

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

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

TO:

PRESIDENT AND BOARD OF TRUSTEES

FROM:

David A. Huliseberg, Village Manager

John

DATE:

July 17, 2008

(B of T) Date: August 21, 2008

TITLE:

ZBA 08-07: 197 S. Lombard Ave.

SUBMITTED BY:

Department of Community Development

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to five feet (5') in the R2 Single-Family Residence District. (DISTRICT #4)

As the ZBA did not have 4 votes to approve or deny the petition, it is being brought forward with no recommendation.

Please place this item on the August 21, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:
 Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

Date

Date

Date

8/10/08

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: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP 
Acting Director of Community Development

DATE: August 21, 2008

SUBJECT: ZBA 08-07; 197 S. Lombard Ave.

Please find the following items for Village Board consideration as part of the August 21, 2008 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 08-07; and
3. Plans associated with the petition.

Please contact me if you have any questions regarding the aforementioned materials. The Zoning Board of Appeals forwards this case with no recommendation of the zoning actions associated with the petition.



VILLAGE OF LOMBARD
255 E. Wilson Ave.
Lombard, Illinois 60148-3931
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

August 21, 2008

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

Subject: ZBA 08-07; 197 S. Lombard

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to five feet (5') in the R2 Single-Family Residence District.

The Zoning Board of Appeals conducted a public hearing on June 25, 2008. Anita Coughlan, owner of the subject property, presented the petition. She stated that she was requesting relief to replace a four foot chain link fence and install a five (5) foot fence that would provide the necessary screening from Maple Street. Ms. Coughlan explained that Maple Street has a high volume of traffic and her existing fence does not provide the proper screening from Maple Street. She noted that the porch in back yard is raised and the existing four (4) foot fence does not provide adequate screening.

Chairperson DeFalco opened the meeting for public comment. No one spoke for or against the petition. Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, presented the staff report. Michael Toth stated that the subject property is located at the northeast corner of Maple Street and Lombard Avenue. He explained that the petitioner is requesting a variation to allow the installation of a solid wood fence at a height of five (5) feet where only four (4) feet is permitted. Mr. Toth added that the new fence will replace an existing four (4) foot chain link fence along the southern property line.

Michael Toth stated that staff notes that there is a change in grade on the subject property. He mentioned that the elevation is highest at the western portion of the property and gradually slopes to the south and southeast. Mr. Toth explained that the existing four (4) foot fence height measurement was taken at grade from the southern portion of the property at one of the low points. As the petitioner

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

"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."

Village Manager
David A. Hulseberg

Trustees
Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Dana L. Moreau, Dist. 4
Laura A. Fitzpatrick, Dist. 5
Rick Soderstrom, Dist. 6

Village President
William J. Mueller
Village Clerk
Brigitte O'Brien

has represented that the hardship associated with the variation is due to privacy concerns, Mr. Toth stated that staff investigated the effects of the existing four (4) foot required fence height relative to the rear yard elevations.

Mr. Toth stated that staff has consistently used the concept of "average grade" for determining the height of structures, such as the proposed fence. He explained that in circumstances where the grade changes substantially, measurements are taken from several points. Typically, these measurements are averaged together to determine the height for the purposes of verifying compliance with the Zoning Ordinance. He added that in this case, different points were measured to determine the screening capabilities of the fence in relation to the rear yard.

Mr. Toth stated that surveying equipment was used to determine that there is more than a one (1) foot change in grade (precisely $\pm 1.25'$) between the patio area in the rear of the house and the ground where the existing four (4) foot chain link fence is located. Mr. Toth explained that the existing four (4) foot fence functions as a three (3) foot fence when screening the patio area. In essence, allowing a five (5) foot wood privacy fence would afford the petitioner the same level of privacy that a four (4) foot fence would provide under a zero-grade deviation circumstance.

