

Village of Lombard

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



Meeting Agenda

Thursday, October 21, 2010

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance

II. Roll Call

III. Public Hearings

IV. Agenda Items for Discussion

[100589](#)

Lombard Fire Department Operational Assessment
Presentation by Interim Fire Chief Bill Balling on the operational
assessment of the Lombard Fire Department.

Attachments: [operationalassessment.pdf](#)

[Power Point.pdf](#)

[100589.pdf](#)

V. Ordinances on First Reading (Waiver of First Requested)

[100586](#)

Salary Ordinance Revisions
Approving revisions to the Village of Lombard Salary Ordinance
regarding positions and salary ranges for non-union employees.

Attachments: [RequestforBOTActionForm.doc](#)

[Revised SalaryOrdinance May132010 \(3\).doc](#)

[Ordinance 6537.pdf](#)

[100586.pdf](#)

VI. Public Participation

[100584](#)

Swearing In Ceremony for the following individuals: Fire Chief Torrence,
Battalion Chief Holst, Lieutenant Gallione, Lieutenant Heimbecker,
Firefighter Candidate Herndobler and Firefighter Candidate Noon, and
the Promotions of Assistant Fire Chief Howell and Fire Marshal
Riforgiate.

Attachments: [swearingin2010.pdf](#)

[100590](#)

Presentation - Firefighter Dan Ekhart

VII. Approval of Minutes

VIII Committee Reports

.

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee - Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Keith Giagnorio, Chairperson

Board of Local Improvements - Trustee Greg Gron, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

IX. Village Manager/Village Board Comments

X. Consent Agenda

Payroll/Accounts Payable

- A. [100559](#) Approval of Accounts Payable
For the period ending October 8, 2010 in the amount of \$1,445,603.04.
- B. [100575](#) Approval of Village Payroll
For the period ending October 6, 2010 in the amount of \$800,625.14.

Ordinances on First Reading (Waiver of First Requested)

- C. [100583](#) Tax Levy Ordinance/Special Service Area Number Three
Levying and assessing taxes for Special Service Area Number Three
which was established for the property owners served by the traffic
signal located at 800 E. Roosevelt Road. (DISTRICT #6)

Attachments: [Ordinance 6538.pdf](#)
[100583.pdf](#)

Other Ordinances on First Reading

- D. [100546](#) Westmore School
Staff recommendation to expand No Parking Zone times on streets
surrounding Westmore School. (DISTRICT #5)

Attachments: [Ordinance 6546.pdf](#)
[100546.pdf](#)

Kalisik reviewed the item.

- E. [100565](#) Senior Citizen RTA Passes
Implementation of a fee for non-resident applicants for Seniors Ride

Free Program through the Regional Transportation Authority (RTA).

Attachments: [Ordinance 65471.pdf](#)
[100565.pdf](#)

Ordinances on Second Reading

- F. [100503](#) PC 10-13: Text Amendments to the Zoning Ordinance (Through Lots)
The Village requests text amendments to the Lombard Zoning Ordinance relative to fencing and accessory structures located on Through Lots. The definition of 'Through Lot' would also be amended for purposes of clarity. (DISTRICTS - ALL)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PH Notice.doc](#)
[Referral Letter.doc](#)
[Report PC 10-13.doc](#)
[Ordinance 6539.pdf](#)
[100503.pdf](#)

Michael Toth, Planner I, presented the petition. Historically, Village staff has received a number of requests to allow accessory structures and fences in excess of four (4) feet in height on through lots. In order to address these requests, staff has reviewed all provisions relative to through lots and is proposing amendments relative to fence height and the placement of accessory structures on such lots.

By definition, a lot that faces two parallel public streets is considered a 'through lot'. Pursuant to the Zoning Ordinance, a through lot is defined as having two front yards. As such, accessory structures and fences in excess of four (4) feet in height are not permitted in front yards. Historically, Village staff has received a number of requests to allow accessory structures and fences in excess of four (4) feet in height on through lots.

