



## Village of Lincolnwood Plan Commission

*Meeting*  
**Wednesday, February 4, 2015**  
**7:00 P.M.**

*in the*  
**Council Chambers Room**  
**Lincolnwood Village Hall - 6900 North Lincoln Avenue**

### Agenda

1. **Call to Order/Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Minutes**  
December 3, 2014 Meeting Minutes
4. **Case #PC-01-15: Public Hearing: Proposed Text Amendment**  
**Request:** Consideration of Changes to the Review and Approval Process for Setback Variations Matching an Existing Nonconforming Structure
5. **Case #PC-02-15: Public Hearing: Proposed Text Amendment**  
**Request:** Review for Possible Change the Definition Section and Fences and Natural Screening Section Concerning Open, Semi-Private, and Solid Fences; and the Bulk Regulations for Fences
6. **Next Meeting**
7. **Public Comment**
8. **Adjournment**



**DRAFT MEETING MINUTES**  
**OF THE**  
**PLAN COMMISSION**  
**DECEMBER 3, 2014 – 7:00 P.M.**

**LINCOLNWOOD VILLAGE HALL**  
**COUNCIL CHAMBERS**  
**6900 NORTH LINCOLN AVENUE**  
**LINCOLNWOOD, ILLINOIS 60712**

**MEMBERS PRESENT:**

Chairman Paul Eisterhold  
Irving Fishman  
Patricia Goldfein  
Steven Jakubowski (arrived at 7:10 p.m.)  
Anthony Pauletto  
Don Sampen

**MEMBERS ABSENT:**

Mark Yohanna

**STAFF PRESENT:**

Aaron N. Cook, AICP, Community Development Manager

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

Chairman Eisterhold noted a quorum of five members and called the meeting to order at 7:05 p.m.

**Motion to approve** the November 5, 2014 Meeting Minutes was made by Commissioner Fishman, and seconded by Commissioner Pauletto.

**Aye: Fishman, Pauletto, Goldfein, Sampen, and Eisterhold**

**Nay: None**

**Motion Approved: 5-0**

Chairman Eisterhold recommended changing the order of the Public Hearings to accommodate residents wishing to speak so the Public Hearing on Painting Exterior Brick Facades will be heard first. Let the record state that there were no objections to this request.

### **III. Public Hearing: Painting Exterior Brick Facades – Zoning Code Text Amendment**

This Public Hearing is a result of a specific Variation request heard by the Zoning Board of Appeals. The property owner at 6557 Keating Avenue requested the Variation. This new property owner painted the exterior brick as part of other property improvements. Staff was made aware of the painted brick and advised the property owner of the prohibition who was given the option to remove the paint or file for a Variation request.

The Zoning Board of Appeals forwarded to the Village Board a recommendation to approve the Variation by a vote of 4-3 to allow the property owner to maintain the painted brick. The Village Board directed the Plan Commission to hold a Public Hearing to review the prohibition of painting brick which is currently prohibited by the Zoning Code on all building types. The Variation request was continued indefinitely by the Village Board until the Plan Commission has had a chance to deliberate and forward a recommendation on the code provision for the prohibition of painting brick.

Staff reported that there is not much legislative history available on the subject of painting bricks. In November 2005, the Lincoln Avenue Task Force Report suggested the incorporation of building design guidelines within the Lincoln Avenue Corridor. This was the first time this subject was discussed in a formal matter. In May 2006, the Committee of the Whole (COTW) considered an Appearance Review Commission to improve the aesthetics of private development. In September 2006, COTW reviewed the draft appearance standards and guidelines. This was the first time the text appeared prohibiting the painting of masonry. Staff could not find any documentation on the prohibition of painting brick. In July 2007, the PC/ZBA modified the text to reflect the wording change from “masonry” to “brick” in this prohibition. On November 6, 2008, the comprehensive update of the Zoning Code was adopted to include the prohibition of painting brick facades.

Staff reviewed the Zoning Code requirements of neighboring communities and found no other community prohibits the painting of exterior brick facades.

Staff referenced that the Plan Commission packet contains material which includes the opposite views of Trustee Renee Sprogis-Marohn who supports the painting of exterior brick facades and ZBA Board Member Kathy O’Brien who opposes the painting of exterior brick facades.

The Commissioner’s discussion centered on the fact that they don’t believe there should be a prohibition on painting exterior brick facades, but that hopefully it is done in a tasteful manner. Mr. Cook informed the Commissioners that there are no regulations regarding the staining of brick.

Commissioner Jakubowski questioned whether residents should require a building permit in order to give the building inspector the opportunity to make sure that the materials used are used correctly. Mr. Cook answered that if the wrong paint was applied or it was applied incorrectly, this would become a property maintenance issue. Commissioners Sampen and Fishman felt strongly against requiring a building permit.

Staff cautioned against formally adopting a code in relation to the paint material that is available today due to the fact that there may be vastly improved products in the future.

Chairman Eisterhold recognized Mr. Patrick Kaniff who resides at 6557 Keating Avenue. Mr. Kaniff explained that they had the brick painted to give the house a more cohesive and pleasing appearance due to damaged and mismatched brick. Mr. Kaniff researched the steps necessary for proper preparation and installation. The paint has a 15-year warranty and assured the Commissioners that he would do whatever steps were necessary to maintain the appearance of his residence.

