

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: William T. Lichter, Village Manager
DATE: August 30, 2006 (B of T) Date: September 7, 2006
TITLE: ZBA 06-19: 601-609 E. St. Charles Road
SUBMITTED BY: Department of Community Development *oatt*

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests approval of the following actions on the subject property located within the B4 Corridor Commercial District:

1. A variation to Section 155.205(A)(2)(c)(2) of the Lombard Zoning Ordinance to allow an eight-foot high fence in the required front yard where a maximum height of four feet is permitted.
 2. A variation from Section 155.205(A)(2)(e) to allow a solid fence within a clear line of sight area.
- (DISTRICT #5)

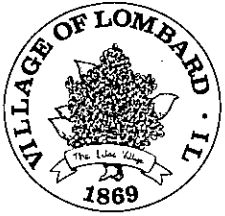
The Zoning Board of Appeals recommended approval of this petition with conditions.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* _____ Date *8/30/06*

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP *CUAH*
Assistant Village Manager/Director of Community Development

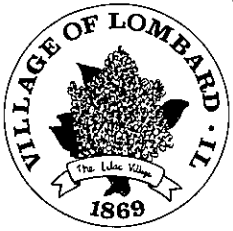
DATE: September 7, 2006

SUBJECT: ZBA 06-19: 601-609 E. St. Charles Road

Attached please find the following items for Village Board consideration as part of the September 7, 2006 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 06-19;
3. An Ordinance granting approval of the requested variations; and
4. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD

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Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Sebby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

September 7, 2006

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

Subject: ZBA 06-19; 601-609 E. St. Charles Road

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests approval of the following actions on the subject property located within the B4 Corridor Commercial District:

1. A variation to Section 155.205(A)(2)(c)(2) of the Lombard Zoning Ordinance to allow an eight-foot high fence in the required front yard where a maximum height of four feet is permitted; and
2. A variation from Section 155.205(A)(2)(e) to allow a solid fence within a clear line of sight area.

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

The Zoning Board of Appeals conducted a public hearing on August 23, 2006. Brian Carter of Seamless Gutter presented the petition. Mr. Carter stated that the Village Board had only required the replacement of the fence on the 609 E. St. Charles property as that was the only one that had been granted a setback variation. He described the current fence and stated that they need a fence for security reasons. The replacement fence would be smooth and solid.

Mr. Carter stated that meeting the clear line of sight requirement would create a hardship for loading their 22-foot trucks, the backs of which would not be able to reach the overhead door. There would also be an additional cost for saw cutting concrete and additional landscaping. He stated that the arc of the street creates difficult traffic conditions, but the trucks are able to look both ways before exiting the driveway.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The petitioner is requesting variations to allow for the replacement of several sections of legal nonconforming fencing along the north property line. This fence replacement is proposed to satisfy a previous condition of approval that was required as part of a setback variation granted earlier this year.

The Private Engineering Services Division notes that allowing the new fence within the clear line-of-sight area for the driveway would present a hazard to vehicles and pedestrians, particularly due to the curve in the road at this location. There is sufficient room to locate the fence outside of the clear line-of-sight area. Therefore, they recommend denying the variation regarding the clear line-of-sight area.

Ms. Backensto stated that in December 2005, the ZBA heard a case requesting approval of a front yard setback variation to allow for a bay window to be located 10 feet from the front property line (ZBA 05-20). On March 2, 2006, the Village Board approved this request with a condition that the fencing along the north property line be replaced.

Currently, the existing fence varies in height and has sections of solid wood as well as chain link with slats. The proposed replacement fence would be eight feet high and of solid wood construction. The portions of the fence on the far west and far east sides of the property would meet code as eight-foot fences high are permitted within business districts.

Ms. Backensto stated that the portion of the fence located between the 601 & 609 E. St. Charles Road buildings is both within the front yard and the clear line of sight areas for two driveways. The affected driveways are not used by customers and are used only for business vehicles. By Code, fencing within this area could be only four feet high and any sections within a clear line of sight area would need to be of open construction. She referred to a graphic within the staff report illustrating the proposed fencing, front yard setback line, and clear line of sight areas.

Staff finds that this case presents unique circumstances that warrant the granting of a variation. The lot itself is unusually shaped and has a small depth for a commercial property, ranging from 124 feet deep at the west end, increasing to 145 feet at its deepest point, then coming to point at the east end. This configuration undoubtedly contributed to the way the site was laid out and the buildings were constructed in 1956.

