



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development

MEETING DATE: February 18, 2021

SUBJECT: **PC 21-05, Text Amendment: Fences in the Corner Side Yard**

Please find the following items for Village Board consideration as part of the February 18, 2021 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 21-05; and
3. An Ordinance granting approval of the text amendments of the Lombard zoning Ordinance.

The Plan Commission recommended approval of this petition by a vote of 5-0. Please place this petition on the February 18, 2021 Board of Trustees consent agenda.

H:\CD\WORDUSER\PCCASES\2021\PC 21-05\PC 21-05_Village Manager Memo.docx

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

TEXT AMENDMENTS TO THE ZONING ORDINANCE – FENCE HEIGHT IN CORNER SIDE YARDS

January 25, 2021

Title

PC 21-05

Petitioner

Village of Lombard

Property Location

Village-wide

Approval Sought

The petitioner, the Village of Lombard, is requesting a text amendment to Section 155.205 (A)(1)(c) of the Lombard Code of Ordinances, and any other relevant sections for clarity.

Submittals

1. Exhibit A: Fence Exhibit
2. Exhibit B: ZBA/Board of Trustees Decisions of Corner Side Yard Variance Requests for Fences
3. Exhibit C: Surrounding Community Study of Maximum Height for Fences in Corner Side Yards

Prepared By

Tami Urish
Planner I

DESCRIPTION

The petitioner, the Village of Lombard, is requesting text amendments to Sections 155.205(A)(1)(c) of the Lombard Code of Ordinances, and any other relevant sections for clarity. The proposed amendments would authorize the placement of fences within corner side yards at a height of six (6) feet in residential zoning districts. The existing provisions restrict fences to be a maximum of four (4) feet in height in corner side yards in residential zoning districts.

The proposed text amendment is intended to remove language that would then allow the height of fences to six (6) feet in all yards with the exception of front yards or rear yards abutting front yards (reverse corner side yards).

INTER-DEPARTMENTAL REVIEW**Building Division:**

The Building Division has no comments regarding the proposed text amendments to the Zoning Ordinance.

Fire Department:

The Fire Department has no comments regarding the proposed text amendments to the Zoning Ordinance.

Private Engineering Services:

Private Engineering Services has no comments regarding the proposed text amendments to the Zoning Ordinance.

Public Works:

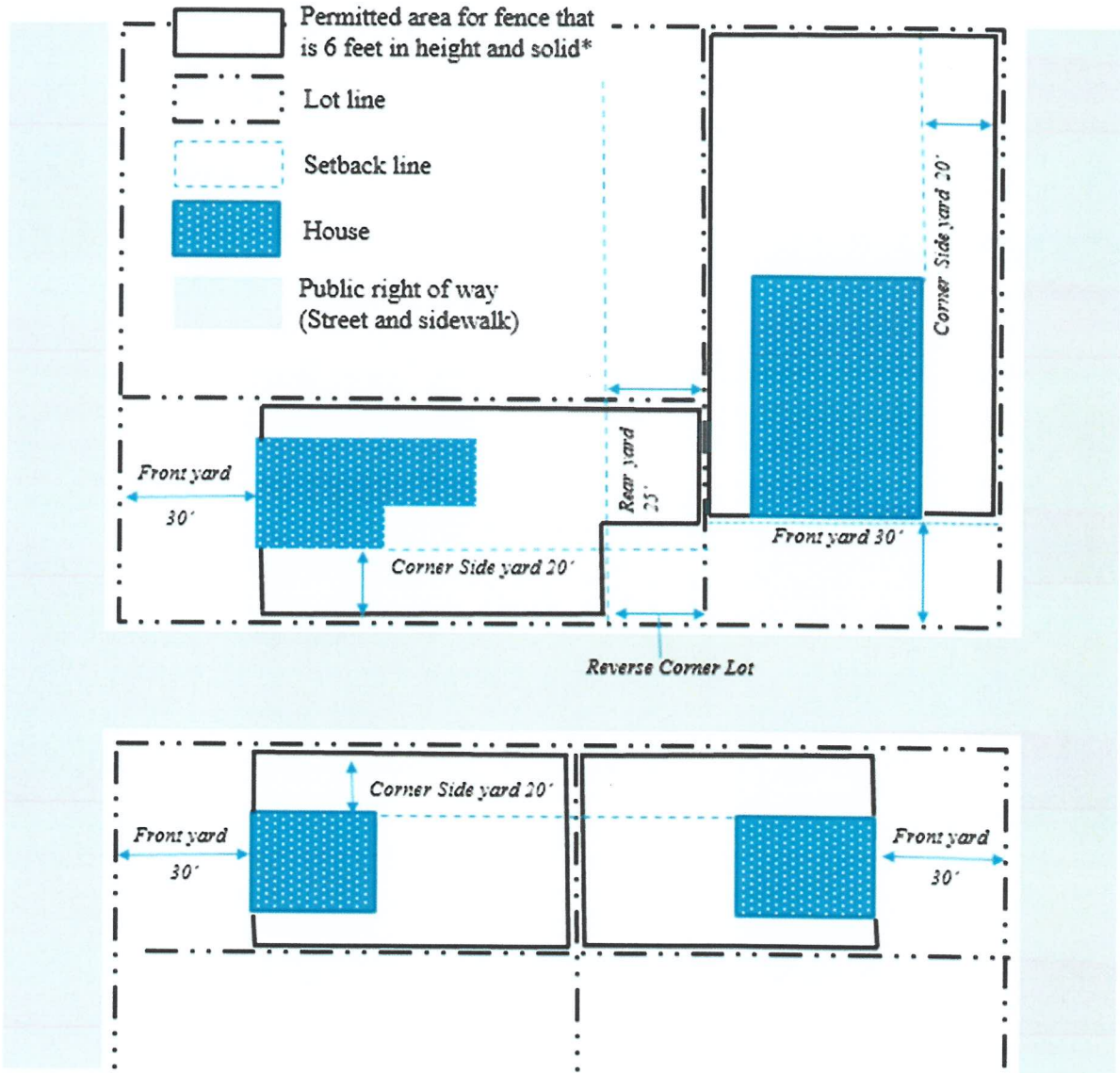
The Department of Public Works has no comments regarding the proposed amendments to the Zoning Ordinance.