When asked whether he would be adverse to securing a permit for this application, Mr. Kaniff answered that he applied for permits for the other remodeling work that they have done in the past and felt that it would be helpful to the residents and the Village if the materials and preparation are reviewed so they are done correctly.

When asked by Chairman Eisterhold what is being done in regards to permitting, Mr. Cook replied that the Community Development Department has a single-page handout which illustrates what projects do and do not require a permit. Painting did state that it did not require a permit. The handout suggested that painting did not need a permit; therefore, you can do it. The wording has been changed to emphasize that the painting of brick is prohibited.

Chairman Eisterhold asked if anyone in the audience would like to address the Plan Commission regarding this Public Hearing. Let the record show that no one came forward.

**Motion to amend** the Zoning Code to permit the painting of brick facades on all types of buildings subject to obtaining a building permit shall not be unreasonably denied was made by Commissioner Jakubowski, and seconded by Commissioner Pauletto.

Commissioner Sampen did not believe that the motion goes far enough and the building permit requirement should be eliminated. Commissioner Fishman concurred.

**Aye: Jakubowski, Pauletto, Goldfein, and Eisterhold**

**Nay: Sampen and Fishman**

**Motion Approved: 4-2**

Staff indicated that his matter will be heard at the January 6, 2015 meeting of the Village Board.

#### **IV. Public Hearing: Lincoln Avenue Plan – Amendment to Comprehensive Plan**

Mr. Cook presented recent highlights regarding the Lincoln Avenue Plan. The Plan Commission was originally tasked with the review relative to residential uses along Lincoln Avenue. The Plan Commission recommended an Amendment to the Comprehensive Plan by a unanimous vote on September 3, 2014. On November 5, 2014, the Plan Commission recommended a Text Amendment to the Zoning Code to reconsider residential uses from a Permitted Use to a Special Use. The Village Board concurred and directed the village attorney to prepare the requisite Ordinance.

The Village has budgeted \$50,000 and authorized a review of the entire Comprehensive Plan, not just the Lincoln Avenue Task Force Report. An Ad Hoc Citizen Committee and consultant will be selected this winter to begin the Comprehensive Plan review. The comments from this Ad Hoc Committee will ultimately be reviewed and approved by the Plan Commission. There is no specific directive as to when the Committee's comments are to be completed. The Committee would consist of one or two Trustees, a representative from the Plan Commission, Zoning Board of Appeals, Economic Development, and Beautification Commissions as well as a citizen at large.

There was discussion regarding the timetable and interpretation of the Ad Hoc Committee's decisions. Commissioner Jakubowski suggested that the Plan Commission work hand-in-hand with this Committee as their ideas develop and not after decisions have been made. Mr. Cook informed the Plan Commissioners that they would be advised of their meeting dates and would be provided meeting minutes so they can monitor the Committee's progress.

Commissioners Goldfein and Jakubowski presented their findings in regards to the Devon-Lincoln Business Hub. The intersection is a unique hub in that it's shared with the City of Chicago. The Chicago side is fully developed with a medical building on the southwest corner and a small shopping mall and several fast food places on the east side. There's also a sizable residential neighborhood (Sauganash/ Peterson Park) that tends to be overlooked behind the Chicago buildings west of Lincoln Avenue.

The Lincolnwood side has one high-quality property which is the MB Financial Bank on the northeast corner. This was a private/public development that gave the bank a vacated portion of a side street to provide more parking and, in turn, the bank agreed to provide and maintain extra landscaping. It is beautifully kept and would fit in any North Shore suburb.

Unfortunately, the MB property is surrounded on the west side by a dated-looking Shell station surrounded by a patchwork of parking lots that partly rests on public land from a vacated street. To the west and northwest of the Shell station is the Bunny Hutch and Novelty Golf.

This is a significant piece of property that could rival the Purple Hotel development in changing the face of Lincolnwood. It has several access points off of Lincoln Avenue and would accommodate an office building and parking. Its neighbors are both low-rise commercial properties which would allow a multi-story building here without troubling nearby residents. Special consideration should be given to the visual impact of the building and its compatibility with the MB Bank building.

On the east side of MB Financial is a string of single-story buildings that look untouched since the 1960s. Prudential Realty occupies the corner and only one of the remaining four storefronts is occupied. Next to these is a white multi-story office building that seems to be in good condition. This area should be developed with storefronts on the traditional front lot line and parking in the rear to keep some separation from nearby residents.

The recently enacted TIF legislation included all the Lincolnwood buildings along Devon from the 3924 building just west of Proesel Avenue to Spaulding (or McCormick) with the exception

of two lots—the townhomes at Hamlin Avenue and the 3730 building east of Ridgeway Avenue. Many of the properties are occupied and well kept, not what comes to mind when a TIF is discussed.

Along Lincoln Avenue, the TIF extends to Proesel on the west side and nearly to Avers on the east side, stopping just after 6609 Lincoln Avenue. It includes a few empty, rundown buildings mixed in with well-kept recent developments like the BP service station and Oberweis store. The landscape requirements of two different eras are hugely apparent—there is enough greenery around the BP station that it is more visually appealing than the offices with barren front lots. It's evident that consistent landscaping throughout the village needs to be a priority.

This middle section of Lincoln Avenue is an area where appropriate shared residential/business or pure residential development could work. In some areas, (i.e., Lawndale Avenue intersection), residences are less than 100 feet from Lincoln Avenue because of the shallowness and odd shape of the commercial lots.

