

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION  
For Inclusion on Board Agenda

  X   Resolution or Ordinance (Blue)   X   *Waiver of First Requested*  
  X   Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_\_ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: January 29, 2014 (B of T) Date: February 6, 2014

TITLE: ZBA 14-01; 444 S. Westmore-Meyers Road

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five feet (5'), located within the R2 Single-Family Residential Zoning District (Robertson's Westmore Subdivision). (DISTRICT #5)

The Zoning Board of Appeals unanimously recommended approval of this petition.

The petitioner requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):  
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

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

**DATE:** February 6, 2014

**SUBJECT: ZBA 14-01; 444 S. Westmore-Meyers Road**

Please find the following items for Village Board consideration as part of the February 6, 2014 Village Board meeting:

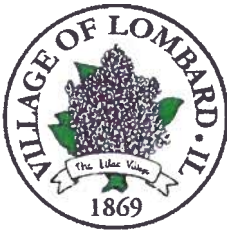
1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 14-01;
3. An Ordinance granting approval of a requested variation; and
4. Supporting documentation (response to standards, pictures and original permit, etc.) associated with the petition.

At the Zoning Board of Appeals public hearing on January 22, 2014, it was discussed that the fence appears to be located a few inches into the public right-of-way. Due to the existing weather conditions and lack of an updated plat, staff was unable to conclusively address this concern. As such, the draft ordinance being considered does have a condition of approval which states:

“If the existing fence is found to be located within the public right-of-way, the property owner shall either remove the existing fence from the public right-of-way or enter into an encroachment agreement with the Village of Lombard, subject to approval by the President and Board of Trustees.”

The petitioner has been notified of said condition of approval and staff is currently preparing an encroachment agreement to be approved at a later date.

The Zoning Board of Appeals unanimously recommended approval of this petition. Please place this petition on the February 6, 2014 Board of Trustees consent agenda. The petitioner requests a waiver of first reading of the Ordinance.



## VILLAGE OF LOMBARD

255 E. Wilson Ave.  
Lombard, Illinois 60148-3926  
(630) 620-5700 Fax (630) 620-8222  
www.villageoflombard.org

February 6, 2014

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**Trustees**  
Dan Whittington, Dist. 1  
Michael A. Fugiel, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Peter Breen, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
William "Bill" Ware, Dist. 6

**Village Manager**  
Scott Niehaus

*"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."*

*"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."*

Mr. Keith Giagnorio  
Village President, and  
Board of Trustees  
Village of Lombard

**Subject: ZBA 14-01; 444 S. Westmore-Meyers Road**

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village grant a variation from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five feet (5'), located within the R2 Single-Family Residential Zoning District (Robertson's Westmore Subdivision).

The Zoning Board of Appeals conducted a public hearing on January 22, 2014.

Mrs. Missy Simek presented the petition stating she is the homeowner. The property is on a four lane road with traffic going thirty (30) miles per hour and there is a bus stop nearby. She has four children and is concerned about their safety. Mrs. Simek said she has noticed this house since she was in high school and was excited when it went up for sale. Mrs. Simek talked about many advantages of living in Lombard and her neighborhood. She also mentioned problems due to the corner lot such as theft, loitering, and car accidents. The fence was installed in the summer of 2012 and she and her husband specifically picked an aluminum fence with over seventy-five percent (75%) open space. The fence is four feet six inches (4'6") tall with five inch (5") post caps. Mrs. Simek said the extra six inches makes a big difference in safety from people and cars. Since installing the fence numerous people have complimented them on the yard and fence. The parkway on Westmore-Meyers Road has been reduced over the years and the taller fence assists in keeping the yard safe.

Mr. Tony Simek also spoke as a homeowner and asked for the variance to be granted. He reviewed the handout he received when he applied for the fence permit and used that as a guide when the fence was constructed. He said the fence helped improve the neighborhood for the better. Mr. Simek cited two previous fence height variance approvals from the IDRC report: ZBA 08-10 and ZBA 04-10. The property in ZBA 04-10 inspired him to install an aluminum open style fence. Mr. Simek said he feels their property is unique because of the nonconforming setback due to the reduced parkway on Westmore. He cited safety as a reason for the fence from issues like trespassing and cars drag racing. If the fence was lowered to four feet his daughters could reach and open the latch. He stated that not being a fence contractor he did not know anything was wrong when the fence was installed.

Chairman DeFalco questioned if there was anyone present to speak in favor of or against the petition.

Mr. Mike Stalzer spoke in favor of the petition. He stated that he has driven by the house many times during his commute to work and the house was in disrepair. He believes the fence helped turn the house around.