Ms. Backensto stated that the granting of these variations will not negatively impact the surrounding neighborhood as there has been fencing in the same location for many years, and the replacement solid wood fence will be a substantial aesthetic improvement over the existing assortment of materials. Furthermore, there is also precedent for this type of relief as a similar

variation request for an eight-foot fence within the front yard and within clear line of sight areas was granted in 2001 for the property across the street at 600 E. St. Charles Road (PC 01-04).

Perhaps most significantly, the hardship in this case has not been created by any person presently having an interest in the property. The existing fence is entitled to remain as a legal nonconforming structure and Code allows the fence to be maintained and repaired. Were it not for the Village requiring its replacement, the existing fence would not need any zoning relief to remain as-is.

With regard to the clear line of sight variations, staff does not object to the fence at 609 E. St. Charles as the petitioner has stated that this driveway is seldom used and, when it is used, serves as an entrance. As such, there is no functional clear line of sight issue. However, the driveway to the east of the 601 E. St. Charles building is a primary exit for the site and is frequently used. The petitioner has stated that that particular driveway cannot serve as an entrance only because the other driveway on the west side of the 601 property has even more obstructed sight lines.

Ms. Backensto stated that in cases where there is a legal nonconforming structure that is to be removed and replaced, staff traditionally makes every attempt to bring the replacement structure into compliance with Code. Accordingly, staff notes that the clear line of sight issue could be eliminated by shifting the fence to the south, outside of the clear line of sight area. The petitioner has stated that they do not wish to move the fence because the area to the south of the fence is necessary for parking and maneuvering. Although staff recommends that the fence be moved as part of its recommendation of approval for the other variations, the Zoning Board of Appeals could strike Condition No. 1 if they feel that there is a practical hardship that prevents the petitioner from meeting the clear line of sight provisions.

Chairperson DeFalco then opened the meeting for discussion by the Board Members. He asked the petitioner if it would be possible to meet the clear line of sight requirements by installing a steel, wrought iron-type fence similar to that installed by the industrial properties nearby on Western Avenue. The petitioner stated that such a fence would not meet their needs as they require a solid fence for security reasons.

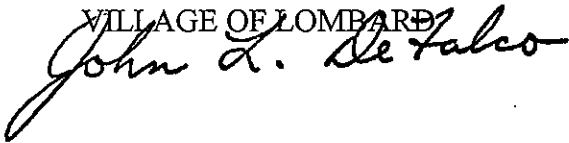
Mr. Bedard asked which way the gates open. The petitioner stated that the gates currently open inward and would continue to do so.

Mr. Young stated that he would abstain from voting on this petition.

After due consideration of the submitted petition and the testimony presented, the Zoning Board of Appeals, by a roll call vote of 6-0, submits this petition to the Corporate Authorities with a recommendation of approval for the requested variation, subject to the following conditions:

1. The petitioner shall apply and receive a building permit for the proposed fence.
2. Any gates located along the fence between the 601 E. St. Charles Road and 609 E. St. Charles Road buildings may not open outward toward St. Charles Road.
3. The finished or decorative side of the fence shall face St. Charles Road.
4. The variations shall be limited to the existing property. Should the property be damaged or destroyed by any means, any new fencing shall meet all provisions of the Lombard Sign Ordinance.

Respectfully,

VILLAGE OF LOMBARD


John DeFalco
Chairperson
Zoning Board of Appeals

att-

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development:

1. Plat of Survey, prepared by Glen D. Krisch Land Surveyor, Inc., dated February 10, 1987.
2. Site Plan showing proposed fence location on 601 E. St. Charles Road property.
3. Aerial view of the subject property.

DESCRIPTION

The petitioner is requesting variations to allow for the replacement of several sections of legal nonconforming fencing along the north property line. This fence replacement is proposed to satisfy a previous condition of approval that was required as part of a setback variation granted earlier this year.

INTER-DEPARTMENTAL REVIEW COMMENTS

Fire and Building

Fire and Building have no comments on this petition.

Public Works

Public Works Utility Division has no comments on this petition.

Private Engineering

The Private Engineering Services Division has the following comment on the subject petition:

- Allowing the new fence within the clear line-of-sight area for the driveway would present a hazard to vehicles and pedestrians, particularly due to the curve in the road at this location. There is sufficient room to locate the fence outside of the clear line-of-sight area. Therefore, we recommend denying the variation regarding the clear line-of-sight area.

