

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals HEARING DATE: February 23, 2005
FROM: Department of Community PREPARED BY: Angela Clark, AICP
 Development Planner II

TITLE

ZBA 05-02; 322 E. Elm Street: The petitioner requests a variation to 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') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Property Owner: Larry and Judy Coveny
 322 E. Elm Street
 Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning: R2 Single-Family Residence District
Existing Land Use: Single-Family Residence
Size of Property: Approximately 9,878 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 January 19, 2005.

1. Petition for Public Hearing
2. Response to the Standards for Variation
3. Plat of Survey
4. Photographs of the Subject Property

DESCRIPTION

The petitioner's fence was a nonconforming fence as it is located in a corner side yard and constructed of solid wood at approximately six feet in height. The petitioner recently modified a portion of the fence by cutting approximately two feet from the top of the fence and replacing it with two feet of new lattice type construction. The addition of the new materials eliminates the fence's nonconforming status, therefore the fence must now meet the current height restriction of four feet or less. The petitioner would like to extend the modification for the entire length of the fence if the variation is granted.

PHOTOGRAPHS OF THE SUBJECT PROPERTY



ENGINEERING

Private Engineering Services

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

Public Works Engineering

Public Works Engineering has no comments or changes.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments.

PLANNING

As the members are aware, the fence height regulations are currently under review. As a final decision has not been made, the existing requirements remain in effect. The petitioner's fence was a nonconforming solid six foot fence located in the corner side yard. The petitioner modified the fence by removing the upper two feet of the fence and replacing it with two feet of new materials. The Zoning Ordinance states that any nonconforming structure that is damaged or destroyed by any means must meet the current zoning requirements. As such, the petitioner's modifications would require that the fence now meet the four-foot height restriction.

A variation may only be granted if there is a demonstrated hardship. The petitioner raised several issues within the response to the Standards for Variations that staff believes are of merit. However, staff cannot support the variation for the following reasons. The uppermost two feet of the fence was removed, thereby eliminating visual obstructions that may have existed when the fence was six feet in height. This type of modification would be consistent with the existing code requirements. It is the placement of the additional two feet of materials that creates the added encroachment.

There have been a number of fence petitions in which property owners proposed to add lattice to existing four foot fences and staff has maintained recommendations of denial. Staff has a list of nonconforming fences as of August 2000. The petitioner's property is identified on the list. Staff believes that as the life span of nonconforming fences expires these fences can be replaced with fences that meet current code requirements. If a variation were granted, a fence exceeding the height requirements now exists as a matter of right rather than be subject to meeting the current regulations upon its replacement. Furthermore, staff finds that the following standards are not affirmed.

1. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.* Staff finds that there is no demonstrated physical hardship, nor are there any unique topographical conditions related to this property that would prevent compliance with the ordinance.

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.* The petitioner's lot is comparable to other corner lots in the single-family residential district. Staff finds that there are not any unique differences between the petitioner's lot and others with the same classification.
3. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.* Staff finds that the hardship has not been created by the ordinance. A permit was not obtained for the modification to the fence. If the petitioner applied for a permit prior to beginning construction on the fence, staff would have informed them of the consequences of altering the fence.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations for the requested increase in maximum allowable height for a fence in a required corner side yard. 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 recommend to the Corporate Authorities **denial** of ZBA 05-02.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

DAH:AC

att-

c: Petitioner