Ms. Christine M. Simek also spoke in favor of the petition. She has witnessed accidents at the intersection of Westmore-Meyers Road and Washington Boulevard. She said the fence helps make the house more livable for a family and for child safety.

Matt Panfil, Senior Planner, stated that the IDRC report is to be entered into the public record in its entirety. Mr. Panfil stated that a fence permit was issued to the property owners in July, 2012. The fence permit was for a four foot (4') tall aluminum fence with a minimum seventy-five percent (75%) open space design. Because the Village does not perform inspections for new fences, it was not until last fall that the Village was notified via complaint that the fence exceeded four feet (4') in height and may be located within the public right-of-way. Therefore, to maintain the fence at its existing height a variance is required. No clear line of sight or corner side yard fence height variances are required because the fence is of an open space design. In regards to the location of the fence within the right-of-way, the ZBA cannot grant any type of variance that allows a fence to be located within the right-of-way. Planning staff will work with the petitioners and other Village departments to resolve the situation. Mr. Panfil mentioned that one of the previous cases mentioned by the petitioner, ZBA 04-10, was similar to this case in that the petitioners purchased and installed fences that were slightly taller than expected.

Mr. Panfil then concluded that despite the fence already being constructed, the review cannot take that into consideration and therefore staff concludes that there is no unique physical hardship that prevents the fence from being four feet (4') in height. Mr. Panfil added that if the ZBA were to make a motion to recommend approval of the requested variance, it would be with the condition that the fence must be located on the petitioners' property to make clear that the ZBA is not approving a fence within the right-of-way.

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

Mr. Bartels asked why the issue of the fence location potentially being on Village owned right of way property was not resolved prior to the meeting and if that should be determined first. Mr. Panfil said that matter is not under the purview of the ZBA and for the ZBA to only consider the height variance. Staff will work with the property owners to come to an agreement regarding the fence location. Mr. Bedard concurred.

Mr. Bartels asked if the petitioner was told the fence should be four feet (4') tall. Mr. Panfil said it is written on the attached building permit. Mrs. Simek said there was confusion over the decorative tops and the code when a corner side yard abuts another corner side yard. Chairman De Falco confirmed with staff that the requirement for a four foot (4') tall fence is only for the front yard, therefore since this is a corner side yard, the majority of the lot could have a six foot (6') tall fence. Mr. Panfil agreed.

Chairman De Falco asked when the plat of survey was done. Mr. Panfil stated that the plat was dated 2005. Mr. Simek stated the fence posts are in concrete. He added that the plat may be incorrect since the plat shows an asphalt, rather than concrete, driveway and he also believes the northwest corner of the plat is not drawn correctly. Mr. Young asked if the sidewalk was in the same place. Mrs. Simek said the road was redone in 2006 but was not sure about the sidewalk. There was confusion over right-of-ways and easements which was cleared up by Mr. Panfil.

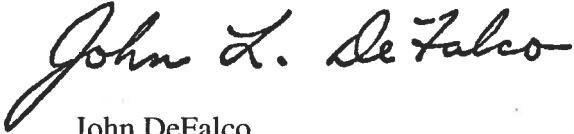
Chairman De Falco said the ZBA cannot make a decision on where the fence is located. He brought up a fence nearby that received a variance for a solid wood fence in a corner lot that was approved. He added that he sees a value in this fence. Ms. Newman said the fence reminds her of a past case on Greenfield Avenue which promoted changes in the ordinance. Mr. Bartels asked what happens if the fence is on Village owned property. Mr. Panfil said the fence will need to be moved and the Village would work with the homeowner to minimize the impact. Mr. Young asked if it can be recommended for approval without any conditions. Mr. Panfil said the condition could be changed, but suggested a condition be maintained regarding establishing the location of the fence and/or that the fence needs to be on the homeowner's property. Mr. Bedard said there is a possibility that the fence would be on the homeowner's property and it would not need to be moved. Ms. Newman said the Building Division requested these conditions, they did not require them.

On a motion by Mr. Bartels and a second by Ms. Newman, the Zoning Board of Appeals recommended by a vote of 5 to 0 that the Village Board approve the variation associated with ZBA 14-01, subject to no conditions.

Re: ZBA 14-01  
February 6, 2014  
Page 4

Respectfully,

VILLAGE OF LOMBARD

A handwritten signature in black ink that reads "John L. DeFalco". The signature is written in a cursive style with a large, sweeping initial "J".