Planning

Background

In December 2005, the ZBA heard a case requesting approval of a front yard setback variation to allow for a bay window to be located 10 feet from the front property line (ZBA 05-20). On March 2, 2006, the Village Board approved this request with a condition that the fencing along the north property line be replaced.

Currently, the existing fence varies in height and has sections of solid wood as well as chain link with slats. The proposed replacement fence would be eight feet high and of solid wood construction. The portions of the fence on the far west and far east sides of the property would meet code as eight-foot fences high are permitted within business districts.

The portion of the fence located between the 601 & 609 E. St. Charles Road buildings is both within the front yard and the clear line of sight areas for two driveways. The affected driveways are not used by customers and are used only for business vehicles. By Code, fencing within this area could be only four feet high and any sections within a clear line of sight area would need to be of open construction. The graphic on the following page illustrates the proposed fencing as well as the front yard setback line and clear line of sight areas.

Staff finds that this case presents unique circumstances that warrant the granting of a variation. The lot itself is unusually shaped and has a small depth for a commercial property, ranging from 124 feet deep at the west end, increasing to 145 feet at its deepest point, then coming to point at the east end. This configuration undoubtedly contributed to the way the site was laid out and the buildings were constructed in 1956.

The granting of these variations will not negatively impact the surrounding neighborhood as there has been fencing in the same location for many years, and the replacement solid wood fence will be a substantial aesthetic improvement over the existing assortment of materials. Furthermore, there is also precedent for this type of relief as a similar variation request for an eight-foot fence within the front yard and within clear line of sight areas was granted in 2001 for the property across the street at 600 E. St. Charles Road (PC 01-04).

Perhaps most significantly, the hardship in this case has not been created by any person presently having an interest in the property. The existing fence is entitled to remain as a legal nonconforming structure and Code allows the fence to be maintained and repaired. Were it not for the Village requiring its replacement, the existing fence would not need any zoning relief to remain as-is.

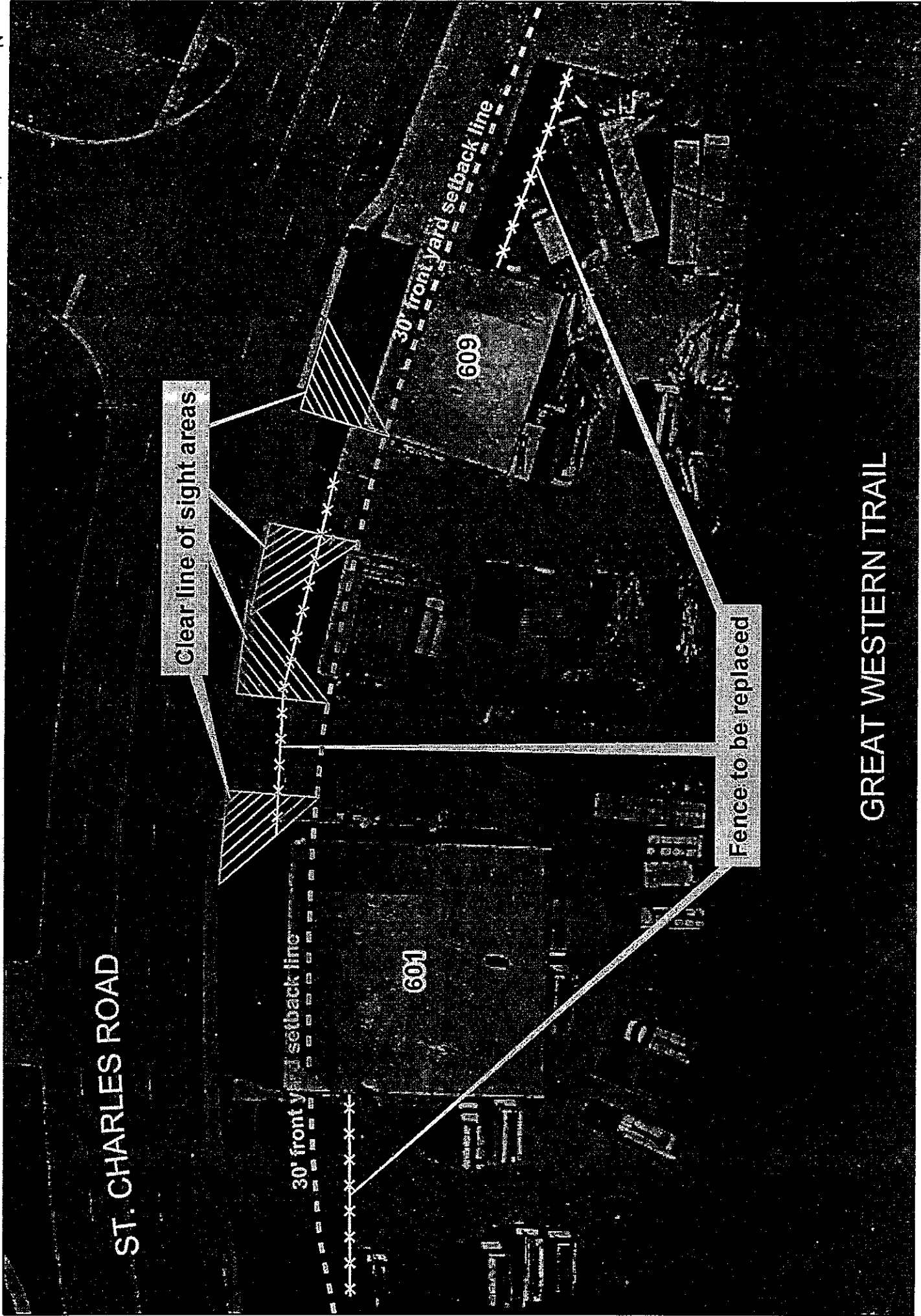
With regard to the clear line of sight variations, staff does not object to the fence at 609 E. St. Charles as the petitioner has stated that this driveway is seldom used and, when it is used, serves as an entrance. As such, there is no functional clear line of sight issue. However, the driveway to the east of the 601 E. St. Charles building is a primary exit for the site and is frequently used. The petitioner has stated that that particular driveway cannot serve as an entrance only because the other driveway on the west side of the 601 property has even more obstructed sight lines.