Mr. Toth explained that due to the change in grade, the existing four (4) foot fence located on the subject property provides inadequate screening from Maple Street. Mr. Toth added that fence height is measured at the location of the fence, but due to the unique topographical characteristics of the subject property, the petitioner is unable to utilize the full screening potential of even a four (4) foot fence. He noted that there are no clear line of site issues relative to the proposed fence.

Staff is recommending approval of the petition as requested.

Chairperson Defalco opened the meeting for discussion among the members.

Dr. Corrado stated that he has a similar five foot fence in his rear yard. Dr. Corrado added that a four foot fence does not provide enough screening, but a five foot fence is perfect for screening. Referring to the letter of opposition submitted by Mr. Fitzpatrick, Mr. Tap stated that there are no blocked views at the described intersection. Mr. Tap added that the fence will be about sixty-four feet from the intersection.

Ms. Newman asked the petitioner what type of fence she will be using.

Ms. Coughlan responded that she will be using a solid plastic fence that will require less maintenance than wood.

Scott Rignier (neighboring resident) stated that he lives on Maple Street and it is a very busy street. Mr. Rignier explained that a five foot fence would give noise reduction benefits. He added that there is no reason to deny the petition.

Chairperson Defalco stated that the subject case is an instance where the petitioner is requesting relief for additional fence height in the corner side yard. He also explained that the hardship associated with the case involves a deviation in grade between the fence location and location of the rear porch. Chairperson Defalco then stated that staff has recommended approval of the case based on the deviation in grade. Chairperson Defalco then stated that there are a number of homes in Lombard that are raised up from the grade. Chairperson Defalco then asked staff if Code already took grade deviations into account.

Mr. Toth responded that he was unsure what the Building Code is pertaining to foundation leveling, but the fact of the matter in this case is that there is a discrepancy as to where the fence is measured and where the rear porch is located in regards to elevation.

Chairperson Defalco asked staff if the corner side yard fencing affect pedestrians and/or vehicles.

Mr. Toth responded that it is all a matter of preference as to whether or not fences in the corner side yard affect the neighborhood. Mr. Toth added that the fences can create voids and hiding places for people and animals, which may create a safety concern.

Chairperson Defalco explained that a six foot fence would be allowed twenty feet in from the property line. Chairperson Defalco stated that there could be some sort of compromise to maybe bring the fence in ten feet from the property line.

Ms. Coughlan explained that she has a pond in that area so a ten foot setback for the fence would not work. Ms. Coughlan mentioned that she has looked into alternatives. She added that she could plant bushes at a height greater than four feet. She explained that she didn't want to do bushes because they require maintenance and they can grow over the sidewalk.

Chairperson Defalco stated that the Zoning Ordinance prohibits bushes or hedges to be taller than four feet in the corner side yard setback.

Dr. Corrado stated that homes must be elevated on the property for drainage purposes. He then added that the height limit is four feet for a reason.

Sue Rignier (neighboring resident) stated that she has a six foot fence and there are many other six foot fences and bushes along Maple Street. Ms. Rignier explained that traffic has grown on Maple Street and the noise level has also increased.

Dr. Corrado asked if granting this approval would set precedence for fence height in the corner side yard.

Mrs. Newman stated that there are no line of site obstructions and staff had recommended approval based upon the topography.

Mr. Toth responded that there are no clear line of site issues, which is mentioned in the staff report. He referred to Mr. Tap's original comment regarding clear line of site by stating that the fence will be setback back sixty-five feet from the west property line. He added that Code only requires a thirty foot clear line of site area, which the fence location is clearly a distance from. Mr. Toth added that if you are traveling southbound on Lombard Avenue, the actual house located on the subject property would block the view of Maple Street before the fence would. Mr. Toth stated that had there been any clear line of site issues, staff would have had a different recommendation as clear line of site issues are taken very seriously because of safety concerns.

On a motion by Mr. Tap and a second by Dr. Corrado, the Zoning Board of Appeals recommended by a vote of 3 to 2 that the Village Board approve a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to five feet (5') in the R2 Single-Family Residence District.

As four votes are necessary to successfully transmit a recommendation for either approval or denial, the Zoning Board of Appeals then recommended by a vote of 2 to 3 that the Village Board deny a variation to Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to five feet (5') in the R2 Single-Family Residence District.

The Zoning Board of Appeals was unable to obtain four votes for either approval or denial; therefore, the Zoning Board of Appeals forwards the petition with no recommendation of the petition as requested.

Respectfully,


VILLAGE OF LOMBARD
John DeFalco
Chairperson
Zoning Board of Appeals

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Zoning Board of Appeals **HEARING DATE:** June 25, 2008

FROM: Department of Community Development
PREPARED BY: Michael S. Toth
Planner I

TITLE

ZBA 08-07; 197 S. Lombard Ave.: The petitioner requests a variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to five feet (5') in the R2 Single-Family Residence District.

GENERAL INFORMATION

Petitioner/Property Owner:

Anita Coughlan
197 S. Lombard Ave
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning:

R2 Single Family Residential District

Existing Land Use:

Single Family Residence

Size of Property:

Approximately 9,603 square feet

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District; developed as Single Family Residences
South: R2 Single Family Residence District; developed as Single Family Residences
East: R2 Single Family Residence District; developed as Single Family Residences
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 May 2, 2008.

1. Petition for Public Hearing.
2. Response to the Standards for Variation.
3. Written explanation prepared by the petitioner, describing the need for a variation.
4. Plat of Survey prepared by Glen D. Kirsch Land Surveying, Inc., dated May 18, 2008.
5. Fence Plan prepared by petitioner on Plat of Survey prepared by Glen D. Kirsch Land Surveying, Inc., dated May 18, 2008.

DESCRIPTION

The subject property is located at the northeast corner of Maple Street and Lombard Avenue. The petitioner is requesting a variation to allow the installation of a solid wood fence at a height of five (5) feet where only four (4) feet is permitted. The new fence will replace an existing four (4) foot chain link fence along the southern property line.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

As the proposed fence is not within a 30' line-of-sight for the intersection or driveway(s), the Private Engineering Division of Community Development has no comments on this petition.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments on the subject petition.

PLANNING

Staff notes that there is a change in grade on the subject property. The elevation is highest at the western portion of the property and gradually slopes to the south and southeast (see Appendix A). The existing four (4) foot fence height measurement was taken at grade from the southern portion of the property at one of the low points. As the petitioner has represented that the hardship associated

with the variation is due to privacy concerns, staff investigated the effects of the existing four (4) foot required fence height relative to the rear yard elevations.

Measuring Fence Height

The definition for a fence specifies the manner in which the height is to be determined for the purposes of the Zoning Ordinance. The definition reads as follows:

FENCE is a free standing structure, made of metal, wire, wire mesh, masonry, plastic, wood, vinyl or a combination thereof, including gates, rising above ground level, measured from the grade at the location of the fence to the highest point of any component of the fence construction, including posts or any decorative elements, and used to delineate a boundary or as a barrier or means of protection, confinement, or screening"

The term "grade" is also defined in the Zoning Ordinance, which reads as follows:

GRADE is the average level of the finished surface of the ground adjacent to the exterior wall of the building or structure.

Staff has consistently used the concept of "average grade" for determining the height of structures, such as the proposed fence. In circumstances where the grade changes substantially, measurements are taken from several points. Typically, these measurements are averaged together to determine the height for the purposes of verifying compliance with the Zoning Ordinance. In this case, different points were measured to determine the screening capabilities of the fence in relation to the rear yard.



Figure 1: Depiction of the Existing Fence with grade change illustrated.

