

May 19, 2011

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

Subject: ZBA 11-03; 1147 E. Adams St.

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation from 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') for the subject property located within the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on April 27, 2011.

Chairperson DeFalco opened the meeting for public comment.

John Schwarz, 1147 E. Adams, presented the petition. Mr. Schwarz stated that his family has lived on the subject property for 23 years and have been residents of Lombard for 35 years. He added that there was a six (6) foot fence at its current location when they purchased the property. He stated that the fence was in a state of disrepair and needed to be replaced. He stated that the Village would not issue him a permit because the fence was too tall in the corner side yard, but he went ahead and did it anyways. He stated that the extra height is needed because their property abuts a five story condo building. He stated that there are no clear line of sight issues. He then stated that the notification letters were all sent to his neighbors and nobody opposed the fence. He added that all of the condo owners were sent the letter and the association did not have a problem with the fence.

Chairperson DeFalco asked if there was anyone present to speak in favor or against the petition.

There was nobody in the audience in favor or against the petition. Chairperson DeFalco then requested the staff report.

Michael Toth, Planner I, presented the staff report. The subject property is located at the southwest corner of Adams and Addison Streets. The petitioner is requesting a variation to allow for a solid wood fence at a height of six feet (6') in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Addison Street side of the property. The previously existing non-conforming fence was removed by the property owner and reconstructed to its original height. The new fence is required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

The petitioner purchased the subject property in the late 1980's. At the time of purchase, the subject property contained a solid wood fence at six feet (6') in height located within the required twenty (20) foot corner side yard. The petitioner recently removed the old fence and replaced it to its original height and location. Six foot high fences are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the fence requires that the new fence meet the four-foot height restriction or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

Within the response to standards, the petitioner raised concerns relative to the level of privacy between the subject property and that of the multi-family property to the south, known as Jackson Terrace Condominiums. Jackson Terrace Condominiums is a multi-family condominium development located directly to the south of the subject property within the R4 – Limited General Residence District. The Jackson Terrace Condominiums consists of two multi-story buildings – the easternmost building being 5-stories and the westernmost building is 3-stories. The rear yard of the subject property directly abuts the 5-story Jackson Terrace Condominium building.

The maximum building height in the R4 – Limited General Residential District is three (3) stories (or 36 feet). As the multi-family building that abuts the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 – General Residence District. Furthermore, the number of single family properties that directly abuts property in the R5 – General Residence District is very minimal. Mr. Toth added that there are a total of 10,028 R2 – Single-Family Residential parcels in the Village of Lombard. He added that of those 10,028 parcels in the R2, 58 of those lots directly abut a parcel of land in the R4 – Limited General Residential District, which equates to .005%. Furthermore, 32 R2 parcels directly abut a parcel of land in the R5 –General Residential District, which equates to .003%.

Diagram 1 in the staff report illustrates the subject six (6) foot fence which acts as a privacy screen between the subject property and the Jackson Terrace Condominiums. The Zoning Ordinance allows privacy fences to be six (6) feet in height in the rear yard, but only four (4) feet in height in the corner side yard. The petitioner desires to maintain the six (6) foot tall fence in

the corner side yard to allow for maximum screening from the 5-story condominium building located directly to the south.

Staff finds that there is a demonstrated hardship associated with the physical surroundings of the subject property. The Zoning Ordinance recognizes the need for additional fence height (screening) in residential districts when a property abuts a use of higher intensity. When fences or walls in any residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height. As the subject property abuts a five-story multi-family condominium building, staff believes that the additional fence height is warranted.

Concluding, Mr. Toth stated that staff is recommending approval of ZBA 11-03, subject to the two conditions outlined in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the ZBA members.

Mr. Tap asked the petitioner if the fence was already erected.

John Schwarz explained that the fence was already erected. He stated that the Village would not issue him a permit because the fence was too tall in the corner side yard, but he went ahead and did it anyways because the family dog had broken through the fence. He added that he originally thought he didn't need a permit because he did not need one the last time he replaced the fence. He then stated that it was after the fence was put up that he was told that he needed a variation for the fence because it exceeded the height requirement. He added that he worked with staff to get the variation and would have done it sooner but his wife is dealing with cancer. He then reiterated the fact that there are no clear line of sight issues. He then stated that there are a number of children who pass by his house from Jackson Jr. High. He added the extra height adds privacy to the backyard.

Chairperson DeFalco stated that the old ordinance only allowed for fencing no higher than three (3) in the corner side yard. He then stated that it was later changed to four (4) feet. He mentioned that the Village did catalog the non-conforming fences built before 2000 and stated that the Village then required fence permits after 2000.

On a motion by Corrado and a second by Tap, the Zoning Board of Appeals recommended by a vote of 4 to 1 that the Village Board **approve** the variation associated with ZBA 11-03, subject to the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed plans.
2. In the event that the fence is damaged or destroyed to fifty-percent (50%) of its value, the new fence shall meet the required corner side yard setback.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals

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