

August 21, 2008

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

Subject: ZBA 08-07; 197 S. Lombard

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 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 five feet (5') in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on June 25, 2008. Anita Coughlan, owner of the subject property, presented the petition. She stated that she was requesting relief to replace a four foot chain link fence and install a five (5) foot fence that would provide the necessary screening from Maple Street. Ms. Coughlan explained that Maple Street has a high volume of traffic and her existing fence does not provide the proper screening from Maple Street. She noted that the porch in back yard is raised and the existing four (4) foot fence does not provide adequate screening.

Chairperson DeFalco opened the meeting for public comment. No one spoke for or against the petition. Chairperson DeFalco then requested the staff report.

Michael Toth, Planner I, presented the staff report. Michael Toth stated that the subject property is located at the northeast corner of Maple Street and Lombard Avenue. He explained that the petitioner is requesting a variation to allow the installation of a solid wood fence at a height of five (5) feet where only four (4) feet is permitted. Mr. Toth added that the new fence will replace an existing four (4) foot chain link fence along the southern property line.

Michael Toth stated that staff notes that there is a change in grade on the subject property. He mentioned that the elevation is highest at the western portion of the property and gradually slopes to the south and southeast. Mr. Toth explained that the existing four (4) foot fence height measurement was taken at grade from the southern portion of the property at one of the low points. As the petitioner

has represented that the hardship associated with the variation is due to privacy concerns, Mr. Toth stated that staff investigated the effects of the existing four (4) foot required fence height relative to the rear yard elevations.

Mr. Toth stated that staff has consistently used the concept of “average grade” for determining the height of structures, such as the proposed fence. He explained that in circumstances where the grade changes substantially, measurements are taken from several points. Typically, these measurements are averaged together to determine the height for the purposes of verifying compliance with the Zoning Ordinance. He added that in this case, different points were measured to determine the screening capabilities of the fence in relation to the rear yard.

Mr. Toth stated that surveying equipment was used to determine that there is more than a one (1) foot change in grade (precisely $\pm 1.25'$) between the patio area in the rear of the house and the ground where the existing four (4) foot chain link fence is located. Mr. Toth explained that the existing four (4) foot fence functions as a three (3) foot fence when screening the patio area. In essence, allowing a five (5) foot wood privacy fence would afford the petitioner the same level of privacy that a four (4) foot fence would provide under a zero-grade deviation circumstance.

Mr. Toth explained that due to the change in grade, the existing four (4) foot fence located on the subject property provides inadequate screening from Maple Street. Mr. Toth added that fence height is measured at the location of the fence, but due to the unique topographical characteristics of the subject property, the petitioner is unable to utilize the full screening potential of even a four (4) foot fence. He noted that there are no clear line of site issues relative to the proposed fence.

Staff is recommending approval of the petition as requested.

Chairperson DeFalco opened the meeting for discussion among the members.

Dr. Corrado stated that he has a similar five foot fence in his rear yard. Dr. Corrado added that a four foot fence does not provide enough screening, but a five foot fence is perfect for screening.

Referring to the letter of opposition submitted by Mr. Fitzpatrick, Mr. Tap stated that there are no blocked views at the described intersection. Mr. Tap added that the fence will be about sixty-four feet from the intersection.

Ms. Newman asked the petitioner what type of fence she will be using.

Ms. Coughlan responded that she will be using a solid plastic fence that will require less maintenance than wood.

Scott Rignier (neighboring resident) stated that he lives on Maple Street and it is a very busy street. Mr. Rignier explained that a five foot fence would give noise reduction benefits. He added that there is no reason to deny the petition.

Chairperson DeFalco stated that the subject case is an instance where the petitioner is requesting relief for additional fence height in the corner side yard. He also explained that the hardship associated with the case involves a deviation in grade between the fence location and location of the rear porch. Chairperson DeFalco then stated that staff has recommended approval of the case based on the deviation in grade. Chairperson DeFalco then stated that there are a number of homes in Lombard that are raised up from the grade. Chairperson DeFalco then asked staff if Code already took grade deviations into account.

Mr. Toth responded that he was unsure what the Building Code is pertaining to foundation leveling, but the fact of the matter in this case is that there is a discrepancy as to where the fence is measured and where the rear porch is located in regards to elevation.

Chairperson DeFalco asked staff if the corner side yard fencing affect pedestrians and/or vehicles.

Mr. Toth responded that it is all a matter of preference as to whether or not fences in the corner side yard affect the neighborhood. Mr. Toth added that the fences can create voids and hiding places for people and animals, which may create a safety concern.

Chairperson DeFalco explained that a six foot fence would be allowed twenty feet in from the property line. Chairperson DeFalco stated that there could be some sort of compromise to maybe bring the fence in ten feet from the property line.

Ms. Coughlan explained that she has a pond in that area so a ten foot setback for the fence would not work. Ms. Coughlan mentioned that she has looked into alternatives. She added that she could plant bushes at a height greater than four feet. She explained that she didn't want to do bushes because they require maintenance and they can grow over the sidewalk.

Chairperson DeFalco stated that the Zoning Ordinance prohibits bushes or hedges to be taller than four feet in the corner side yard setback.

Dr. Corrado stated that homes must be elevated on the property for drainage purposes. He then added that the height limit is four feet for a reason.

Sue Rignier (neighboring resident) stated that she has a six foot fence and there are many other six foot fences and bushes along Maple Street. Ms. Rignier explained that traffic has grown on Maple Street and the noise level has also increased.

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Dr. Corrado asked if granting this approval would set precedence for fence height in the corner side yard.

Ms. Newman stated that there are no line of site obstructions and staff had recommended approval based upon the topography.

Mr. Toth responded that there are no clear line of site issues, which is mentioned in the staff report. He referred to Mr. Tap's original comment regarding clear line of site by stating that the fence will be setback back sixty-five feet from the west property line. He added that Code only requires a thirty foot clear line of site area, which the fence location is clearly a distance from. Mr. Toth added that if you are traveling southbound on Lombard Avenue, the actual house located on the subject property would block the view of Maple Street before the fence would. Mr. Toth stated that had there been any clear line of site issues, staff would have had a different recommendation as clear line of site issues are taken very seriously because of safety concerns.

On a motion by Mr. Tap and a second by Dr. Corrado, the Zoning Board of Appeals recommended by a vote of 3 to 2 that the Village Board approve 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 five feet (5') in the R2 Single-Family Residence District.

As four votes are necessary to successfully transmit a recommendation for either approval or denial, the Zoning Board of Appeals then recommended by a vote of 2 to 3 that the Village Board deny 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 five feet (5') in the R2 Single-Family Residence District.

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial; therefore, the Zoning Board of Appeals forwards the petition with no recommendation of the petition as requested.

Respectfully,

VILLAGE OF LOMBARD

John DeFalco
Chairperson
Zoning Board of Appeals