Fences

On an interior lot, the principal structure is bound by the front yard setback, two side yard setbacks and a rear setback. In this traditional configuration, a fence can be erected to a maximum height of six (6) feet in the side and rear yards of the property. However, as a through lot technically has two front yards, a fence in excess of four (4) feet is limited to the interior side yard.

Accessory Structures

Accessory structures are not listed as permitted encroachments in the front or side yard. Moreover, all detached accessory structures must also be located behind the front wall of the principal building that is nearest to the front lot line. As such, the placement of an accessory structure is limited to either the buildable area of the lot (behind the principal structure) or the rear yard. The placement of an accessory structure on a through lot is further restricted to the buildable area of the lot.

Staff recognizes the demand to allow properties located on through lots to have the same level of privacy (through the use of a fence in excess of four (4) feet)

and use of accessory structures that are afforded to interior lots. Through the proposed text amendments, single family through lots would be permitted to place an accessory structure or erect a fence to a maximum of six (6) feet, which is consistent with the interior lot provisions; however, certain conditions must apply.

In order to place accessory structures or erect a fence (in excess of four (4) feet) on through lots in an area once deemed to be a front yard, each through lot would be required to take driveway access from the same right of way as both adjacent properties. If this requirement is met, the lot line opposite the access right of way would be treated as a rear yard. This provision was created in order to maintain consistency on the block face and to ensure that accessory structures and fences (in excess of four (4) feet) would not be placed adjacent to the front yard of the neighboring property (the front yard taking access from the same right of way). Such provisions already exist within code to protect property owners from the impact caused by adjacent properties.

Existing Conditions

Staff conducted an analysis of all existing through lots within the Village. There are a total of 75 through lots, and with the exception of one block (located on 16th Street) the majority of through lots are located on (or abut) a Minor Arterial Route (as recognized by the Comprehensive Plan). Staff notes that the through lots along 16th Street are located across the street from Four Seasons Park. Furthermore, with the exception of one area (S. Main Street and Washington Blvd) all of the through lots examined held the same block face, which means that every house on the block takes access from the same right of way. All of these homes also face the same right of way from which they take access from.

In the case of the S. Main Street and Washington Blvd area, there are a total of five properties that form a peninsula. Three of those properties face S. Main Street, but only one faces and takes access to S. Main Street. Only two lots face and take access from Washington Blvd. The other two face S. Main Street, but take access from Washington Blvd. Because of this area's unique lot configuration, each property would be required to either meet the fence and/or accessory structure requirements or seek a variation, even if the proposed amendments were adopted.

The definition of 'Through Lot' does not specify which yard shall be deemed the front yard, but rather states that both street lines shall be deemed front lot lines. The definition of 'Lot Line, Front' allows corner lots to select either street line as the front lot line and states that the front lot line of "land-locked land" shall be that lot line that faces access to the lot. This definition does not specifically address through lots, but staff has historically made the interpretation that the front line is considered the lot line that the house faces and takes right of way access from. For technical purposes, homes that face their applicable right of way, but take access from a rear alley, would not be applicable to the proposed text amendments as those alleys are considered access easements and not public right of way.

Prior to the year 2000, the Village did not require permits for fences. Code provisions relative to fences (height, location, etc) did officially exist; however, without a formal permit process, these provisions were often disregarded. As a result, many of the through lots currently have fences in excess of four (4) feet. Typically during the permit process - now - is when permit applicants (living on through lots) discover that their existing fence is non-conforming and the

current code provisions must be met, otherwise a variation must be obtained.

Staff has always been consistent with the regulation of accessory structures on through lots; more specifically, staff has always considered the two front yard provision as part of the location requirement. Although there have not been any recent variations involving the placement of accessory structures on through lots, there has been a demand to allow such structures in the rear portion of the property. Furthermore, if a through lot could have the ability to erect a six (6) foot fence, this would provide a screening element for an accessory structure.

Staff has a history of amending provisions of the Zoning Ordinance to address emerging land use issues. As an example, corner lots - once deemed to have two front setbacks, were eventually granted the ability to consider one street exposure as a 'corner side yard', as opposed to a more restrictive front yard. This amendment allowed corner lots to have a larger building footprint and also expanded the amount of usable area of a property for other types of structures. Staff believes that the proposed amendments would also allow property owners to utilize their property to a greater extent, without sacrificing bulk regulations and/or aesthetic issues. Staff notes that the difference between allowing additional fence and accessory structure consideration for through lots, as opposed to corner side yards, is the fact that these through lots are located along major thoroughfares and not in the middle of residential neighborhoods. As such, the visual impact would be less detrimental.

