

Village of Lombard

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



Meeting Minutes

Monday, June 15, 2009

7:30 PM

Village Hall

Plan Commission

*Donald F. Ryan, Chairperson
Commissioners: Martin Burke,
Stephen Flint, Ronald Olbrysh,
Ruth Sweetser, Andrea Cooper and Richard Nelson
Staff Liaison: Christopher Stilling*

Call to Order

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

Roll Call of Members

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Present: Chairperson Donald F. Ryan, Commissioner Stephen Flint, Commissioner Ronald Olbrysh, Commissioner Ruth Sweetser, Commissioner Martin Burke, Commissioner Richard Nelson and Commissioner Andrea Cooper

Also present: William Heniff, Director of Community Development; Stuart Moynihan, Associate Planner; and George Wagner, legal counsel to the Plan Commission.

Chairperson Ryan called the order of the agenda.

Public Hearings

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PC 09-10: 404 East North Avenue

Requests that the Village grant a conditional use pursuant to Section 155.416(C)(4) and (5) of the Lombard Zoning Ordinance to allow automobile service and automobile repair in the B4 Corridor Commercial Shopping District. (DISTRICT #4)

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Chairperson Ryan indicated that staff has requested a continuance of this petition. Mr. Heniff clarified that the petitioner was aware of outstanding items associated with deficiencies on the property that they needed to meet. The petitioner verbally expressed their intent to staff to have the petition continued to the next meeting in order to correct these deficiencies. Staff has no objection to their request.

Commissioner Sweetser asked if they would incur some type of penalty as this is the second time they have requested a continuance. Mr. Heniff answered no.

It was moved by Commissioner Sweetser, seconded by Commissioner Olbrysh, that this matter be continued to the July 20, 2009 Plan Commission meeting. The motion carried by the following vote:

Aye: 6 - Flint, Olbrysh, Sweetser, Burke, Nelson and Cooper

Mr. Heniff read the Rules of Procedures as written in the Plan Commission By-Laws.

PC 09-16: Text Amendments to the Lombard Zoning Ordinance

The Village of Lombard is proposing text amendments to Section 155.223, Section 155.412 through Section 155.420 and Section 155.802 (and any other relevant sections for clarity) pertaining to live entertainment, in the following respects:

1. In addition to current General Provisions, add standards regulating live entertainment; and

2. In addition to current definitions, add a definition for "live entertainment".

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Chairperson Ryan asked if this petition will be presented by the Village. William Heniff, Director of Community Development, replied yes.

Chairperson Ryan then requested the staff report.

William Heniff presented the staff report indicating that it is being submitted to the public record in its entirety. This petition is a follow up from a previous workshop session relative to live entertainment text amendments. There has been an increased demand for the integration of live entertainment into new and existing businesses. There has also been an increased demand to address live entertainment in downtown Lombard, as suggested during the recent Downtown Visioning workshops.

The Zoning Ordinance presently permits live entertainment as a conditional use in the O, B3, B4 and B4A Districts, but only as part of a restaurant. As such, a restaurant establishment wishing to integrate a live entertainment component (karaoke, live music, etc.) is required to obtain conditional use approval through the public hearing process. Banquet halls, a type of restaurant, are already permitted to include live entertainment as an accessory use.

The proposed text amendments would allow live entertainment for applicable uses so long as the standards are met. Staff is proposing to add standards to live entertainment uses, which would regulate each live entertainment activity. Mainly, live entertainment would only be permitted as an accessory use to a permitted use or approved conditional use and would be required to meet all requirements of Village Code, including the liquor provisions.

He mentioned that the Zoning Ordinance does not currently include a definition for "live entertainment" which resulted in a subjective interpretation based upon a staff review. This text amendment will also provide better information to the public outlining the provisions which need to be met if desiring live entertainment associated with a business establishment.

Staff shared their text amendment comments with the Chamber of Commerce and Lombard Town Centre requesting their input. Staff also conducted a survey of neighborhood municipalities, most of which allow live entertainment as conditional use or permitted use.

What staff is proposing as part of the text amendment would allow for live entertainment as an accessory function. Mr. Heniff then noted page #5 of the staff report and referred to the seven provisions. He explained that live entertainment would be permitted as long as these standards are met, clearly as an accessory use. If you had a business activity with live entertainment as a principal use, it would not have to meet the provisions, but rather it would fall back to a theater use or some other use. There is a provision relative to the 25% gross floor area, which is consistent with the accessory use and activity. Mr. Heniff then went over the other provisions.

Staff would require a live entertainment application process for review and approval which would need to be achieved before the activity is started. He clarified that a permit would not be required but the process would be handled similarly to the valet parking process where an application would be submitted outlining their plan and program. If they operate within the confines of the permit then it would use an accessory use.

Concluding, Mr. Heniff noted the live entertainment definition and mentioned for clarity that it does not include adult uses. Based upon comments received from the Plan

Commission, staff is recommending approval.

Chairperson Ryan asked if anyone had any questions relative to the staff report.