Commissioners Fishman and Sampen presented their findings in relation to the Lincoln-Pratt-Crawford-Business Hub. A problem with the current plan is that it created nonconforming uses of every major development in that area with the exception of the library, and it is not appropriate to create zoning that puts them in that position. The current design standards need to adopt more reasonable standards and goals that will encourage developers to build here, not to burden them with unrealistic expectations.

Commissioner Jakubowski left the meeting at 8:40 p.m.

Commissioners Pauletto and Yohanna were tasked with the Lincoln-Touhy Business Hub. The Commissioners believe that this is a very important business hub and should be anchored by a boutique hotel. They have concerns about the current retail climate and would not like to see this development depend on too much retail. Destination restaurants would be preferred. Even though this is a high profile commercial site, Commissioner Pauletto believes that quality residential housing may be a solution.

Chairman Eisterhold indicated that the developer has proposed scaling back the number of small retail shops and has proposed a pediatric office, grocery store, a health club, and some entertainment venues.

**Motion to close** the Public Hearing of the Lincoln Avenue Task Force Report review based upon the understanding that the entire Comprehensive Plan will be reviewed in the near future by the Ad Hoc Committee who will then forward their recommendations to the Plan Commission was made by Commissioner Sampen, and seconded by Commissioner Fishman.

**Aye: Sampen, Fishman, Goldfein, Pauletto, and Eisterhold**

**Nay: None**

**Motion Approved: 5-0**

**V. NEXT MEETING**

Chairman Eisterhold declared that the next Plan Commission meeting will be held on Wednesday, January 7, 2015.

Chairman Eisterhold asked if anyone in the audience would like to address the Plan Commission regarding this Public Hearing. Let the record state that no one came forward.

**VI. ADJOURNMENT**

Hearing no further business, **motion to adjourn** was made by Commissioner Sampen, and seconded by Commissioner Pauletto. Meeting adjourned at 9:00 p.m.

**Aye: Sampen, Pauletto, Fishman, Goldfein, and Eisterhold**

**Nay: None**

**Motion Approved: 5-0**

Respectfully Submitted,

Kathryn M. Kasprzyk  
Community Development Coordinator



## Plan Commission Staff Report

Case #PC-01-15

February 4, 2015

**Subject Property:** N/A (Text Amendment)

**Requested Action:** Text Amendment to review and modify as found necessary Article V of the Zoning Code, and any additional Article/Section of the Zoning Code that may be discovered during review of this case, relative to the administration of Variation requests seeking relief for additions matching an existing legal nonconforming setback of an existing structure.

**Petitioner:** Village Board

### **Summary**

In considering a Variation request at 6755 North Kostner Avenue (summary of case found below) and the history of the Village in granting side yard setback Variations which match existing nonconforming building setbacks, the ZBA recommended to the Village Board that the Zoning Code should be reviewed and possibly amended in an effort to expedite approval of such requests. During their deliberation, the ZBA discussed several possible options, such as enactment of an administrative review process. While the ZBA and Village Board did not identify a specific recommended process, it believed a change in the code concerning variation requests to match existing nonconforming setbacks was warranted.

### **Relevant Village Action**

While the recommendation to review the Zoning Code was forwarded with a recommendation for a request at 6755 North Kostner Avenue, the ZBA's recommendation was based on other similar requests. A summary of these requests made in 2014 is found below:

<b><u>Property Address</u></b>	<b><u>ZBA Recommendation</u></b>	<b><u>Status</u></b>
<u>7131 North Keating Avenue</u>	<u>Recommended Approval 7-0</u>	<u>Ordinance No. 2014-3132 Approved</u>
Requested side yard setback Variation to permit 300-square-foot addition to encroach 1.9 feet into the required 7-foot side yard setback. The proposed sunroom addition was designed to match existing legal nonconforming setback of the single-family home.		
<u>5080 North Shore Avenue</u>	<u>Recommended Approval 4-3</u>	<u>Ordinance No. 2014-3133 Approved</u>
Requested side yard setback Variation to permit a one-story addition to encroach 1 foot 9 inches into the required 8-foot 1-inch side yard at the existing single-family home located at 5080 West North Shore Avenue. Approved plan modified by Village Board to reduce encroachment into required side yard setback.		

6755 North Kostner Avenue Recommended Approval 6-0 Ordinance No. 2015-3139 Approved  
Requested side yard setback Variation to permit a one-story addition to encroach 1.2 feet into the required 6-foot side yard at the existing single-family home located at 6755 North Kostner Avenue. The one-story additions were designed to match the existing legal nonconforming setback of the single-family home.

#### Summary of Other Side Yard Setback Variation Actions

The Village, in the past five years, has considered and approved ten requests for relief from side yard setback requirements which resulted primarily from the existing home encroaching into the required setback. These requests permitted a second story addition to match the existing nonconforming first floor setback.