Planning Services Division:

The Village proposes to remove the text in Section 155.205 of the Village Code pertaining to height in corner side yards only. The proposed amendments will not remove restrictions where the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall remain four feet. See the Exhibit A on the next page.

EXHIBIT A

FENCE EXHIBIT



*Fences in the front yard and reverse corner side yard areas are restricted to 4 feet in height. The clear line of sight of driveways and intersections of 66% open construction requirements are to remain unchanged.

Background

Staff has researched this topic comprehensively over the past two decades since permitting for fences began. Below is a summary of actions taken for height in corner side yards specifically:

- 6/21/1999 The Plan Commission recommended approval of PC 99-23, a text amendment to an overall update of fence regulations and require a permit for a fence when at this time fences were installed without permits but were expected to follow Village Code with the Code Enforcement Department enforcing violations. Fences in the corner side yard were restricted to four feet in height before these proposed text amendments and no changes were discussed in this regard.
- 9/2/1999 The Village Board approved the part of the proposed text amendments of PC 99-23 to update the fence regulations but declined the requirement for a fence permit.
- 2/21/2000 The Plan Commission recommended approval of PC 00-05, a text amendment to require a permit for a fence when at this time fences were installed without permits.
- 3/16/2000 The Village Board approved the proposed text amendment of PC 00-05 to require a permit for fences and therefore staff review of fences. Staff noted that a nonconforming fence inventory was conducted with the finding of 125 fences six feet in height were located in the corner side yards at the time.
- 5/20/2002 Staff sought input from the Plan Commission on a text amendment to allow fences within corner side yards to be greater than four feet in height. The Plan Commission decided to keep the existing four-foot height restriction.
- 11/04/2004 Staff presented a PowerPoint presentation about fences in the corner side yard to the Village Board. There was consensus of the Board to send this matter to the Zoning Board of Appeals to be brought back before the Village Board for discussion at a later time.
- 12/15/2004 The ZBA discussed and agreed six feet in height and solid in reverse corner side yards would not be acceptable due to the abutting property does not have the same right. Fences six feet in height, 75% open and decorative was suggested for corner side yards that abut rear yards only.
- 2/21/2005 The Plan Commission held a workshop on fences in corner side yards and concurred with the ZBA's recommendations and concerns.
- 3/03/2005 The Village Board directed staff to prepare an Ordinance with the recommendations of the Plan Commission and the Zoning Board of Appeals.
- 5/16/2005 The Plan Commission recommended approval of PC 05-11, a text amendment to allow for fences up to six feet in height, provided that the fence was a decorative or ornate open fence that would incorporate a 75% open component as well as reflect wrought iron or comparable materials to provide additional flexibility for abutting corner yards only. Reverse corner yards would be held to the four-foot requirement already existing within Code. This distinction was intended to minimize any visual impact of the fences on the front yard of adjacent residences.
- 6/02/2005 The Village Board approved PC 05-11.
- 9/18/2008 The Village Board held a joint meeting with ZBA members who were concerned that their denials of six feet in height, solid fences in corner side yards variance requests were being overturned by the Village Board. The discussion included a text amendment to allow fences within the corner side yards to be greater than four feet in height and solid for privacy. The Village Board voted 4-3 to not support a text amendment so as to maintain the current four-foot restriction.

