase a chance of fire to the homeowner or his neighbors. The fence, as erected, is not in an area that would impair natural drainage or create drainage problems. The fence does not prevent water from passing underneath it, nor would it cause water to pool behind or in front of it. As set forth above, the erection of the new fence greatly improved the aesthetic quality of the neighborhood, and is of a much better quality than the previous fence that was located thereon. The new fence actually is a great improvement over the old fence, both aesthetically and structurally, and does not diminish or impair property values.

If, in fact, the village ordinance allows a 4' fence on the property, an additional 2 feet of height would not impair an adequate supply of light or air to adjacent property. Additionally, as all neighbors are required to be notified of the homeowner's request for a variance, the homeowner does not believe that any of his immediate neighbors will object to the issuance of the variance. If his neighbors believe or feel that the additional height of two feet on the privacy fence would or has interfered with his/her supply of light or air, they would certainly appear at any meeting conducted by the Village and voice his/her objections. But the homeowner believes no one has any objections because the fence does not impair his/her own adequate supply of light and air.

As set forth on the plat of survey and the site survey, the fence does not interfere with the clear line of sight and hence does not endanger public safety. The fence is not located at a corner where two streets meet, and the fence is set back more than 20' from the street where the driveway intersects same. As mentioned above, now that a 6' privacy fence secures the perimeter of the property, thieves and other undesirables no longer have a place to commit criminal offenses.

Respectfully submitted,



NICHOLAS BOULIATHANIS

614 East Berkshire  
Lombard, IL

ORDINANCE NO. \_\_\_\_\_

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

(ZBA 06-20: 614 E. Berkshire Avenue)

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 205 (A)(1)(c)(2) to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 205 (A)(1)(c)(3) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 205(A)(1)(e) to allow a solid fence within a clear line of sight area; and,

WHEREAS, public hearing have been conducted by the Zoning Board of Appeals on September 27, 2006 and November 29, 2006 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 two of the requested variations described herein, subject to conditions; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested variations.

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 205 (A)(1)(c)(2) to allow a six-foot high fence in a required corner side yard where a maximum height of four feet is permitted.

SECTION 2: That a variation is hereby granted from the provisions of Title 15, Chapter 155, Section 205 (A)(1)(c)(3) of the Lombard Zoning Ordinance to allow a six-foot high fence in a required rear yard abutting the front yard of an adjacent lot where a maximum height of four feet is permitted.

SECTION 3: That all other relief requested as part of this petition is hereby denied.

SECTION 4: This ordinance is limited and restricted to the property generally located at 614 E. Berkshire Avenue, Lombard, Illinois, and legally described as follows:

LOTS 9 AND 10 IN LOMBARD VISTA, BEING A SUBDIVISION OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 14, 1927 AS DOCUMENT 243024 IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-05-213-019

SECTION 5: This ordinance shall be granted subject to compliance with the following conditions:

1. The variations shall be limited to the requested relief for fence height and a 20-foot clear line of sight triangle shall be preserved on both sides of the driveway.
2. The proposed fence shall be developed in compliance with the revised site plan, prepared by the petitioner and date-stamped October 23, 2006.
3. The petitioner shall apply for and receive a building permit for the fence.
4. In the event that the fence is damaged or destroyed more than fifty percent of its value, any new fence shall meet the full provisions of the Zoning Ordinance.

SECTION 6: 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 \_\_\_\_\_, 2006.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk