



# Village of Lombard

Village Hall  
255 East Wilson Ave.  
Lombard, IL 60148  
villageoflombard.org

## Minutes

### Zoning Board of Appeals

*John DeFalco, Chairperson  
Mary Newman, Raymond Bartels,  
Greg Young, Keith Tap,  
Ed Bedard and Val Corrado  
Staff Liaison: Matt Panfil*

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Wednesday, May 27, 2015

7:30 PM

Village Hall Board Room

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#### Call to Order

*Chairperson DeFalco called the meeting to order at 7:30 p.m.*

#### Pledge of Allegiance

*Chairperson DeFalco led the Pledge of Allegiance.*

#### Roll Call of Members

**Present** 6 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, Keith Tap, and Val Corrado  
**Absent** 1 - Ed Bedard

*Also present: Matt Panfil, AICP, Senior Planner, Staff Liaison and Tami Urish, Planner I.*

#### Public Hearings

[150242](#)

##### **ZBA 15-05: 601 N. Grace Street**

Requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District (Lombard Heights Subdivision):

1. Grant approval of variations from Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high solid fence in a corner side yard that does not consist of open-construction decorative materials; and
2. Grant approval of a variation from Section 155.205 (A)(1)(e)(ii) of the Lombard Zoning Ordinance to allow for a six foot (6') high wood fence of solid-construction within the clear line of sight area where fences or walls of open-construction are required. (DISTRICT #4)

*Mrs. Connors began her presentation by stating that her property is a*

corner lot and she would like to construct a six foot (6') high solid privacy fence along Sunset Avenue to replace an existing five foot (5') high chain link fence. Privacy in the majority of her yard is a very important factor to her. She stated that the gate on the east side of the garage is four feet (4') in height. Mr. Connors stated that their family has grown and they are in need of more room. He said that they have explored options of building an addition to the home or moving. The house has been broken into previously and he has discussed the proposed fence with neighbors, who have not stated any concerns. Without the privacy fence, he sees very little reason to invest in the expansion of the house along with other amenities.

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

Ms. Grace Hillyard was sworn in and testified that she is in favor of the fence requested. She is a neighbor at 609 N. Grace Street and understands the need for privacy with small children because she has young grandchildren similar in age to the Connors' children. She said in addition to the amount of traffic on both Grace Street and Sunset Avenue, she is very concerned about the number of pedestrians utilizing the sidewalks. There have been suspicious individuals seen in the neighborhood trespassing into back yards.

Chairperson DeFalco questioned if there was anyone else present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.

Matt Panfil, Senior Planner, stated that the IDRC report is to be entered into the public record in its entirety. Mr. Panfil began by stating that the petitioners had stated that part of their need for the variances is to allow for future construction of a residential addition and/or swimming pool; however, neither of these items would be permitted within the corner side yard. Mr. Panfil then restated that there are two (2) distinct variations requested by the petitioner. One variance is for the height of a solid fence in a corner side yard, and the other is for a solid fence to be located within the clear line of sight area.

Mr. Panfil continued by stating that in order to be granted a variation each of the Standards for a Variation must be affirmed. Staff finds that standards two, three, and six have been affirmed. In regards Standard One, staff does not agree that the construction of a six foot (6') high solid fence, especially when located in a clear line of sight area, is a matter of need, but rather a matter of preference, and is therefore not a true hardship. If a six foot (6') high solid fence is a necessity, the petitioner may, by right, construct such a fence twenty

feet (20') north of the southern property line instead of within the corner side yard and clear line of sight area.

In regards to Standard Four, Mr. Panfil stated that staff finds the alleged difficulty to be a matter of personal preference for a six foot (6') high solid fence rather than either a six foot (6') high fence of open construction decorative materials or a four foot (4') high solid fence. In regards to the encroachment into the clear line of sight area, the petitioner can either angle the fence in such a manner so as to avoid the encroachment, or construct a fence of an open construction.

In regards to Standard Five, Mr. Panfil stated that staff finds Standard Five to be partially affirmed in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to be detrimental to the public welfare or injurious to other property or improvements. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to the public welfare. While Private Engineering Services is correct in the comment that the proposed fence will not increase the already obstructed view due to the location of the existing garage, staff must take into account the fact that the existing detached garage is a nonconforming structure, and if it were to be demolished, a new garage would have to conform to the required twenty foot (20') corner side yard setback. Finally, in regards to Standard Seven, Mr. Panfil stated that staff finds that Standard Seven is partially affirmed in in that staff does not find the request for a six foot (6') high solid fence to be located within the corner side yard to endanger public safety. However, staff does find that the location of said fence in a clear line of sight area represents a potential danger to public safety. Staff does acknowledge that the sidewalk along Sunset Avenue shifts to the south in the area of the private driveway, allowing for an increased level of visibility beyond what would be possible if the sidewalk ran exactly parallel to the property line. While the configuration of the existing sidewalk may allow for visibility that functionally creates a clear line of sight area, there is no guarantee that the curvilinear sidewalk will be maintained in perpetuity.