The Village has a history of amending its Zoning Ordinances to address evolving circumstances presented by the public or through discussions with Village representatives. Staff reviewed the past efforts, as well as contacting surrounding municipalities.

In the last 20 years when requiring fence permits began, the Village Board approved thirty-three out of thirty-five (93%) requests for a fence variance in the corner side yard. The list is attached as Exhibit B. One denial, ZBA 03-24, was for a reverse corner lot which will retain the current restrictions of a maximum of four feet in height. The other denial, ZBA 04-11, was at the same meeting that the text amendment to allow open fencing at six feet in height in corner side yards was approved. The applicant chose a solid fence, four feet in height instead of acquiescing to the compromised open style fence of six feet in height.

Restricting fence height in corner side yards varies with municipalities that regulate four feet or less to a few that allow six feet, with most municipalities regulating at four feet. Communities with six-foot in height fence allowances were: Darien, Downers Grove, Elmhurst (not in reverse corner lots for all three) and Oakbrook Terrace (no reverse corner lot restriction). The spreadsheet is attached as Exhibit C.

Further, staff reviewed text amendments to Section 155.303, the Nonconforming Buildings, Structures and Uses chapter of the zoning code to allow existing nonconforming fences to be replaced. A few municipalities address nonconforming fences specifically, however, most state that replaced fences are required to conform to current provisions. One municipality provided distinctions from the cause of damage as Act of God or within the control of the home owner. This alternative proved to be problematic as eventual compliance is the goal and could not be inclusive of all property owners.

EXISTING & PROPOSED REGULATIONS

Staff proposes the following text amendments. Additions are denoted by **bold and underline**. Deletions are denoted by a ~~striketrough~~.

ARTICLE III. - GENERAL PROVISIONS

§ 155.205 - Fences, walls, and hedges.

(A) Fences and walls.

(1) Fences or walls in residential districts.

- (a) Fence or wall materials. Fences or walls in residential districts shall not include the use of barbed wire or other material intended to maintain security by means of bodily injury. Electrified fences shall not be permitted in residential districts. Materials for fences or walls in the clear line of sight area shall meet the requirements of subsection 155.205(A)(1)(e) of this Chapter.
- (b) Permitted locations. Fences or walls may be erected, placed, or maintained along a lot line or within a required yard on a residentially zoned property, except as otherwise restricted by subsection 155.205(A)(1)(e) of this Chapter. Fences or walls may be erected in public utility easements and drainage easements, except that fences or walls erected in said easements shall not impede drainage flow.
- (c) Permitted height.
 - (i) Fences or walls in any residential district shall not exceed six feet in height, except that where a lot in a 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 in height.

- (ii) Fences or walls in required front ~~and corner side~~ yards shall not exceed four feet in height. Fences in required front yards shall not be constructed of chain link (with or without slats). ~~Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six feet in height provided the following conditions are met:~~
 - a. ~~The fence, in its entirety, must consist of decorative materials such as wrought iron or a comparable material (chain link fences being specifically excluded);~~
 - b. ~~The fence, at any point greater than two feet in height, must be a minimum of 66 percent open space in total for every one foot of linear dimension. Where properties adjoin railroad right-of-way and the street for which the lot has frontage does not cross said railroad right-of-way, fences or walls along the property line adjoining and paralleling said railroad right-of-way may be six feet in height in the required front or corner side yard.~~
- (iii) Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall be four feet.
- (iv) On a through lot within the R0, R1 or R2 Single-Family Residence District that takes driveway access from the same right-of-way as both adjacent properties, the lot line opposite the access right-of-way shall be treated as a rear lot line and allowed a maximum fence height of six feet. This provision shall not apply if either of the adjacent properties takes driveway access from a right-of-way other than that accessed by the subject property.
- (v) Maximum height, as prescribed by this section, shall be permitted to vary by up to three inches to allow for grade changes; clearance under fences for maintenance, footers or other obstacles customary to the use intended to be fenced; or reasonable human error. Fence posts or decorative finials may not cause the fence to exceed the maximum height limitation by more than three inches.