#### Proposed Review Process

As previously indicated, the ZBA and Village Board did not identify a specific review process. Staff proposes that these requests for relief be subject to the Minor Variation process. Staff believes this process presents an opportunity to handle additions matching existing nonconforming structures with a formal administrative review. This process, already provided for and outlined in the Zoning Code, requires notification to neighbors of the request but is not sent to the ZBA or Village Board, thus avoiding a 3-4 month Public Hearing process. Minor Variations are subject to the same “hardship” standards as Major Variations. Below is the full excerpt from the Zoning Code Section 5.14 which describes the process for Minor Variations:

“(6) Processing. An application for a Minor Variation shall be filed with the Zoning Officer. After receipt of all required information and payment of all required fees, the application will be reviewed and decided in accordance with the following procedure:

- a. Notice and opportunity to comment. Within five days after submission to the Zoning Officer of a completed application for a Minor Variation, the applicant shall give notice in writing to property owner(s) of each lot lying within 250 feet, including streets, of the property lines of the subject property for which the Minor Variation is sought. The notice shall indicate that the application shall be available for review and comment at Village Hall for at least 10 days following the date of the notice. Any interested party may submit written comments concerning the application to the Village Zoning Officer.
- b. Zoning Officer's decision. Within 30 days after receipt of a completed application for a Minor Variation, the Zoning Officer shall, by written order, either approve, approve with conditions, or deny the requested Minor Variation. Upon denial by the Zoning Officer of the requested Minor Variation, the applicant shall have the right, but not the obligation, to resubmit its request as a major variation pursuant to Section 5.15 of this Zoning Ordinance.
- c. Notification and record of decision. The Zoning Officer shall send his or her decision within 30 days after the date thereof to the applicant and to all other persons previously notified pursuant to Section 5.14(5)a of this Zoning Ordinance. At least once per calendar year, the Zoning Officer shall provide to the Plan Commission and to the Zoning Board of Appeals a listing of his or her decisions, by address, regarding each application for a Minor Variation.

d. Appeal. The applicant, or any person to whom notice of the Minor Variation was sent pursuant to Section 5.14(5)a of this Zoning Ordinance, may appeal the decision of the Zoning Officer to the Zoning Board of Appeals within 10 working days after the date of the notice issued pursuant to Section 5.14(5)c of this Zoning Ordinance.”

Only those Variations specifically listed in Section 5.14(3) are eligible as Minor Variations for residential uses. In these instances, the Zoning Officer has the authority to grant, subject to certain additional criteria, the following Minor Variations:

- a. A reduction of up to 15% of the minimum required lot area;
- b. A reduction of up to 10% of the minimum required side or rear yard setback;
- c. A reduction of up to 10% of the required spacing between two or more single-family attached or multiple-family buildings, in the R-4 District only; and
- d. An increase of up to 15% in the finished first floor height.

#### **Recommended Draft Amendment of Zoning Code**

If the Plan Commission concurs with the approach recommended by staff, Section 5.14(3) should be amended to include additions to match a nonconforming structure as to setback to the list of eligible Minor Variations. Below is staff’s recommended draft amendment which utilizes the existing Minor Variation process by including requests for side and rear setback variations matching existing nonconforming structures.

(3) Authorized Minor Variations. The Zoning Officer shall have the authority to grant the following Minor Variations for single- or multiple-family residential uses:

- a. A reduction of up to 15% of the minimum required lot area;
- b. A reduction of up to 10% of the minimum required side or rear yard setback;
- c. **A reduction of the minimum required side or rear yard setback to match existing nonconforming structures;**
- d. A reduction of up to 10% of the required spacing between two or more single-family attached or multiple-family buildings, in the R-4 District only; and
- e. An increase of up to 15% in the finished first floor height.

#### **Attachments:**

1. Zoning Code Section 5.14

Village of Lincolnwood, IL  
Wednesday, January 28, 2015

## Chapter 15. Zoning

### Article V. DEVELOPMENT REVIEW, ADMINISTRATION AND ENFORCEMENT

#### Part D. Administration and Enforcement

##### 5.14. Minor variations.

- (1) Purpose. A variation is a grant of relief to a property owner from the exact standards of this Zoning Ordinance, issued when undue hardship would be caused by the literal enforcement of this Zoning Ordinance. Additionally, a variation is intended to provide relief where the requirements of this Zoning Ordinance render the land difficult or impossible to use because of some unique or special characteristic of the property itself. The intent is not to simply remove an inconvenience or financial burden that the requirements of this Zoning Ordinance may impose on a property owner. Conditions existing prior to adoption of this zoning ordinance shall not require a variation.
- (2) Definition. Only those variations specifically listed in Section 5.14(3) shall be classified as minor variations, and may be approved in accordance with this Section 5.14 only for single- or multiple-family residential uses.
- (3) Authorized minor variations. The Zoning Officer shall have the authority to grant the following minor variations for single- or multiple-family residential uses:
  - a. A reduction of up to 15% of the minimum required lot area;
  - b. A reduction of up to 10% of the minimum required side or rear yard setback;
  - c. A reduction of up to 10% of the required spacing between two or more single-family attached or multiple-family buildings, in the R-4 District only; and
  - d. An increase of up to 15% in the finished first floor height.
- (4) Initiation. An application for a minor variation may be made by the owner of the subject property or an authorized representative thereof.
- (5) Criteria. In determining whether in a specific case there are practical difficulties or particular hardships in the way of carrying out the strict letter of this Zoning Ordinance, the Zoning Officer shall take into consideration the extent to which the following facts are established:
  - a.