In cases where there is a legal nonconforming structure that is to be removed and replaced, staff traditionally makes every attempt to bring the replacement structure into compliance with Code. Accordingly, staff notes that the clear line of sight issue could be eliminated by shifting the fence to the south, outside of the clear line of sight area. The petitioner has stated that they do not wish to move the fence because the area to the south of the fence is necessary for parking and

601-609 E. St. Charles Road:

Replacement of fence within front yard & clear line of sight area

1 inch equals 40 feet



maneuvering. Although staff recommends that the fence be moved as part of its recommendation of approval for the other variations (see Condition No. 1), the Zoning Board of Appeals could strike Condition No. 1 if they feel that there is a practical hardship that prevents the petitioner from meeting the clear line of sight provisions.

With all of the above factors taken into consideration, staff finds that this petition meets the Standards for Variations and recommends that the Zoning Board of Appeals make a recommendation for approval of the requested relief, subject to conditions.

FINDINGS AND RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations 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 approval of the variation:

Based on the submitted petition and the testimony presented, the requested variation **complies** with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals accept the findings on the Inter-Departmental Review Committee as the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 06-19, subject to the following conditions:

1. The fence along the east side of 601 E. St. Charles Road shall be relocated outside of the clear line of sight area.
2. The petitioner shall apply and receive a building permit for the proposed fence.
3. Any gates located along the fence between the 601 E. St. Charles Road and 609 E. St. Charles Road buildings may not open outward toward St. Charles Road.
4. The finished or decorative side of the fence shall face St. Charles Road.