STANDARDS FOR TEXT AMENDMENTS

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards are noted below:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*
The text amendments are applicable to all corner side yards with the exception of reverse corner side yards which abuts a neighboring front yard on all residential properties in the Village.
2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*
The proposed text amendments are consistent with the objectives of the Zoning Ordinance.
3. *The degree to which the proposed amendment would create nonconformity;*
Staff does not believe any nonconformity would be created.

4. *The degree to which the proposed amendment would make this ordinance more permissive;*
The proposed amendments will be more permissive than the existing regulations.
5. *The consistency of the proposed amendment with the Comprehensive Plan; and*
Staff finds that the proposed amendments would be consistent with the Comprehensive Plan.
6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*
The Village has a history of amending the Zoning Ordinance to address edits for clarity. The proposed amendments are consistent with established Village policy in this regard.

FINDING & RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending approval of this petition:

Based on the submitted petition and the testimony presented, the requested text amendments **comply** with the standards required by the Village of Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 21-05.

Inter-Departmental Review Committee Report approved by:

William J. Heniff, AICP
Director of Community Development

H:\CD\WORDUSER\PCCASES\2021\PC 21-05\PC 21-05_IDRC Report.docx

EXHIBIT B

Zoning Board of Appeals and Village Board of Trustees' Decisions of Corner Side Yard Variance Requests for Fences

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 00-01	5/18/2000	1345 Lore Lane	6' tall solid wood fence within a corner side yard.	Approval	Approval
ZBA 00-04	6/15/2000	952 S Edson	6' tall solid wood fence within a corner side yard.	None	Approval
ZBA 01-01	5/3/2001	1053 E. Emerson	6' tall solid wood fence within a corner side yard.	None	Approval
ZBA 02-04	4/18/2002	821 S. Elizabeth	6' tall solid wood fence within a corner side yard.	Approval	Approval
ZBA 02-10	6/20/2002	536 W. Woodland Ave	6' tall solid wood fence within a corner side yard.	Approval	Approval
ZBA 02-12	6/6/2002	202 E. Washington	6' tall solid wood fence within a corner side yard.	Approval	Approval
ZBA 02-13	8/15/2002	220 E. Washington	6' tall solid wood fence within a corner side yard.	Approval	Approval
ZBA 02-14	6/20/2002	726 S. Finley Road	6' tall solid wood fence within a corner side yard.	Denial	Approval
ZBA 02-16	7/18/2002	240 E. Harrison	6' tall solid wood fence within a corner side yard (10' from property line).	Approval	Approval
ZBA 03-25	12/4/2003	1000 W. Shedron Way	6' tall solid wood fence within a corner side yard (reverse corner lot)	Denial	Denial
ZBA 04-11	3/3/2005	916 E Division St	6' tall solid wood fence within a corner side yard (built w/o a permit, part of open style text amendment decision noted in background of this report)	Denial	Denial
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 denied as ZBA 04-08	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

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
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
ZBA 14-08	6/24/2014	551 N. LaLonde Ave.	6' tall solid fence within a corner side yard.	None, 3-3	Approval, 5-0
ZBA 14-10	9/24/2014	236 W. Sunset Ave.	6' tall solid fence within a corner side yard.	Denial, 4-2	Approval, 6-0
ZBA 15-05	5/27/2015	601 N. Grace St.	6' tall solid fence within a corner side yard. CLOS denied	Approval, 6-0	Approval, 6-0
ZBA 18-02	5/17/2018	303 Collen Drive	6' tall solid fence within a corner side yard.	Approval, 5-0	Approval, 5-0
ZBA 19-06	11/7/2019	6 W Central Avenue	6' tall solid fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 19-07	1/9/2020	201 W. Madison	6' tall solid fence within a corner side yard.	Denial, 6-0	Approval, 6-0