- The requested minor variation is consistent with the stated intent and purposes of this Zoning Ordinance;
- b. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced;
  - c. The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district;
  - d. The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property;
  - e. The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
  - f. 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;
  - g. The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property; and
  - h. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (6) Processing. An application for a minor variation shall be filed with the Zoning Officer. After receipt of all required information and payment of all required fees, the application will be reviewed and decided in accordance with the following procedure:
- a. Notice and opportunity to comment. Within five days after submission to the Zoning Officer of a completed application for a minor variation, the applicant shall give notice in writing to property owner(s) of each lot lying within 250 feet, including streets, of the property lines of the subject property for which the minor variation is sought. The notice shall indicate that the application shall be available for review and comment at Village Hall for at least 10 days following the date of the notice. Any interested party may submit written comments concerning the application to the Village Zoning Officer.
  - b. Zoning Officer's decision. Within 30 days after receipt of a completed application for a minor variation, the Zoning Officer shall, by written order, either approve, approve with conditions, or deny the requested minor variation. Upon denial by the Zoning Officer of the requested minor variation, the applicant shall have the right, but not the obligation, to resubmit its request as a major variation pursuant to Section 5.15 of this Zoning Ordinance.
  - c. Notification and record of decision. The Zoning Officer shall send his or her decision within 30 days after the date thereof to the applicant and to all other persons previously notified pursuant to Section 5.14(5)a of this Zoning Ordinance. At least once per calendar year, the Zoning Officer shall provide to the Plan Commission and to the Zoning Board of Appeals a listing of his or her decisions, by address, regarding each application for a minor variation.

- d. Appeal. The applicant, or any person to whom notice of the minor variation was sent pursuant to Section 5.14(5)a of this Zoning Ordinance, may appeal the decision of the Zoning Officer to the Zoning Board of Appeals within 10 working days after the date of the notice issued pursuant to Section 5.14(5)c of this Zoning Ordinance.
- (7) Exemptions. Notwithstanding any provision of this Zoning Ordinance to the contrary, no variation shall be required for any structure that is existing, under construction, or for which a building permit had already been applied as of the effective date of this Zoning Ordinance, for which: (a) all interior side yards are at least five feet in width; (b) any proposed addition will not violate the applicable side-yard requirement set forth in Article **IV** of this Zoning Ordinance; and (c) the structure will otherwise conform with all applicable requirements set forth in this Zoning Ordinance.



# Plan Commission Staff Report

Case #PC-02-15

February 4, 2015

**Subject Property:** N/A (Text Amendment)

**Requested Action:** Text Amendment to the Zoning Code to review and modify and found necessary Article II and Article III of the Zoning Code, and any additional Article/Section of the Zoning Code that may be discovered during review of this case, relative to the definitions of open, semi-private, and solid fences and associated bulk regulations.

**Petitioner:** Village Board

## **Summary**

In considering a Variation request at 6529 North Central Park Avenue, the ZBA recommended to the Village Board that the Zoning Code should be reviewed and possibly amended to clarify fence definitions and regulations. More specifically, the ZBA determined that the existing language of the Zoning Code is unclear concerning the definition of semiprivate fence. The ZBA generally believed language improvements to the definition section should be made to improve clarity of the regulation.

Below is the definition of semi-private fence with staff's notes on four different portions of the definition which result in a lack of clarity.

*“FENCE, SEMIPRIVATE or SEMIPRIVATE FENCE A fence which is not a solid fence nor an open fence<sup>1</sup>. These types of fences are restricted to board-on-board fences<sup>2</sup> (also known as "shadow box types"). The open space between vertical fence boards<sup>3</sup> shall not exceed 85% of the width of the boards on the same side of the fence<sup>4</sup>.”*

- (1) Generally poor practice in a definition to define the word/term by establishing what the word/term is not. Staff recommends this be eliminated from the definition.
- (2) The term board-on-board is used inconsistently within the fence industry. However, based on staff's review of local and national companies, board-on-board fences are often of a solid design. There are no gaps between boards which creates a solid design. To include these types of fences as semiprivate is confusing and potentially contradictory to other fence regulations.

The Village allows open, semiprivate, and solid fences in different locations with open fences generally permitted in all instances in side and rear yards and solid fences being largely prohibited. Village fence regulations provide locational exceptions for solid

fences identified by Section 3.13(11)a. These exceptions where solid fences are allowed are:

- 1) Immediately surrounding and enclosing recreational water tub or swimming pool;
- 2) Abutting an alley;
- 3) Abutting a lot in a business district;
- 4) Abutting a lot in a residential district used for nonresidential uses; and
- 5) In a rear or side yard along a lot line which abuts a lot in a manufacturing district.

Given the restrictions on solid fences, staff believes including a reference to board-on-board fences within the definition of a fence type that is not as restricted. If the Plan Commission concurs with staff's determination, staff recommends that references to board-on-board fences as an example of a semiprivate fence should be eliminated.

- (3) Vertical fence boards greatly restrict the design of a semiprivate fence. Staff is not aware of any specific purpose behind regulating the orientation of the boards.
- (4)
- (5) Staff is unsure how to determine compliance with this regulation as drafted. The standard establishes a maximum open space between boards which is counter-intuitive if the regulation is trying to ensure minimum open space and avoid solid fences.

