

MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development

DATE: March 3, 2005

SUBJECT: Fences in Corner Side Yards

At the November 4, 2004 Board of Trustees meeting, staff was directed by the Village Board to seek the opinion of the Zoning Board of Appeals and Plan Commission member's opinions regarding regulations for fence height in residential corner side yards. This issue arose from three recent variation requests to exceed the four-foot height restriction. The Board discussed the possibility of allowing fences greater than four feet in height within certain types of corner side yards, such as reverse corner yards where no line of sight issues exist.

CURRENT REGULATIONS

Fences or walls in required front and corner side yards are generally not permitted to exceed four feet in height. The four foot corner side yard fence requirement applies to traditional corner side yards (where two rear and corner side yards abut each other) as well as reverse corner lots (where the rear yard of a lot abuts the front yard of an adjacent lot). Fences within clear line of sight areas are limited to two feet in height unless they are at least 75% open and do not exceed four feet in height.

BOARD DISCUSSION

The Board of Trustees expressed several possibilities for reverse corner side yard fence requirements. One suggestion was made that six-foot fences could be permitted within reverse corner lots as long as there were no line of sight issues on the property. However, this would allow a six-foot fence to be adjacent to a neighboring property's front yard. For properties where the corner side yards abut a neighboring corner side yard, it was suggested that the six-foot height could be acceptable provided that the fences were in the rear of the homes. Permitting 6-foot fences by right would result in fewer variations and would allow residents greater privacy on their property. However, it would increase visual barriers in an area, which could potentially change neighborhood character.

If the Zoning Ordinance were changed to allow 6-foot fences in certain circumstances (e.g., if at least 10 feet from the corner side property line or only from the rear of the house to the rear lot line), it could potentially have the same effects as the first option, but to a lesser extent. If the 4-foot height restriction were left in place, there could be a greater number of variations, but the openness of Village streets would be maintained. Regarding the type of construction and degree

of openness for fences located in front and corner side yards, staff believes that the current requirements should be maintained.

ZBA RECOMMENDATION

The ZBA discussed the current fence regulations at its December 2004 meeting. The members discussed the current fence height regulations and believed that the requirements should remain unchanged for fences less than four feet in height. The ZBA stated that solid six-foot fences on reverse corner side yards would be unacceptable due to the impact they would have on the front yard of neighboring properties. The ZBA suggested that fences that are located in corner side yards could be permitted to be greater than four feet, but less than six feet in height provided that the entire fence consist of open construction and was decorative or ornate in nature. Staff was directed to compose a definition for decorative or ornate that would incorporate a 75% open component as well as reflect wrought iron or comparable materials.

PLAN COMMISSION RECOMMENDATION

The Plan Commission discussed the current fence regulations at their February 21, 2005 meeting. The Plan Commission noted that this item had been discussed previously and the Commission felt that the fence requirements should remain unchanged. The members concurred with the ZBA comments stating that solid six-foot fences are inappropriate on reverse corner lots. One commissioner also noted that there were a low number of variation requests within the last year and changes to the code may not be warranted. The Plan Commission recommended that the regulations for fences that are four feet in height or less remain unchanged. They did concur with the ZBA recommendation that if the code was to be changed, they could support 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.

PENDING CASES

324 S. Ahrens

Staff informed the property owner of the fence height regulations at the time of permit issuance. The property owner obtained a permit for a fence at the required heights and stated that they



would pursue a variation and would modify the fence at a later date if it were approved. Staff later discovered that the installed fence exceeded the code requirements. The subject property is considered a reverse corner lot as the property's rear yard abuts the

neighboring property's front yard. As shown in the photograph, the neighboring property owner has a four-foot fence, which is what the property owner is allowed by code. Based upon the discussion of the Plan Commission and the ZBA, they concurred that relief for this type of fence should not be supported.

916 E. Division



The petitioner installed a six-foot fence in conjunction with the construction of a new house, however they did not indicate the fence on the permit. The petitioner requested staff to send them a copy of the fence regulations.

They were specifically informed of the corner side yard requirements at that time. The subject property would be considered an abutting corner lot as its rear yard abuts the neighboring property's rear yard. This particular situation slightly differs from typical abutting corner side yards since the neighboring residence is located much closer to the rear property line. Based on the Plan Commission and ZBA discussions, this fence could be six feet in height if it were open and ornamental in nature.

STAFF COMMENTS

With the exception of one case, all of the year 2004 petitions requesting variations to residential fence height originated from property owners who obtained permits that depicted a conforming fence or from property owners that did not obtain a permit at all. In 2003, there were four variation requests and all four were denied. The majority of property owners that apply for and obtain permits are complying with the existing zoning regulations. The recommendations as outlined by the ZBA and Plan Commission could provide property owners with the option to install taller fences while still maintaining the open environment intended by code. Therefore, staff supports the recommendations of the Plan Commission and ZBA.