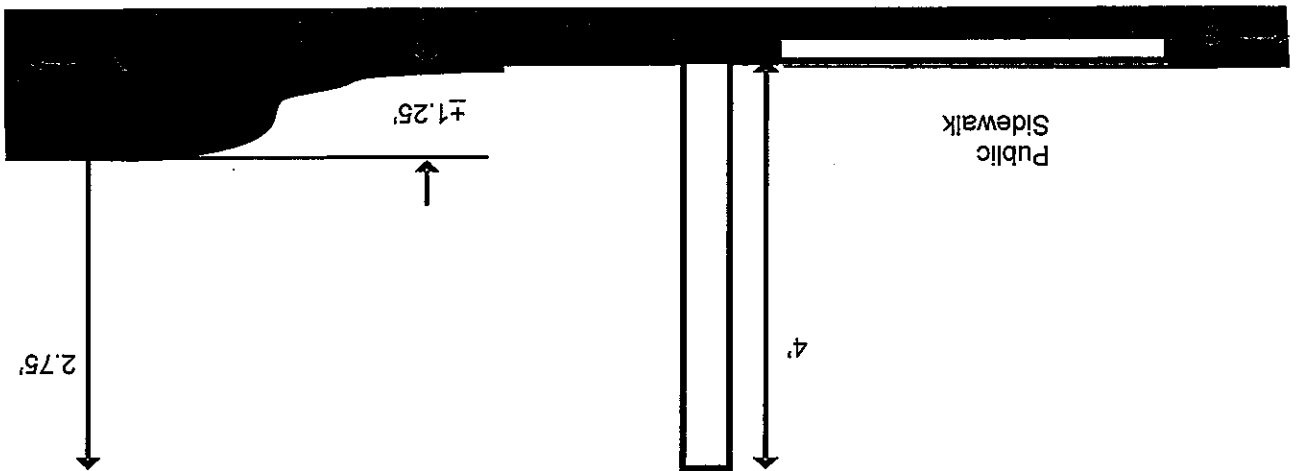


Figure 2: Section View of the Existing Fence (existing grade change on the subject property is more gradual than it actually appears in this depiction)

Surveying equipment was used to determine that there is more than a one (1) foot change in grade (precisely $\pm 1.25'$) between the patio area in the rear of the house and the ground where the existing four (4) foot chain link fence is located. As such, the existing four (4) foot fence functions as a three foot fence when screening the patio area. In essence, allowing a five (5) foot wood privacy fence would afford the petitioner the same level of privacy that a four (4) foot fence would provide under a zero-grade deviation circumstance.

Due to the change in grade, the existing four (4) foot fence located on the subject property provides inadequate screening from Maple Street. Maple Street is considered a residential street; however, staff does recognize that it is a collector street. Collector streets gather traffic from numerous smaller streets and deliver traffic to and from arterial streets, which accounts for a higher traffic volume than the smaller residential streets that feed into them. As previously mentioned, fence height is measured at the location of the fence, but due to the unique topographical characteristics of the subject property, the petitioner is unable to utilize the full screening potential of even a four (4) foot fence. Staff would like to further note that there are no clear line of site issues relative to the proposed fence.

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 regulations were to be applied.

Due to a deviation in grade, the physical topography of the subject property is altered whereas the maximum four (4) foot fence height does not properly screen all portions of the property.

The petitioner is at a hardship because the strict letter of the code does not allow them the proper screening that would be afforded to a property with level terrain.

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.*

A variation of this sort would only apply to those properties having fluctuations in grade at crucial points of measurement (i.e. fence location).

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

The purpose of the variation is solely for added privacy. The increased fence height will not increase any financial gain.

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.*

The Zoning Ordinance only allows a four (4) foot fence where a five (5) foot fence is desired. The variation would only benefit the petitioner, not anyone else who may have an interest in the property.

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

The fence is located outside of any clear line of site areas; therefore, it would not impede on the safety and welfare of the area.

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

There are other properties in the direct vicinity with fences in excess of the required four (4) feet located in the corner side yard. Thus, granting this variation will not alter the essential character of the neighborhood.

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.*

One (1) additional foot in fence height will not cause any further drainage, fire hazards and/or air & light supply issues.

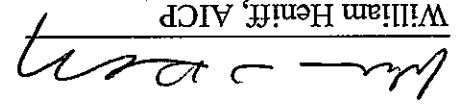
FINDINGS AND RECOMMENDATIONS

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 aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation **does 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 **approval** of ZBA 08-07, subject to the following condition:

1. The fence shall be constructed consistent with the plans prepared by the petitioner on the submitted Plat of Survey dated May 18, 2004 and made part of this petition.