### **Staff Research**

Attached to this staff summary is a memorandum from Ryan Johnson, Community Development Intern, which summarizes several areas of research. Staff was unable to find any references regarding the legislative history of developing the current semiprivate fence definition. Based on a review of ten neighboring communities, Lincolnwood is the only community that defines three different fence styles/designs (open fence, semiprivate fence, and solid fence).

It is anticipated that Mr. Johnson will attend the February 4<sup>th</sup> Plan Commission meeting.

### **Conclusion**

The Plan Commission has been referred this Public Hearing to consider fence definition and regulations, beginning with the definition of semi-private fences. The Plan Commission, at their February 4<sup>th</sup> meeting, will review and consider the ambiguity of the current semi-private fence definition and provide comment on the issues raised. Based on this discussion, it is likely the meeting will need to be continued to provide staff an opportunity to revise text and review other fence sections/regulations to ensure consistency with directed changes.

### **Attachments:**

1. Images of Shadow Box and Board-on-Board fences
2. Memorandum from Ryan Johnson (revised 1/30/15)
  - a. "Fence Style Definitions in Neighboring Communities" spreadsheet
  - b. A Better Fence Construction company's "Wooden Fence Designs" webpage
  - c. Lowe's board-on-board fence panel at company webpage
  - d. Home Depot board-on-board fence panel at company webpage

## Shadow Box Fencing

Shadow box fencing provides a very sharp looking alternative to a standard stockade fence, however it is only semi-private. Others walking or driving by can see partially through your shadowbox fence to the backyard.



The limited privacy is often not an issue for many people since their property is shared with friendly neighbors who are more concerned about protecting your property as well. Plus, from the front, there is usually limited to no view of the back yard.



### Decorative Privacy Fence

This is a board on board privacy fence design. This is a decorative privacy fence that looks very attractive, provides absolute privacy, and is slightly cheaper than the Shadowbox Fence.

If you click on the headings they will take you to more pictures of these types of fencing, and the options available.





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## MEMORANDUM

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To: Aaron Cook, Development Manager

From: Ryan Johnson, Community Development Intern

Date: October 3, 2014 (1/30/2015 Revision)

Re: Summary of Semi-Private Fence Information

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### **Background**

The Village of Lincolnwood's zoning code includes definitions of Open, Solid and Semi-Private fence styles. Staff compared these definitions to the fence definitions utilized by neighboring communities. Staff also researched the terminology that fence contractors and home centers use in relation to fences fence styles. Staff has concluded that the terminology and definitions that organizations use to describe fencing styles varies widely. In light of this, Lincolnwood's Semi-Private Fence zoning definition could be considered ambiguous.

### **Semi-Private / Board-On-Board / Shadow box Fence Definitions**

Lincolnwood's Semi-Private Fence definition reads:

“A fence which is not a solid fence nor an open fence. These types of fences are restricted to board-on-board fences (also known as "shadow box types"). The open space between vertical fence boards shall not exceed 85% of the width of the boards on the same side of the fence. [Amended 6-3-2014 by Ord. No. 2014-3102]”

Staff researched the history of this definition and found that this it went into effect in May of 2003. Staff researched meeting minutes from the Plan Commission, CORB and Village Board meetings that led to Ordinance 2003-185. This is the ordinance which included the Semiprivate Fence definition for the first time.

Of the 30 public hearings that the Plan Commission considered the fence item, only 16 meeting minutes documents could be found. Nothing in these meeting minutes referenced discussions about fence definitions. Staff could not find any notes related to semi-private fences whatsoever. The discussions found in the meeting minutes primarily focused on the height and security aspects of fencing.

### **Neighboring Community Fence Definitions**

Staff has researched the zoning code of 10 neighboring communities and found that they do not have definitions for semiprivate, board-on-board or shadow box style fencing. Glenview's fence section does mention that board-on-board fencing is considered finished on both sides, but provides no definition for this style of fence.

Five of the 10 neighboring communities do not define open or solid fences, which Lincolnwood's zoning code does. Evanston regulates fences based on percentages of opacity. Glenwood and Des Plaines similarly define their requirements by percentage of fence that is considered 'open.'

### **Fence Industry Definitions**

Staff investigated fence definitions on the Internet and contacted Tru-Link at Skokie to find common definitions for semi-private, board-on-board or shadow box fence styles. On September 25<sup>th</sup>, 2014 Steve Schneider, a sales representative for Tru-Link, explained to staff that board-on-board is not synonymous with the shadow box style. He explained that board and batten style is also board-on-board, but it is a solid privacy fence, without any gaps between boards.

Staff looked at other contractors' fence offerings on the Internet and found that some contractors do define board-on-board as synonymous with shadow box style, while others do not. Home Depot uses the term "Alternate Board" instead of shadow box. Furthermore, Home Depot and Lowe's stores both offer privacy fencing described as "board-on-board." These fences conflict with Lincolnwood's Semi-Private Fence definition because they are not a "shadow box type" fence.

### **Recommendations**

Staff recommends that the definition of "Semi-Private Fence" in Lincolnwood's zoning code be reviewed and altered so that the term 'board-on-board' will no longer be included in the definition. The current definition conflicts with terminology that many fence contractors and home improvement stores commonly utilize.