Furthermore, staff finds that the proposed amendments meet the standards and recommends approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that staff did a really good job with such a confusing issue.

Commissioner Burke stated that this is a very technical issue. He then questioned why the Plan Commission is addressing this issue and why it is not handled on a case-by-case basis. Each and every condition is going to be different. He is nervous with the approach of creating a blanket ordinance because it won't fit every situation. He then questioned how many requests have been received because he does not remember one.

Mr. Toth stated that these types of requests are typically taken at the staff level at Village Hall during normal business hours. He then added that these requests are made when someone comes to the Village for a fence permit or permit for an accessory structure. At that point they are told that they do not meet code and they have to seek a variation.

Commissioner Burke asked if anyone has come forward to seek a variation. Mr. Toth responded, no.

Christopher Stilling, Assistant Community Development Director, stated that Mike is the frontline and ends up telling people that the code limits their fence height. The issue is that most people have an existing six (6) foot fence that was erected prior to 2000.

Commissioner Burke stated that it is better to do that than leave it in a state of disrepair.

Mr. Stilling agreed. He then added that those people will either contact him or the Director of Community Development, upset about this. He stated that we currently have four or five people waiting to see the result of this text amendment to know how tall they can build their fence. He added that staff wants to be more proactive with this issue. Ultimately, if the Village Board decides that they want to review these on a case-by-case basis, they can deny the text amendment. Staff believes that it is unnecessary to charge for the variation and is proposing the text amendment instead.

Referring to the staff report, Commissioner Burke stated that the definition of a through lot is a lot that faces two parallel streets. If you consider that definition in the strict sense of the word, several of the lots on Washington and Main would not be considered through lots as Main and Washington do not run parallel. He suggested that we consider changing the definition, noting that the lots have frontage on two sides.

Commissioner Sweetser suggested that the words "essentially parallel" or "parallel to 'x' percentage".

Attorney Wagner referred to the actual definition found on page 8 and provided clarity on the issue.

G. [100505](#)

PC 10-17: Text Amendments to the Zoning Ordinance

The Village of Lombard requests text amendments to Section 155.305 of the Lombard Zoning Ordinance related to legal nonconforming two-family dwellings that were lawfully established prior to January 1, 1960 and are located in the R2 Single Family Residence District. (DISTRICTS - ALL)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 10-17.doc](#)
[Referral Letter.doc](#)
[Report 10-17.doc](#)
[Ordinance 6540.pdf](#)
[100505.pdf](#)

Christopher Stilling, Assistant Director of Community Development, presented the petition. He stated that Village staff was contacted by the property owner at 90 S. Highland Avenue and their attorney with reference to their legal nonconforming two-family dwelling in the R2 Single Family District. The property owner of unit A recently entered into a contract to sell the unit, however just prior to closing, the FHA loan underwriter for the buyer would not approve the loan because it was considered legal nonconforming. To address this issue, staff is proposing a text amendment to allow property owners of a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District the ability to proactively seek a conditional use to re-establish the legal non-conforming status of the property before it is ever damaged or destroyed. As a companion to this request, the property owner of 90 S. Highland Avenue is seeking conditional use approval. Should this petition be approved, the companion petition can be considered for approval as well.

Mr. Stilling summarized the findings of the workshop held at the August 19, 2010 Plan Commission meeting. He stated that the Plan Commission unanimously supported the concept of a text amendment; however a few Commissioners expressed a concern about notification to other legal nonconforming two-family dwellings. Staff would like to point out that this proposed text amendment does not require property owners of legal nonconforming two-family dwellings to petition for the conditional use. Rather the amendment allows the property owner, at their discretion, the ability to proactively seek the conditional use to re-establish the legal non-conforming status of the property before it is ever damaged or destroyed. Whether or not a property owner seeks to utilize this provision is entirely up to them. The proposed text amendment allows a property owner to have the assurance that the conditional use to re-establish the legal nonconforming status has already been "pre-approved".