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP

Director of Community Development

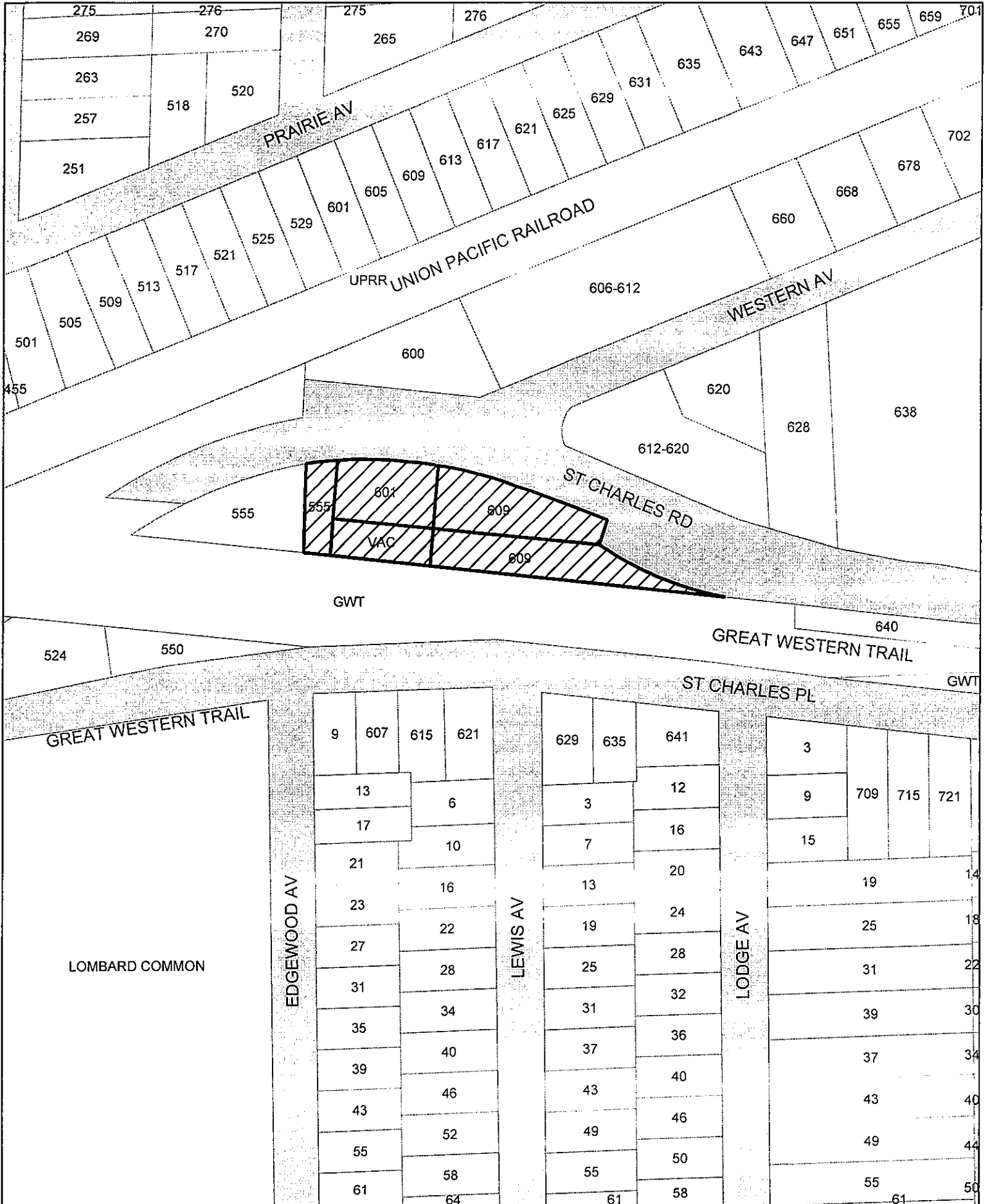
DAH:JB

att-

c: Petitioner

Location Map

ZBA 06-19



ORDINANCE NO. _____

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

(ZBA 06-19: 105-121 E. St. Charles 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 B4 Corridor Commercial District; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 205 (A) (2) (c) (2) of the Lombard Zoning Ordinance to allow an eight-foot high fence in the required front yard where a maximum height of four feet is permitted; and,

WHEREAS, an application has been filed with the Village of Lombard requesting a variation from Title 15, Chapter 155, Section 205 (A) (2) (e) to allow a solid fence within a clear line of sight area; and,

WHEREAS, a public hearing has been conducted by the Zoning Board of Appeals on August 23, 2006 pursuant to appropriate and legal notice; and,

WHEREAS, the Zoning Board of Appeals has forwarded its findings with a recommendation for approval to the Board of Trustees for the requested variations described herein, subject to conditions; 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 153, Section 205 (A) (2) (c) (2) of the Lombard Zoning Ordinance to allow an eight-foot high fence in the required front yard where a maximum height of four feet is permitted.

SECTION 2: That a variation is hereby granted from the provisions of Title 15, Chapter 153, Section 205 (A) (2) (e) to allow a solid fence within a clear line of sight area.