### **Attachments**

1. "Fence Style Definitions in Neighboring Communities" spreadsheet
2. The definitions and fence sections of 10 Neighboring Communities
3. A Better Fence Construction company's "Wooden Fence Designs" webpage
4. Lowe's board-on-board fence panel at company webpage
5. Home Depot board-on-board fence panel at company webpage

## Fence Style Definitions in Neighboring Communities

Ryan Johnson 10/3/2014

Municipality:	Fence Definition	Open fence Definition	Solid Fence Definition	Semi-Private Definition	Notes:
Lincolnwood	X	X	X	X	Includes Semiprivate Fence definition. Semiprivate fences are synonymous with shadowbox and board-on-board styles.
Skokie	X				Simple definition of "Fence". Could not find any style regulations for residential districts.
Morton Grove	X		X		Definition: solid fence "effectively obstructs view from adjoining properties, streets, alleys, or public ways." Unclear from code what a shadowbox fence would be considered, because it is possible to see through one at an angle.
Glenview	X				Fence code references board-on-board and solid fences, but there are no definitions of these styles. Fences at side yards must be "at least 50 percent open." Code does not address shadowbox fencing.
Evanston	X				Definitions include "Fence Opacity". Intricate fence section includes drawing of fences. Code regulates opacity, for example, "maximum fence opacity of seventy percent" It appears that shadowbox fences would be considered a fence that has 100% opacity.
Wilmette	X	X	X		Less than 50% open space is a solid fence; more than 50% open is an open fence. The definitions are measured at "eye level at a position perpendicular to the fence", which means implies that shadowbox fences are considered a solid fence style.
Park Ridge	X	X	X		A solid fence is defined as a fence made entirely of opaque materials, which can be ambiguous. Open fences are at least 50% open space. Unclear from code what a shadowbox fence would be considered.
Niles	X		X		A solid fence, per the zoning definition, "effectively conceals" the adjoining property. A shadowbox fence would not do that. The fence section defines "Fence" as having, over its entirety at least 70% of its surface area open space, viewed perpendicular to the fence. These two definitions seem to exclude shadowbox fences.
Des Plaines					No fence definitions. The fence section regulates that certain fences be "at least fifty percent open "see-through" area of uniform distribution".
Winnetka					Could not locate any fence style regulations in their code. Most regulations are regarding height.
Highland Park	X	X	X		Code definitions describe an open fence as having 50% of "open air spaces" per square foot, which afford a direct view through the fence. The definitions describe a solid fence as having no open breaks and conceals activities from adjoining properties. Fence section also includes definitions of open and solid fences, which conflict with the previous definition. The fence section stipulates that a solid fence is less than 60% apertures; an open fence is more than 60% apertures.

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## Attractive Wooden Fence Designs

We showcase here our most recent, attractive Wooden Fence Designs we've installed and constructed including Absolute Privacy designs.

### Semi-Private Designs

#### Shadow Box Fencing

Shadow box fencing provides a very sharp looking alternative to a standard stockade fence, however it is only semi-private. Others walking or driving by can see partially through your shadowbox fence to the backyard.



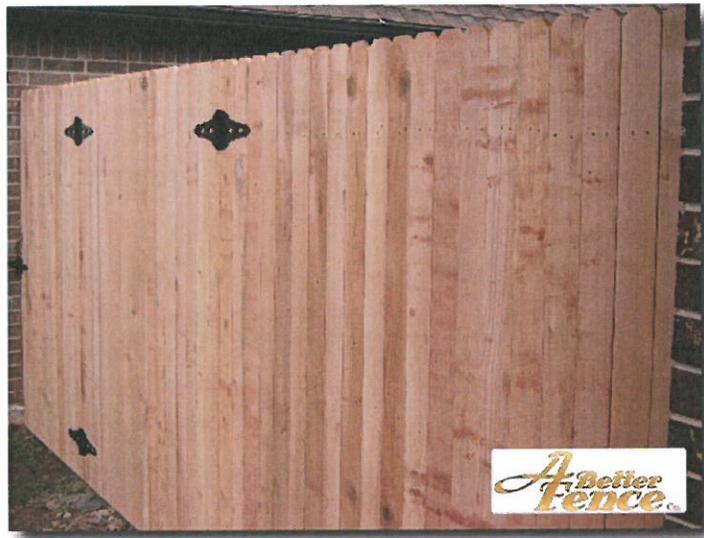
The limited privacy is often not an issue for many people since their property is shared with friendly neighbors who are more concerned about protecting your property as well. Plus, from the front, there is usually limited to no view of the back yard.

#### Solid Board Wooden Fence Design

Solid Board fence is exceptionally cost effective and useful in providing excellent privacy. Pickets are nailed to the back rails with galvanized nails.

**Mobile Phones:**

Touch to Call: **202-8580**  
or touch the phone number below on main pages.



Also, check out our #1 selling fence design, the:  
[7/8" x 6" Solid Board Western Red Cedar Privacy Fence](#)



### Absolute Privacy Fence Styles

The "Absolute" privacy fence designs allow for absolutely no viewing through the pickets. Those here are 2-sided solid board design and board on board.

We use the term "absolute" to convey the fact that basically no one could peak anywhere through your fence!

#### 2-sided Solid Board Privacy Fence Design

We completed a 2 sided solid board privacy fence where the pickets are installed on both side for aesthetic purposes.

This is a picture of only the backside of the fence. The front looks exactly the same. Postmaster inline posts were used to create a true good neighbor fence.