Mr. Panfil then cited five (5) similar past cases that appeared before the Zoning Board of Appeals within the last ten (10) years. Each case involved a solid fence that exceeded the maximum height for a fence in a corner side yard as well as a solid fence within a clear line of sight area. Also, each case pertained to a single-family home located within a residential zoning district. Of the five (5) cases, staff recommended that the Zoning Board of Appeals recommend denial of the requested clear line of sight area variation each time. Staff also recommended denial of the six foot (6') high fence in a required corner side yard each case, except one, ZBA 06-13. In ZBA 06-13 staff recommended

*approval of the fence height variation because the petitioner was proposing a six foot (6') high solid fence to encroach into the corner side yard setback only along a twenty foot (20') segment of the rear property line. The petitioner constructed a four foot (4') high fence along the street frontage.*

*Mr. Panfil concluded his presentation by stating that staff recommends denial of the requested variations. However, if the Zoning Board of Appeals were to consider granting zoning relief to the property, Mr. Panfil recommended that said relief be limited to a five foot (5') solid wood fence located in the same location as the existing five foot (5') high chain link fence in the corner side yard, but not within the clear line of sight area.*

*Chairperson DeFalco then opened the meeting for discussion by the ZBA members.*

*Mr. Bartels requested clarification of the exact location of the fence and it was noted that it will be located where the existing chain link fence is, extending from the southeast corner of the garage to the east property line, approximately eleven feet (11') from the south property line.*

*Dr. Corrado asked the petitioner if a decorative, open style fence would not suffice. Mrs. Connors responded that it would not because the safety of her children is important. Mr. Connors asked for clarification as to the Village's specific safety concerns.*

*Chairperson DeFalco explained the clear line of sight area for the driveway in relation to the sidewalk. A person backing their car out of the driveway needs to have an unobstructed view on either side. The existing garage is within the delineated clear line of sight area. Mr. and Mrs. Connors questioned that if the garage is in the clear line of sight area what difference does it make if the fence is also located off of the garage.*

*Mr. Panfil explained the clear line of sight triangle is depicted in the staff report as Exhibit C shown in yellow. The existing garage is in the clear line of sight however if the garage were to be destroyed and then replaced, it would have to be located twenty feet (20') from the property line to meet the current zoning code. The garage could not be replaced in the existing location. Mrs. Connors stated that she would have to move her shed and an angled portion of the fence would look funny.*

*Chairperson DeFalco stated that several properties in Lombard have angled fences to avoid the clear line of sight area. He stated that it*

*has been in recent years that six foot (6') fences with open design have been permitted in the corner side yards. If the garage were to ever be replaced, it and the fence would need to comply with the clear line of sight area requirements.*

*Mr. Panfil stated that staff is required to review a fence request according to the Lombard Zoning Ordinance. The clear line of sight area is to remain unobstructed by the fence, even if the garage is a legal nonconforming structure.*

*Mr. Young stated that angling the fence to avoid the clear line of sight area will not make any difference since the garage itself is within the clear line of sight. He questioned if allowing the fence within the clear line of sight area would then imply approval of a variance sometime in the future for a possible replacement of the garage to remain in the existing nonconforming location.*

*Ms. Hillyard questioned if the location of the garage is requiring the variance and that there are several properties in the area that have six foot (6') high fences on corner lots. Mr. Panfil responded that some of the existing fences could have received variances, were installed prior to the requirement of building permits for fences, or were constructed recently, but without a proper permit. Mr. Panfil cited an example at 551 N. LaLonde Avenue in which a variance was recently granted because the hardship was due to the topography and the T-intersection of LaLonde Avenue and Sunset Avenue adjacent to the property.*

*Ms. Hillyard pointed out that she had to go through this process for her front porch and she believes a neighbor had the same circumstances and got away with building their porch without a variance. She questioned why some people do not have to follow the rules. Mr. Panfil responded that he would look into her concern if she would like to identify the address in question. Staff does not actively seek all instances of non-compliance to the Zoning Ordinance, yet when a concern is brought to staff's attention, a property maintenance case may be opened. Ms. Hillyard stated that she did not wish to share the address.*

*Mr. Young cited an example where a six foot (6') high fence was granted a variance due to concerns of a pool and its proximity to a school playground. Chairman DeFalco added that there may have been two (2) fence variances in relation to pools. He questioned the petitioners if their plans for a pool are immediate.*

*Mrs. Connors stated that plans for a pool are not definite and would be sometime in the future. She stated that their house had been broken*