John DeFalco  
Chairperson  
Zoning Board of Appeals

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JANUARY 22, 2014

**Title**

ZBA 14-01

**Petitioner & Property Owner**

Tony & Missy Simek  
444 S. Westmore-Meyers Rd.  
Lombard, IL 60148

**Property Location**

444 S. Westmore-Meyers Rd.  
(06-09-308-034)

**Zoning**

R2 Single Family Residence  
(Robertson's Westmore  
Subdivision)

**Existing Land Use**

Single Family Home

**Comprehensive Plan**

Low Density Residential

**Approval Sought**

A variation to allow a five foot (5') tall fence (of decorative materials and a minimum of 75% open space) in a front yard where four feet (4') is the maximum allowed.

**Prepared By**

Matt Panfil, AICP  
Senior Planner



LOCATION MAP

**PROJECT DESCRIPTION**

On July 6, 2012 a fence permit was issued to the property owners (Mr. and Mrs. Anthony Simek) for 444 S. Westmore-Meyers Rd. The permit (attached) was issued specifically for a four foot (4') tall aluminum fence with a minimum 75% open space design. Furthermore, the plat submitted as part of the fence permit application specifically notes that the existing sidewalk is one foot (1') east and 1.10' south of the petitioners' property line.

As the Village of Lombard does not perform inspections for new fences, it was not until the fall of 2013 that the Village received a complaint regarding the height and location of the petitioners' fence, as constructed. A subsequent inspection revealed the fence to be approximately four feet six inches (4'6") tall with additional five inch (5") tall fence post caps. The inspection also indicated that the fence was not fully one foot (1') away from the sidewalk (images attached).

The petitioner is requesting the ability to maintain the existing fence height throughout their property.

**APPROVALS REQUIRED**

Section 155.205 (A)(c)(ii) states that fences, of any design, within a front yard shall not exceed four feet (4') in height, thus a variation for a five foot (5') tall in a required front yard is required.

## PROJECT STATS

### Lot & Bulk (Proposed)

Parcel Size:	8,358 sq. ft.
Fence Height	4'11" (with post caps)

### Setbacks

Front (east)	25.95'
Side (north)	5'
Corner Side (south)	26.95'
Rear (east)	54.5'

### Submittals

1. Petition for Public Hearing
2. Response to Standards for Variation
3. Existing Condition Photos, dated December 2, 2013
4. Proof of Ownership
5. Plat of Survey dated December 7, 2005.

No clear line of sight or corner side yard fence height variations are required due to the 75% open space design of the fence.

## EXISTING CONDITIONS

In addition to the subject fence, the property contains a two-story stucco single family residence with a detached garage. In order to help place the request in its proper context, planning staff offers the following:

## Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2	Single Family Home
South	Washington Blvd / R2	Single Family Home
East	Westmore-Meyers Rd / R2	Single Family Home
West	Westmore-Meyers / R2	Single Family Home

## INTER-DEPARTMENTAL REVIEW

### Building Division:

The Building Division has the following comments regarding the project:

The fence is less than one foot (1') away from the sidewalk, indicating that it may have been installed in the right-of-way (Village property).

The Building Division requests that the petitioner either:

- a) Provide proof that the fence is entirely on their property via an updated Plat of Survey; or
- b) Relocate the fence so that it is at least one foot (1') from the sidewalk as indicated on the existing plat.

### Fire Department:

The Fire Department has no issues or concerns regarding the project.

### Private Engineering Services:

Private Engineering Services (PES) has no issues or concerns regarding the project.

### Public Works:

Public Works has no issues or concerns regarding the project.



**Planning Services Division:**

A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Within their response to the Standards for a Variation, the petitioner raised concerns regarding the level of security because of the lot's location adjacent to a busy intersection. Prior to the installation of the fence there were burglaries to their cars and garage as well as damage to a parkway tree caused by a drunk driver. Even after installation of the fence, a would-be trespasser bent the fence trying to climb over it.

The petitioner also points out their intention to maintain a safe environment for vehicular and pedestrian traffic via their compliance with Village regulations regarding fence aesthetics, clear line of sight areas, and a minimum 75% fence opacity.

In order to be granted a variation the petitioner must show that they have affirmed each of the Standards for a Variation. Staff finds that standards three, five, six, and seven have been affirmed; however 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.*

While relocating the fence now will require a certain level of labor and effort that could be considered beyond a mere inconvenience, the required labor and effort is not the result of particular physical surroundings, shape, or topographical conditions of the specific property involved, but is the result of an error in construction of the fence. In regards to the overall height of the fence, technically there is no particular physical surrounding, shape, or topographic condition preventing the fence from being four feet (4') tall.