Mr. Stilling highlighted the specific language to be used for the text amendment and stated that staff supports this approach because the property would still remain legal nonconforming, while the property owner now has the assurance that the conditional use to re-establish the legal nonconforming status has already been "pre-approved". In addition, this could address several other properties we have identified who may encounter a similar issue.

Mr. Stilling stated that the petition meets the standards outlined in the Zoning Ordinance and recommends approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners. There were no comments.

H. [100506](#)

PC 10-18: 90 S. Highland Avenue, Unit A
Requests that the Village grant a conditional use, pursuant to amended Section 155.305 allowing for a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District to continue or be re-established as a legal nonconforming use prior to being subject to elimination under the terms of this ordinance. (DISTRICT #5)

Attachments: [apoletter 10-18.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE 10-18.doc](#)

[Referral Letter.doc](#)

[Report 10-18.doc](#)

[100506.pdf](#)

[Ordinance 6541.pdf](#)

Fred Huber, 90 S. Highland Avenue, Lombard, IL presented the petition. He stated that he purchased the property back in 2002. He stated that the home was too small for his family and needed to sell it. In June, 2010, he said he found a buyer for the unit; however, the buyer's loan was rejected because the home was legal nonconforming and the buyers lender needed assurance that the home could be rebuilt if it were destroyed. He said that he has been working with staff to find a resolution. He feels that the proposed solution will work and he has confirmed with a few lenders that this approach should work.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. No one spoke in favor or against.

Chairperson Ryan then requested the staff report.

Christopher Stilling, Assistant Director of Community Development, presented the staff report. Village staff was contacted by the property owner at 90 S. Highland Avenue and their attorney with reference to their legal nonconforming two-family dwelling in the R2 Single Family District. The property owner of unit A recently entered into a contract to sell the unit, however just prior to closing, the FHA loan underwriter for the buyer would not approve the loan because it was considered legal nonconforming. To address this issue, as outlined in PC 10-17, staff has proposed a text amendment to allow property owners of a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District the ability to proactively seek a conditional use to re-establish the legal non-conforming status of the property before it is ever damaged or destroyed. As this property would meet the provisions of the proposed text amendment, the property owner is seeking a conditional use.

Mr. Stilling provided background on the request stating that the subject

property is located in the R2 - Single Family District and improved with a two-family dwelling. The property is also not on a lot of record and is divided by an assessment division. The property is in the middle of a large single family neighborhood all zoned R2. There are also several other two-family dwellings scattered throughout the neighborhood and Exhibit "A" shows ten (10) other nonconforming two-family dwellings in the area. According to Village and County records, all of those units were constructed prior to 1960.

The subject property did receive a building permit for a two-family dwelling in 1956 and at that time two-family dwellings were permitted uses in the R2 District. Subsequent to the construction of the property, the Village amended its Zoning Ordinance as part of the 1960 Zoning Ordinance amendments which no longer permitted two-family dwellings in the R2 District. More recently, the Zoning Ordinance has since been relaxed to allow two-family dwellings on those properties that are on a lot of record and abutting property in the B3, B4 or B4A Districts, through a conditional use approval process. As such, two-family structures are not permitted as of right within the R2 District. Since the property is not on a lot of record and does not abut property in the B3, B4 or B4A Districts, it is considered a legal nonconforming use.

The property owners recently entered into a contract to sell their unit to a buyer who was using a FHA loan to purchase the property. During the loan approval process, the lender became aware that the existing property was considered legal nonconforming. Unfortunately the lender would not approve the loan without written assurance from the Village that the structure could be rebuilt if it were destroyed beyond 50% of its value. Staff did inform them that Section 155.305 of the Zoning Ordinance sets forth a provision which allows the owner of a nonconforming structure that has been destroyed more than fifty percent (50%) of its fair market value to apply for a Public Hearing before the Plan Commission for a conditional use to allow such building to be re-established. Since there was no guarantee that the Village would grant the conditional use, their lender denied the loan.