Ordinance No. _____

Re: ZBA 06-19

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SECTION 3: This ordinance is limited and restricted to the property generally located at 601-609 E. St. Charles Road, Lombard, Illinois, and legally described as follows:

THE EAST 43.25 FEET AS MEASURED ON THE NORTH LOT LINE AND THE EAST 39.37 FEET AS MEASURED ON THE SOUTH LOT LINE OF LOT 1 IN BLOCK 2; LOTS 2, 3, AND 4 IN BLOCK 2; LOT 5 IN BLOCK 2, EXCEPT THE NORTHERLY PART THEREOF, MEASURING 50.55 FEET SOUTHERLY FROM THE NORTHWEST CORNER ALONG THE WESTERLY LINE OF SAID LOT, AND 54.9 FEET SOUTHERLY FROM THE NORTHEAST CORNER ALONG THE EASTERLY LINE OF SAID LOT 5; LOT 6 IN BLOCK 2 EXCEPT THE NORTHERLY PART THEREOF, MEASURING 20.3 FEET SOUTHWESTERLY FROM THE NORTHWEST CORNER ALONG THE WESTERLY LINE OF SAID LOT AND 289 FEET SOUTHWESTERLY FROM THE NORTHWEST CORNER OF SAID LOT 7, WHICH IS ALSO THE SOUTHERLY RIGHT-OF-WAY LINE OF CIRCLE AVENUE, ALL IN SUNNYSIDE ADDITION TO LOMBARD, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THRID PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 25, 1925, AS DOUMENT 191820, IN DUPAGE COUNTY, ILLINOIS.

ALSO THAT PART OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF LOTS 2, 3, 4, 5, 6, AND 7 IN BLOCK 2 IN SUNNYSIDE ADDITION TO LOMBARD, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 25, 1925, AS DOUMENT 191820 DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST QUARTER OF LOT 2 IN BLOCK 2 SUNNYSIDE ADDITION TO LOMBARD; THENCE EAST ALONG THE SOUTH LINE OF LOTS 2, 3, 4, 5, 6, AND 7 IN BLOCK 2, AFORESAID, TO THE SOUTHEAST CORNER OF LOT 7; THENCE SOUTHEASTERLY ALONG THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF SAID LOT 7, BEING A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 476.28 FEET AND A CHORD DISTANCE OF 222.84 FEET, TO A POINT DISTANT 50.00 FEET NORTHERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF THE MAIN TRACK OF THE CHICAGO NORTHWESTERN TRANSPORATATION COMPANY AS SAID MAIN TRACK IS NOW LOCATED; THENCE WESTERLY PARRALLEL WITH SAID MAIN TRACK CENTERLINE 903.14 FEET, MORE OR LESS, TO THE WEST LINE OF LOT 2 EXTENDED SOUTH TO SAID NORTH RIGHT-OF-WAY-LINE; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 2 EXTENDED SOUTH, AS AFORESAID, TO THE PLACE OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

ALSO THAT PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 39, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 28.0 FEET SOUTHEASTERLY OF THE NORTHWEST CORNER OF LOT 7 IN BLOCK 2 OF SUNNYSIDE ADDITION TO LOMBARD RECORDED APRIL 25, 1925, AS

Ordinance No. _____

Re: ZBA 06-19

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DOCUMENT 191820; THENCE EASTERLY ALONG A LINE 33.0 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE OF ST. CHARLES ROAD, 132.65 FEET; THENCE SOUTH 20 DEGREES 33 MINUTES 31 SECONDS WEST ALONG THE EAST LINE OF AN EXISTING CONCRETE PARKING LOT AND ITS NORTHERLY EXTENSION, A DISTANCE OF 45.22 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS IS 476.28 FEET, WHOSE CHORD BEARS NORTH 50 DEGREES 18 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 140.41 FEET, AN ARC DISTANCE OF 140.93 FEET TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

Parcel No: 06-05-423-006, 009, 010, 012, 014

SECTION 4: This ordinance shall be granted subject to compliance with the following conditions:

1. The petitioner shall apply for and receive a building permit for the proposed fence.
2. Any gates located along the fence between the 601 E. St. Charles Road and 609 E. St. Charles Road buildings may not open outward toward St. Charles Road.
3. The finished or decorative side of the fence shall face St. Charles Road.
4. The variations shall be limited to the existing property. Should the property be damaged or destroyed by any means, any new fencing shall meet all provisions of the Lombard Sign Ordinance.

SECTION 5: 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 _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006.

Ayes: _____

Nays: _____

Absent: _____

Ordinance No. _____

Re: ZBA 06-19

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Approved this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

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