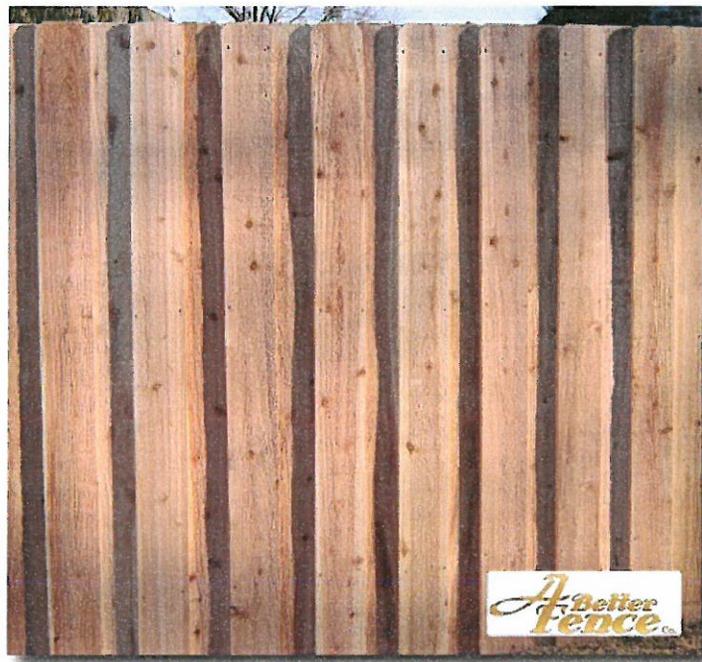


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### Decorative Privacy Fence

This is a board on board privacy fence design. This is a decorative privacy fence that looks very attractive, provides absolute privacy, and is slightly cheaper than the Shadowbox Fence.

If you click on the headings they will take you to more pictures of these types of fencing, and the options available.



---

### Decorative Privacy Fence with Full Trim

This is the board on board, decorative privacy fence with full trim added. The trim usually includes:

2"x6" inch rough cedar top cap, and

1"x2" inch cedar trim piece.

We get many compliments from this decorative type.



Even the backside of this style of fence looks pretty. We really like the board on board design and so do our customers. They get lots of compliments from their neighbors too.

The connection was



[Return HOME from Wooden Fence Designs](#)

202-8580



We are an Oklahoma City Fence Company serving the cities and communities of Edmond OK, Oklahoma City OK, OKC, Moore OK, Norman OK, Yukon OK, Del City OK, Midwest City OK, Mustang OK, Newcastle OK, Bethany OK, Choctaw OK, Warr Acres, Nichols Hills, The Village, Piedmont, and more in Oklahoma. 73139



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Enlarged Image

### Wood Fencing Pressure Treated Board on Board 6' x 8' Panel ACQ

Item #: 5017 | Model #: 5017

★★★★★ Be the first to write a review!

\$47.97

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Pressure Treated Board on Board 6' x 8' Panel ACQ

- 5/8" x 6' picket
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- Pressure treated for durability
- Doubled nailed pickets and backer rails
- Quality privacy fence



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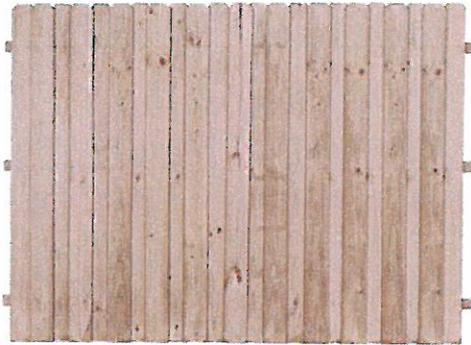
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Model # 105819 | Internet # 202093942

## 6 ft. x 8 ft. Pressure-Treated Pine 4 in. Board-on-Board Fence Panel

★★★★★ (2)

[Write a Review](#)[Questions & Answers \(1\)](#)

### PRODUCT OVERVIEW

Model # 105819 | Internet # 202093942

The 6 ft. x 8 ft. Pine Board-on-Board Pressure-Treated Fence Panel is constructed of sturdy yellow pine and can add natural beauty to your home, yard and garden. Its natural wood finish is stainable and paintable, and the wood itself is pressure-treated for long-life. Each section comes fully assembled, and installation is easy.

California residents: see [Proposition 65 information](#)

- Made from pine
- Board-on-Board style fence
- Double-nailed pickets
- Fully assembled for easy installation
- Note: Product may vary by store

### SPECIFICATIONS

Actual backer rail length (in.)	96	Actual backer rail thickness (in.)	1.5
Actual backer rail width (in.)	2.625	Actual panel height (in.)	72
Actual panel thickness (in.)	1.9	Actual panel width (in.)	96
Assembled Depth (in.)	2.75 in	Assembled Height (in.)	72 in
Assembled Width (in.)	96 in	Color Family	Brown
Commercial/Residential Use	Commercial / Residential	Contact Type Allowed	Above Ground
Fence Application	Privacy, Security	Fencing Product Type	Wood Fence Panels
Manufacturer Warranty	See store for details	Material	Wood
Nominal backer rail length (in.)	96	Nominal backer rail thickness (in.)	2.0
Nominal backer rail width (in.)	3.0	Nominal panel depth (in.)	3
Nominal panel height (ft.)	6	Nominal panel width (ft.)	8
Number of pickets for panels	29.0	Number of rails for panels	3.0