Mr. Stilling highlighted the specifics of the property stating that the existing structure does meet the setback and parking requirements of the R2 District. Mr. Stilling also stated that the petitioner has provided a response to the standards for a conditional use. Specifically, Mr. Stilling called attention to standard #3 stating that in the unfortunate event that the subject site were destroyed, two options would be available - either grant zoning relief for the property or grant approval of a conditional use to reestablish the legal non-conforming status for the damaged building. Staff believes that if the Village is interested in allowing the duplex to be reoccupied, reestablishing the non-conforming status would be preferred, as the request would only relate to the building at its present location and would not run with the land. Therefore staff supports granting the conditional use now. Mr. Stilling said that the required standards have been met and staff recommends approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners. There were no comments from the Commissioners.

- I. [100537](#) Liquor License Amendment - Rancho Viejo, 708 S. Main Street Amending Title 11, Chapter 112 of the Village Code reflecting an increase in the Class "A/B I" liquor license category. (DISTRICT #2)

Attachments: [Agenda Form.doc](#)
[ordincrease.doc](#)
[memoincrease.doc](#)
[Ordinance 6542.pdf](#)
[100537.pdf](#)

- J. [100545](#) Liquor License Amendment - Taqueria No Way Jose, 621 E. Roosevelt Road
Amending Title 11, Chapter 112 of the Village Code reflecting an increase in the Class "A/B I" liquor license category. (DISTRICT #6)

Attachments: [ordincrease Taqueria.doc](#)
[Agenda Form.doc](#)
[memoincrease Taqueria.doc](#)
[Ordinance 6543.pdf](#)
[100545.pdf](#)

Resolutions

- K. [100557](#) SA 217C Final Balancing Change Order No. 2
Authorizing a decrease in the amount of \$7,962.59 to the contract with Abbey Paving. (DISTRICT #4)

Attachments: [100557.pdf](#)
[R 43-11.pdf](#)
[Change Order 2 Abbey.pdf](#)

- L. [100561](#) North Industrial Park Pavement Rehabilitation Change Order No. 2
Reflecting an increase in the amount of \$34,206.50 and a time extension of 21 calendar days to the contract with Plote Construction. (DISTRICTS #1 & #4)

Attachments: [100561.pdf](#)
[R 44-11.pdf](#)
[Change Order 2 Plote Construction.pdf](#)

Dratnol: reviewed change order with committee.

Other Matters

- M. [100578](#) Crack Sealing at Fire Station #2
Request for a waiver of bids and award of a contract to TNA Sealants in an amount not to exceed \$24,900.00 for crack sealing at Fire Station #2. Public Act 85-1295 does not apply. (DISTRICT #3)

Attachments: [100578.pdf](#)
[Contract Fire Station 2 Crack Sealing.pdf](#)

- N. [100585](#) First Amendment to the Agreement with the Village Manager
Motion approving the First Amendment to the Agreement with Village

Manager David Hulseberg.

Attachments: [vmamdmenttocontractagenda10132010.DOC](#)
[submitvmfirstamendment10132010.DOC](#)
[First Amemdment to Village managers Agrmt.pdf](#)
[100585.pdf](#)

XI. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

- A. [100582](#) FYE 2010 Final Budget Amendments
Final budget amendments requested for the FYE 2010 budget.
(2/3 vote required)

Attachments: [2010 Final Budget Transfer Ord \(7\).doc](#)
[2010 Final Budget Transfer Ord \(7\).doc](#)
[Ordinance 6544.pdf](#)
[100582.pdf](#)

Other Ordinances on First Reading

Ordinances on Second Reading

Resolutions

Other Matters

- B. [100553](#) Approval of Purchase
Request for the approval of \$685.80 in purchases from Giagnorio's
Pizza.
Attachments: [100553.pdf](#)
[100553 BOT January 19.pdf](#)
[100553Coverpage1-19-12](#)
- C. [100576](#) Approval of Accounts Payable
For the period ending October 15, 2010 in the amount of \$602,603.39.

XII. Agenda Items for Discussion

XIII Executive Session

.

XIV Reconvene

.

XV. Adjournment