

West: R2 Single Family Residence District; developed as Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on March 14, 2011.

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Plat of Survey, prepared by Vanderwalker Land Surveyors Inc, dated April 12, 2006.
4. Narrative with photographs.

DESCRIPTION

The subject property is located at the southwest corner of Ethel Avenue and Edson Street. The petitioner is requesting a variation to allow for the replacement of an existing solid wood fence six feet (6') in height in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Edson Street side of the property and conflicts with the clear line of sight area where the driveway meets the public right of way. The previously existing non-conforming fence was destroyed by a storm incident. The new fence would be required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The PES Division of Community Development has no comments.

PUBLIC WORKS

Public Works Engineering has no comments.

FIRE DEPARTMENT

The Fire Department has no comments regarding this request.

BUILDING DIVISION

The Building Division has no comments.

PLANNING

The subject property once contained a solid wood fence six feet (6') in height within the corner side yard and within the clear line of sight area. As the petitioner has indicated, a portion of the previous fence was blown down in a recent storm event. The Zoning Ordinance allows non-conforming fences to remain in existence provided that once a non-conforming 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.

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 has raised concerns regarding safety on the property due to the presence of a canine and safety of their child. Specifically, the petitioner states that the canine would be required to be chained up if they only had a four (4) foot fence and such chain could clothesline their child. While staff recognizes that some of these concerns are reasonable, staff does not believe these concerns are demonstrative of a hardship associated with the geographic state of the property.

A clear line of sight area is required when a driveway and the public right-of-way intersect. A triangle is formed with legs extending twenty feet (20') along the property line and twenty feet (20') along the driveway. Within a clear line of sight area fences shall not be greater than two (2) feet in height or of at least 75% open construction. The clear line of sight provisions exist specifically for public safety purposes.

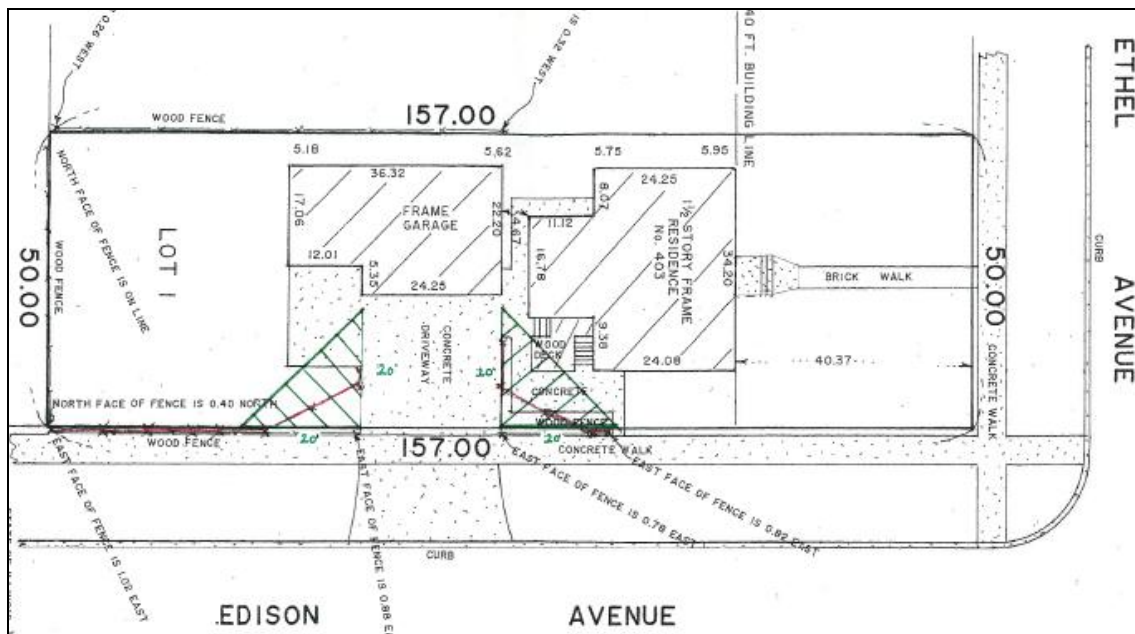


DIAGRAM 1

The subject property contains two clear line of sight areas - one north and one south of the existing driveway. As Diagram 1 illustrates, the petitioner plans to construct a new fence at six (6) feet in height in both of the required clear line of sight areas. The proposed fence is indicated by the red line. The clear line of sight triangle is shown in green. A portion of the existing fence still stands to north of the driveway, within the clear line of sight triangle. The petitioner plans to remove that portion of fence and install a new portion of six (6) foot fence on a slight angle; however, the fence would still not meet the clear line of sight area requirements as proposed. The portion of fence that was leveled in the storm incident was located in the clear line of sight south of the driveway. The petitioner plans to replace that portion of fence with a six (6) foot fence on a slight angle. Conversely, similar to the fence to the north of the driveway, the fence would still not meet the clear line of sight area requirements as proposed.



EXISTING CONDITIONS – CLEAR LINE OF SIGHT AREA

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. The petitioner’s property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship. The property is relatively flat and the existing topography does not impact the ability of the property owner from meeting the fence height provisions. But for the existing deck attached to the house, there are no conditions which prevent the fence from being removed from the clear line of sight area.

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. Many other properties with a similar layout and design have been able to meet the established regulations. The existence of a mature Maple Tree does not create a hardship associated with the physical characteristics of the property as such tree could be removed or the fence could be constructed around it, to the west.

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 fence could be constructed per the ordinance requirements by lowering the fence to four feet (4'). The fence could also be moved out of the clear line of sight area or constructed to be seventy-five percent (75%) open. The hardship has been created by the petitioner as a result of the petitioner's preference for the fence's height and location.

6. *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.*

As stated above, the fence in the clear line of sight area could be a danger to public safety.

Staff recommends that the petition be denied in its entirety. However, if the Zoning Board of Appeals finds that it would be appropriate to grant a variation for fence height, staff recommends that petitioner adhere to the submitted plans and address the clear line of sight issue. Also, the petitioner should be required to obtain a fence permit for the proposed 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 variations. 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 aforementioned variations:

Based on the submitted petition and the testimony presented, the requested variations **do 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 11-02.

Inter-Departmental Review Group Report Approved By:

William Heniff, AICP
Director of Community Development

c: Petitioner