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 lot is somewhat unique in that the existing front yard setback is legal nonconforming because the structure was built prior to current setback standards, but this does not prevent the overall height of the fence in the front yard from being four feet (4') tall or less. While staff agrees that there is an on-site condition, the traffic control utility box, which is taller and more visually obtrusive than the fence, its existence does not change the fact that a request for front yard fence height variation could be made by any other property within the R-2 Single Family Residential Zoning District.

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 alleged difficulty or hardship is the result of an error in the fence purchasing and construction process and not caused by the Zoning Ordinance, which does allow for fences of certain standards to be located within required front yards.

In consideration of precedent, staff has identified four similar cases that appeared before the Zoning Board of Appeals within the last ten (10) years. Each case involves a fence height variance for a required front yard within the R-2 Single Family Residential Zoning District. Of the four cases, staff recommended that the Zoning Board of Appeals recommend approval of the requested variation twice (ZBA 08-10 and ZBA 10-10) and denial of the requested variation twice (ZBA 04-10 and ZBA 08-08).

One of the primary reasons cited for the approval of ZBA 08-10 was that the lot in question had three street frontages, which the Zoning Ordinance dictates that two of those frontages are considered front lot lines. The ZBA approved a five foot six inch (5'6") fence along the front lot line which had no vehicular access.

In ZBA 10-10, one of the primary reasons cited for approval was that the fence was technically part of a 7.4 foot tall arch with signage atop the entrance gate of Lombard Cemetery and the remainder of the fence did not encroach past four feet (4') in height.

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 04-10*	8/25/2004	7 W Greenfield Ave	4.5' tall fence within a required front yard	Approval, 5-1	Approval, 6-0
ZBA 08-08	6/25/2008	151 E Berkshire Ave	6' tall fence within a required front yard	Denial, 0-5	Approval, 6-0
ZBA 08-10	6/25/2008	591 S. Charlotte St	5.5' tall fence within a required front yard	Approval, 5-0	Approval, 6-0
ZBA 10-10	8/25/2010	460 S Main St	7.4' tall fence within a required front yard (sign over gate at Lombard Cemetery)	Approval, 6-1	Approval, 6-0

\* As in ZBA 14-01, ZBA 04-10 was the result of the petitioner purchasing a fence slightly taller than expected.

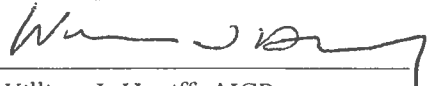
As in ZBA 04-10 and ZBA 08-08, staff recommends that the petition be denied. **However, if the Zoning Board of Appeals finds that it would be appropriate to grant the requested variation, staff recommends that the approval be conditional upon compliance with items "a" and "b" described in the Building Division review section.**

### **FINDINGS & RECOMMENDATIONS**

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations, in their entirety, for the requested variation. 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 variation:

Based on the submitted petition and the testimony presented, the requested variation **does not comply** with the Standards 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 Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 14-01.

Inter-Departmental Review Committee Report approved by:

  
 William J. Heniff, AICP  
 Director of Community Development

c. Petitioner











## Nowakowski, Tamara

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**From:** Panfil, Matthew  
**Sent:** Tuesday, January 28, 2014 8:10 AM  
**To:** Nowakowski, Tamara  
**Cc:** Ganser, Jennifer  
**Subject:** FW: Waiver of First Reading - ZBA 14-01 - 444 S Westmore-Meyers Rd

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**From:** Missy Simek [<mailto:missysimek223@yahoo.com>]  
**Sent:** Tuesday, January 28, 2014 7:45 AM  
**To:** Panfil, Matthew  
**Subject:** Re: Waiver of First Reading - ZBA 14-01 - 444 S Westmore-Meyers Rd

Mr. Panfil,

Yes, we would like to request a waiver of first reading for the Jan. 6th trustee meeting.

Thank You,

Missy Simek

On Monday, January 27, 2014 2:01 PM, "Panfil, Matthew" <[PanfilM@villageoflombard.org](mailto:PanfilM@villageoflombard.org)> wrote:  
Mrs. Simek:

As was mentioned at last week's Zoning Board of Appeals meeting, there will be a Village Board meeting on February 6, 2014 at which your variance request will be discussed. Typically, an item will appear the Village Board twice, once to be introduced and second for a final vote. With a project such as yours you are eligible to request a waiver of first reading so that the Village Board may take their final vote the evening of the 6th. Please confirm via e-mail if you would like to request a waiver of first reading.

Also, as mentioned last week, while the Public Works Department is ok with allowing the fence in the right-of-way, I am still awaiting final word from the Village Attorney. Please contact me with any questions or concerns.