EXHIBIT C

COMMUNITY	Maximum Height for fences within a Corner Side Yard
Addison	4'
Bloomingtondale	42" and open style. No chainlink.
Carol Stream	48" (open)
Darien	Six feet (6'), provided that the fence does not extend beyond the front yard line. However, in any corner side yard abutting Route 83, Cass Avenue, Plainfield Road and 75th Street, fences shall be permitted to be erected and maintained to a maximum height of eight feet (8'), provided the fence does not extend beyond the front yard line.
Downers Grove	6' (if not a reverse corner lot)
DuPage County	4' and open or an open or solid fence or non retaining wall may be erected at least ten (10) feet from the property line adjacent to any lot line forming a part of the corner side yard to a height not to exceed six (6) feet above grade.
Elmhurst	3' (6' rear of house if adjacent corner lots)
Glen Ellyn	4' (open)
Glendale Hght.	6' allowed 10' from building line other wise 4 feet.
Hinsdale	4' open and 2' solid
Lisle	3' (open and ornamental)
LOMBARD	4 feet
Oak Brook	3'6" (open) 2' (solid)
Oakbrook Terrace	6'
Villa Park	36" solid, 4' (open wire mesh, 4 1/2' for posts)
Westmont	3'
Wheaton	4' (open only) (6' privacy allowed along "high volume" streets about 30 listed)
Wood Dale	4 feet, decorative (30% open) or natural. Chain link ok.
Woodridge	Closed or open fences greater than 4 1/2' in height within 15 feet of the exterior side lot line or reversed corner lots and on through corner lots

ORDINANCE _____

AN ORDINANCE APPROVING A TEXT AMENDMENT
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155
OF THE LOMBARD VILLAGE CODE

PC 21-05: Text Amendments to the Zoning Ordinance: Fences in the Corner Side Yard

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Lombard Code; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Zoning Ordinance and make necessary changes; and,

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on January 25, 2021, pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

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 Title 15, Chapter 155, Section 155.205 of the Lombard Zoning Ordinance shall be amended to read as follows:

§ 155.205 – Fences, walls and hedges.

(A) Fences and walls.

(1) Fences or walls in residential districts.

(a) Fence or wall materials. Fences or walls in residential districts shall not include the use of barbed wire or other material intended to maintain security by means of bodily injury. Electrified fences shall not be permitted in residential districts. Materials for fences or walls in the clear line of sight area shall meet the requirements of subsection 155.205(A)(1)(e) of this Chapter.

- (b) Permitted locations. Fences or walls may be erected, placed, or maintained along a lot line or within a required yard on a residentially zoned property, except as otherwise restricted by subsection 155.205(A)(1)(e) of this Chapter. Fences or walls may be erected in public utility easements and drainage easements, except that fences or walls erected in said easements shall not impede drainage flow.

- (c) Permitted height.
 - (i) Fences or walls in any residential district shall not exceed six feet in height, except that where a lot in a 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 in height.
 - (ii) Fences or walls in required front ~~and corner side~~ yards shall not exceed four feet in height. Fences in required front yards shall not be constructed of chain link (with or without slats). ~~Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six feet in height provided the following conditions are met:~~
 - ~~a. The fence, in its entirety, must consist of decorative materials such as wrought iron or a comparable material (chain link fences being specifically excluded);~~
 - ~~b. The fence, at any point greater than two feet in height, must be a minimum of 66 percent open space in total for every one foot of linear dimension. Where properties adjoin railroad right-of-way and the street for which the lot has frontage does not cross said railroad right-of-way, fences or walls along the property line adjoining and paralleling said railroad right-of-way may be six feet in height in the required front or corner side yard.~~
 - (iii) Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall be four feet.
 - (iv) On a through lot within the R0, R1 or R2 Single-Family Residence District that takes driveway access from the same right-of-way as both adjacent properties, the lot line opposite the access right-of-way shall be treated as a rear lot line and allowed a maximum fence height of six feet. This provision shall not apply if either of the adjacent properties takes driveway access from a right-of-way other than that accessed by the subject property.
 - (v) Maximum height, as prescribed by this section, shall be permitted to

Ordinance No. _____

Re: PC 21-05

Page 3

vary by up to three inches to allow for grade changes; clearance under fences for maintenance, footers or other obstacles customary to the use intended to be fenced; or reasonable human error. Fence posts or decorative finials may not cause the fence to exceed the maximum height limitation by more than three inches.

SECTION 2: That 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 _____, 2021.

First reading waived by action of the Board of Trustees this ____ day of _____, 2021.

Passed on second reading this ____ day of _____, 2021.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2021.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this ____ day of _____, 2021.

Sharon Kuderna, Village Clerk