*into approximately ten years ago. She said she would like to stay in the area since her parents live a few blocks away. Her reason for the six foot (6') high fence is for the safety of her children and four feet (4') in height is not high enough to prevent an individual from reaching into her yard.*

*Chairperson DeFalco asked staff if the width of the lot is a standard size. Mr. Panfil responded that the typical lot width is sixty feet (60') wide and some older subdivisions have lots with a width of fifty feet (50'). Chairperson DeFalco asked the petitioners if bringing in the requested six foot (6') high fence by twenty feet (20') from the property would be an option. Mr. Connors responded that they would lose too much of the back yard.*

*Mr. Connors stated that he was confused as to why the staff report recommended a fence five feet (5') tall where the existing fence is located. Mr. Panfil responded that staff recommended denial of the request and added a possible recommendation if the Zoning Board of Appeals were not to recommend denial of the petition.*

*Mr. Bartels stated that the clear line of sight area is still an issue. Mr. Tap requested clarification from staff if the clear line of sight triangle is located at the property line and not the edge of the street. Mr. Panfil confirmed that the clear line of sight area is a triangle formed by the first twenty feet (20') along the edge of the driveway and the twenty feet (20') extending from the point of intersection with the driveway along the property line.*

*Chairperson DeFalco restated that the clear line of sight area is required for safety concerns. For example, a child on a bike riding on the sidewalk may not be seen in time by a person pulling their car out of their driveway.*

*Mr. Young stated that the blue line shown on Exhibit C of the staff report is an option for the fence since it is not within the clear line of sight. The garage is still the problem and not the fence.*

*Mr. Panfil confirmed that the garage is an existing encroachment within the clear line of sight due to its nonconformity and therefore the fence would also be considered nonconforming, but it would not be increasing the degree of nonconformity.*

*Chairperson DeFalco suggested to the petitioners that the fence follow the blue line on Exhibit C from the garage to the chain link fence and then continue straight along where the existing chain link fence is located.*

*Mr. Young stated that if a variance is granted for the corner side yard, the exact location of the fence should not make any difference provided it is on the petitioners' property. Whether the fence is located at the property line or where the existing chain link fence is located should be up to the property owners since the variance is granted for the corner side yard. Mr. Bartels indicated that the gain of the square footage between the existing chain link fence and the property would make up for the loss of the square footage of the clear line of sight area.*

*Chairperson DeFalco stated that the variance for a six foot (6') high fence could be considered based on the relatively minimal impact on the adjacent property to the east because the neighbor's view would not be obstructed due to the location of the house, which is a significant distance from the proposed fence location. In some instances, the neighboring home is closer and they may end up with a view with an appearance of a fortress, which is undesirable.*

*Mr. Panfil showed each member of the Board and the petitioners the blue line of Exhibit C as the location being now considered for the variance.*

*Chairperson DeFalco asked staff if a new plat of survey would be required if the fence variance were to be approved. Mr. Panfil responded that a new plat of survey would not be necessary.*

*Mr. Young asked the petitioners if they plan to hire a fence company. Mr. Connors responded that he would be installing the fence himself. Mr. Young emphasized the importance of installing the fence on the petitioner's property and not mistakenly place it on the neighbor's or Village's property. This can be a very costly mistake. Mrs. Newman cited the example of the fence located at the corner of Washington and Westmore-Meyers Road.*

**A motion was made by Mr. Young, seconded by Mr. Bartels, that the Zoning Board of Appeals recommend denial to allow a fence more than two feet (2') tall to be and located within the clear line of sight area not of an open construction design within the R2 Single-Family Residence District.**

**The motion carried by the following vote:**

**Aye:** 6 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, Keith Tap, and Val Corrado

**Absent:** 1 - Ed Bedard

**A motion was made by Mr. Tap, seconded by Dr. Corrado, that the Zoning Board of Appeals recommend the variation to allow a six foot (6') high fence in**

a corner side yard within the R2 Single-Family Residence District for approval to the Village Board, subject to the condition of the fence being located on the property owner/petitioner's property.

The motion carried by the following vote:

**Aye:** 6 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, Keith Tap, and Val Corrado

**Absent:** 1 - Ed Bedard

[150243](#)

**ZBA 15-06: 341 W. Morris Avenue**

Requests that the Village grant a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to allow a second story addition to the principal structure to encroach two (2) feet into the required nine (9) foot interior side yard setback for a detached garage on the subject property located within the R2 Single-Family Residence District. (DISTRICT #2)

*Mr. Ali Siddiqui stated that the proposed second story addition to the house is needed for additional bedrooms for eight (8) family members, some of which are college age children. Other plans were considered but did not work with the existing floor plan. Mr. Siddiqui also stated that the adjacent neighbors to the east, west, and south were contacted and informed about the proposed plans. The neighbors had responded that they are okay with the plans.*