Thank you,

Matt Panfil, AICP  
Senior Planner  
Village of Lombard  
255 E. Wilson Avenue  
Lombard, IL 60148  
t 630.620.5744  
f 630.629.2374  
[panfilm@villageoflombard.org](mailto:panfilm@villageoflombard.org)



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A VARIATION OF THE LOMBARD ZONING  
ORDINANCE TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

**(ZBA 14-01; 444 S. Westmore-Meyers Road)**

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the subject property is zoned R2 Single-Family Residence District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five feet (5'); and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on January 22, 2014 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings to the Board of Trustees with a recommendation of approval for the requested variation; and,

WHEREAS, the President and Board of Trustees have determined that it is in the best interest of the Village of Lombard to approve the requested variation.

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 a variation is hereby granted from the provisions of Title 15, Chapter 155, Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a front yard from four feet (4') to five feet (5').

**SECTION 2:** This ordinance is limited and restricted to the property generally located at 444 S. Westmore-Meyers Road, Lombard, Illinois, and legally described as follows:

LOT 167 IN ROBERTSON'S WESTMORE, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1922 AS DOCUMENT 156381, IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-09-308-034

**SECTION 3:** This ordinance shall be granted subject to compliance with the following condition:

If the existing fence is found to be located within the public right-of-way, the property owner shall either remove the existing fence from the public right-of-way or enter into an encroachment agreement with the Village of Lombard, subject to approval by the President and Board of Trustees.

**SECTION 4:** 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 \_\_\_\_\_, 2014.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Keith Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Janet Downer, Deputy Village Clerk

Published by me this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Janet Downer, Deputy Village Clerk

## STANDARDS FOR VARIATIONS

- 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 regulation were to be applied.**

The location of the property involved is the northwest corner of the busy, four lane road of Westmore-Meyers that is currently 30mph. The setback of the property involved is 25.85'. Shifting the fence down 8 inches would leave holes in the structure, leaving it unsightly. A 30' setback lands right in the middle of the entrance walk and gate. We chose the most expensive fence on the market due to its maximum visibility to try to avoid issues with drivers and the village. All of the aluminum fences that are 4' in height have spikes on the top, leaving a potential hazard for injury to our young children or pedestrians. We were given a March, 1st 2014 date to fix this. There are 15 posts and 14 panels with 16 spindles per panel (224 total). Each panel would need to be removed, the posts would need to be cut down, and each spindle would need to be removed from the panel, cut down and reassembled. This would take several weeks (if not months) to complete during which time it would leave our 4 children (ages 6, 4 and 2 year old twins) exposed to the street and passersby. The completion date requires that this be done during winter, leaving my husband to perform this work in the bitter cold.

Before the fence, we have had multiple accidents land on our yard, including a drunk driver that knocked down our tree, mere inches away from our house. At the height the fence currently is, we have already had someone attempt to hop over it and, in doing so, bent it. Since our fence has been up, there have been far fewer accidents, litter, and trespassing on our yard. We have been burglarized in our cars and garage, but since the fence was installed we have had no more incidents. I feel secure with the height it currently is, and, being it is only a few inches from code, feel a variance is ideal to my family and the community.

- 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.**

We feel that the property involved is unique. It is a home with 4 small children ages range from 6, 4, and 2 year old twins. If the height of the fence was lowered 8 inches the twins would be able to reach the latch, letting them out into the busy four lane road. Also, our house is a corner lot with our front door being on Washington Blvd with a 28.55' setback yet our address is Westmore Ave. with a 25.85' setback, so it is debatable as to where our "corner side" lot is located. There is a large, unsightly traffic light control box near the corner that is taller than the fence and nearly the width of an entire panel.

- 3. The purpose of the variation is not based primarily upon a desire to increase financial gain.**

No, we are not seeking financial gain. As a side note, it was brought to our attention by the village that the individual who complained on our fence does not live close by and works for a fencing company. So there is suspicion that he may have been looking for some sort of financial gain by placing the complaint.

- 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.**

No.

- 5. The granting of the variation will not be detrimental to the public welfare or injurious to the other property improvements in the neighborhood in which the property is located.**

No, I feel that our fence is safe, secure, and completely visible to see through. I think it adds to the improvements in the surrounding area of Lombard. On the contrary, if the alteration were to take place, the fence will no longer look cohesive and it's aesthetics would be compromised with no benefits rendered in return (there is already great visibility to pedestrians and traffic).

**6. The granting of the variation will not alter the essential character of the neighborhood; and,**

No, the fence and garden has added to the beautification and safety of Lombard. We get many compliments from several dozens of our neighbors.

**7. 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.**

No, the fence surrounding property involved has maximum visibility for the neighborhood, traffic and pedestrians.