Inter-Departmental Review Report Approved By:



William Heniff, AICP

Acting Director of Community Development

DAH

att-
c:

Petitioner

APPENDIX A -
Topological Conditions



As depicted above, the grade on the subject property slopes from the northwest portion of the property towards the south and southeast portion of the property.

169	170
175	174
179	178
183	180
185	184
191	188
195	192
199	196

173	172
177	178
181	182
187	184
189	190
193	192
197	348

193	412	416	422	428
197				

MAPLE ST

MAPLE ST

MAPLE ST

305	321
205	208
209	210
215	214
219	220
223	222

203	210
205	
209	212
215	214
217	218
221	222
225	226

405	413	417	421	425	429
205					
209					
213					
221	221				
225					

LOMBARD AV

GRACE ST



ZBA 08-07: 197 S. Lombard

1 in. = 109.1 feet



Standards to Variations

Fence Variation
197 S. Lombard
Coughlin

- 1) As Maple Street has a high volume of traffic, I desire a 5 foot high privacy fence on the southern portion of my property to provide adequate screening. That portion of my property is considered the corner side yard; therefore, the fence may only be a maximum of 4 feet in height.
- 2) Because my property is on a corner of two intersecting streets, one side is required to be a corner side yard, which only allows a maximum fence height of 4 feet. Had my property been an interior lot, the fence could be a maximum of 6 feet in height.
- 3) The purpose of the variation is solely for added privacy. The increased fence height will not increase any financial gain.
- 4) The Zoning Ordinance only allows a 4 foot tall fence where 5 feet is desired. The variation would only benefit me, not anyone else who may have an interest in the property.
- 5) If anything, the variation may only affect neighborhood aesthetics. The fence is located outside of any clear line of site areas; therefore, it would not impede on the safety and welfare of the area.
- 6) There are other properties in the neighborhood with fences tall than 4 feet in the corner side yard so granting this variation will not alter the character of the neighborhood.
- 7) I will work with the fence company and the Village to ensure that any drainage, fire hazards, air & light supply issues will be addressed as part of the permitting process.

To whom it may concern,

My name is Anita Coughlan and I live at 197 S Lombard Ave. in Lombard. I am a senior citizen on a fixed income and I would like to put up a privacy fence. I have a chain link fence up already, and would like to replace it with a new 5 ft privacy fence. My property faces Lombard Ave. and Maple is the side, and the fence will not obstruct the corner in any way. My property runs along Maple Ave. and at rush hour the traffic is backed up from Grace St. with school buses and commuters. The fumes are horrible and there is no privacy at all. There have also been several accidents on Maple where they have damaged my trees. I would like the right of quiet enjoyment in my own back yard. I would like a waiver of the application fee as I am on social security and have no other means of income. Thanks in advance for your consideration.


Anita Coughlan
197 S Lombard
Lombard IL 60148
(630) 620-1022

Toth, Michael

From: Robert Fitzpatrick [rfitz29@yahoo.com]
Sent: Monday, June 16, 2008 8:48 PM
To: Toth, Michael
Cc: Moreau, Dana
Subject: zoning variation

hi,
I talked to you at the village hall the other day about my concerns with petition zba 08-07, the property located at 197 S. Lombard Ave. After some thought and discussion I feel I have to say I don't feel that this variation should be allowed for the following reasons.
1. The code is 4 foot for a reason
2. Maple Ave is a busy street and a school bus route, I feel that a higher fence will block views of traffic when leaving Lombard Ave heading south.
3. Your feeling that high fences give a look of barricaded yards is not good for Lombard, with that in mind the next house west on Maple has a high fence to complete the look you said that Lombard wants to avoid.
Thanks for your input, I hope that you will make my reservations known.
bob fitzpatrick
180 S. Lombard Ave