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

*Mr. Saad Hussan stated that he is Mr. Ali Siddiqui's next door neighbor to the west and that he is in favor of the addition. He believes the investment will increase the value of the property as well as the neighborhood.*

*Mr. Farhat Sharif stated that he is Mr. Ali Siddiqui's neighbor to the south and agrees with Mr. Hussan that he and other neighbors who are attending the meeting but do not wish to speak are in favor of the proposed addition and it will increase the value of the property and in turn will help the value of other properties in the neighborhood.*

*Chairperson DeFalco questioned if there was anyone else present to speak in favor of or against the petition. Hearing none, staff was asked for their presentation.*

*Tami Urish, Planner I, stated that the IDRC report is to be entered into the public record in its entirety. The petitioner proposes to construct an approximately 550 square foot second story addition to the existing structure. The required setback to accommodate the garage built in 2005 is nine feet (9'). This setback is to be unoccupied and*



*unobstructed from the lowest level to the sky. The proposed addition is cantilevered over the driveway and allows adequate clearance for cars and small trucks. Staff can support the variance based on the fact that the addition will not adversely affect other properties and there is past precedence for similar requests in the past ten (10) years.*

*Chairperson DeFalco then opened the meeting for discussion by the ZBA members.*

*Mr. Tap questioned staff if the petitioner is aware of condition number three (3) which states that the petitioner shall remove 458 square feet of impervious surface area in order to meet the minimum required open space of 50% per Section 155.407 (H).*

*Mr. Siddiqui stated that he is aware and agrees to this condition.*

*Mr. Tap questioned staff if the coverage calculation included the addition that is already covered by the driveway. Ms. Urish responded that this was taken into consideration and the addition portion over the driveway is not included in the coverage.*

*Mr. Tap questioned staff if the proposed front porch was included in the lot coverage calculations. Ms. Urish responded that the proposed front porch coverage was included.*

*Mr. Bartels questioned staff if the eaves of the house are included in the setback encroachment. Mr. Panfil responded that the eave overhang is not taken into account when calculating lot coverage. Mr. Bartels questioned if drainage concerns were addressed. Ms. Urish responded that Private Engineering Services reviewed the proposed variance in relation to drainage and did not offer any concerns or comments. However; the addition will be reviewed again during the building permit review process.*

**A motion was made by Mr. Tap, seconded by Ms. Newman, that the Zoning Board of Appeals recommend a variation from Section 155.407(F)(3) of the Lombard Zoning Ordinance to reduce the required interior side yard setback from nine feet (9') where no attached garage is constructed to seven feet (7') within the R2 Single-Family Residence District for approval to the Village Board with the following conditions:**

- 1. The project shall be developed in accordance with the submitted plans prepared by HK Architects, Inc. dated March 20, 2015 and made a part of the petition;**
- 2. The petitioner shall apply for and receive a building permit for the proposed plans;**

3. The petitioner shall remove 458 square feet of impervious surface area in order to meet the minimum required open space of 50% per Section 155.407 (H).

4. Such approval shall become null and void unless work thereon is substantially under way within twelve (12) months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variations; and

5. In the event that the principal structure on the subject property is damaged or destroyed to fifty-percent (50%) of its value, the new structure shall meet the required side yard setbacks.

The motion carried by the following vote:

**Aye:** 6 - John DeFalco, Mary Newman, Raymond Bartels, Greg Young, Keith Tap, and Val Corrado

**Absent:** 1 - Ed Bedard

## Business Meeting

### Approval of Minutes

A motion was made by Ms. Newman, seconded by Mr. Tap, to approve the minutes of the April 29, 2015 meeting. The motion passed by a unanimous vote.

### Planner's Report

*Mr. Panfil mentioned that at the last ZBA meeting, there was a question regarding the location of the new Metra pedestrian underpass. Staff asked Carl Goldsmith, Director of Public Works, for more information and received a response which stated the location of the tunnel was established based on elevation and the need to have sufficient coverage between the track surface and the top of the tunnel.*

*Mr. Panfil said the next ZBA meeting will be on June 24, 2015 with one petition.*

### Unfinished Business

### New Business

### Other Business

*Dr. Corrado questioned if there was a new oath for the swearing in of petitioners because he noticed the phrase, "so help you God," was*

*missing. Chairperson DeFalco stated that there are two (2) options: the first being an oath that includes the phrase; and second being an affirmation for people who do not profess to a belief in God. Chairperson DeFalco acknowledged that traditionally the oath is used, but in this case the affirmation was used because that was the text available to him. Using either version is acceptable for the swearing in of petitioners.*

## **Adjournment**

**A motion was made by Mr. Bartels, seconded by Ms. Newman, to adjourn the meeting at 8:50 p.m. The motion passed by a unanimous vote.**

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John DeFalco, Chairperson  
Zoning Board of Appeals

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Matt Panfil, AICP, Senior Planner  
Zoning Board of Appeals