Commissioner Nelson asked if the Taste of Lombard falls into this. Mr. Heniff stated that the Taste of Lombard would be considered a special event because it is not associated with the principal function of the property.

Chairperson Ryan then opened the meeting for public comment. There was no one to speak in favor or in opposition to the petition.

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

Commissioner Sweetser asked if any of the other Villages that staff looked at referred to animals. She asked if it was intentional that animals were omitted or that staff didn't come across it. Mr. Heniff stated that they didn't come across it. He stated that if it is an ancillary function, such as a seafood restaurant with an aquarium, we would consider those decorative elements. Mr. Heniff stated that staff may look at Health Department provisions for any animal issues. He also added that staff did not run across any uses whereby animals were the principal function.

Commissioner Olbrysh asked if adult uses are defined elsewhere in the Code. Mr. Heniff replied, yes.

Commissioner Cooper asked if there is any reference to days of the week or hours that this is allowed. Mr. Heniff responded by stating that because the uses are completely indoors, we do not require specific hours or days. If associated with a liquor license there will be sunset provisions as to how late you could serve liquor. Again, being indoors staff didn't see any special reason to place a limit on days or hours.

Commissioner Olbrysh referred again to the Taste of Lombard and asked if a special event permit would require that they follow certain standards. Mr. Heniff replied, yes. There is a special process with regulations pertaining to life safety which are more detailed than what the Code would have with regard to this proposal.

Commissioner Burke referred to provision #2 on page 4. He questioned if that meant that if there is a band, could they can only take up 25 percent of the restaurant or could the audience take up only 25 percent. Mr. Heniff replied that it would be the band or stage area associated with the activity. Commissioner Burke suggested that it be clarified. Mr. Heniff asked if adding the word "performance" before "area" would help clarify the provision. Commissioner Burke replied, yes.

It was moved by Commissioner Flint, seconded by Commissioner Nelson, that this matter be recommended to the Board of Trustees for approval. The motion carried by the following vote:

Aye: 6 - Flint, Olbrysh, Sweetser, Burke, Nelson and Cooper

Business Meeting

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The business meeting convened at 7:40 p.m.

Approval of Minutes

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There were no minutes to approve.

Public Participation

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There was no public participation.

DuPage County Hearings

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DuPage County Case Z09-038: 21W210 Canary Road

Requests a variation to reduce the side yard setback from 3 feet to 1.77 feet for an existing shed and a variation to reduce the side yard setback from 7.7 feet to 3 feet to allow for an existing deck. (UNINCORPORATED)

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Stuart Moynihan, Associate Planner, presented the petition. DuPage County has received a filing for a public hearing for a variation to reduce the interior side yard setback to 1.77 feet from the required 3 feet to allow for an existing shed and a variation to reduce the interior side yard setback to 3 feet from the required 7.7 feet to allow for an existing deck in an R-4 Single Family Residence District. The petition is for the property at 21W210 Canary Rd., in the Butterfield East Subdivision. As the subject property is located within the ultimate municipal boundaries of the Village of Lombard, the Village has received notice of the public hearing from the County and has been asked to provide comments or concerns regarding this petition.

Staff would like to solicit the input and a recommendation of the Plan Commission regarding this petition. Staff has informed the County that this matter is being brought forward to the Plan Commission and the Village Board for consideration.

The existing deck on the property has recently been constructed. The deck encroaches into the required side yard; therefore relief is requested to allow the deck to remain at its present location. The existing setback from the interior side lot line is 3 feet. The setback required by DuPage County is 7.7 feet or 10% of the lot width and the setback required by the Village would be 6 feet since the deck is greater than 3' in height.

The existing shed on the property does not achieve code compliance concerning County and Village Codes. The existing setback from the interior side lot line is 1.77 feet. The setback required by both DuPage County and the Village is 3'. The shed's location is also found within a public utility easement. The existing setback is 3.2 feet into 10' easement, setback of 6.8 feet from the north lot line. DuPage County allows structures to be located in an easement provided that each utility company signs off on the permit. The Village allows structures to be located in an easement if it is not permanently fixed to a foundation.

The property is 10,237 square feet in size (77' wide by 133' deep). The property is bordered by single family residences on all sides. The Village's Comprehensive Plan included the subject property and identifies the site for Low Density Residential use.

In review of the petitioner's request, staff considered the request relative to Village Codes. While staff recognizes that the Village's setback requirement for decks in an interior side yard is less than the County standard, the Village would still not permit the deck in the interior side yard as it is over the maximum height of 3 feet above grade. If this deck was proposed to be constructed in the Village, it would have to meet the 6 foot interior side yard setback requirement. Regarding the shed's location, if the structure is not permanently fixed to a foundation, the Village would permit it within an easement

provided that it is moved to meet the 3 foot interior side yard setback requirement.

Staff finds that based upon the site plan, a great deal of flexibility exists for the property owner to construct a deck that meets County and Village Codes. The existing home is setback approximately 11 feet from the interior side lot line; therefore there would be 3.3 feet for a landing. The Building Code requires a minimum landing width of 3 feet to allow entrance/egress to the residence. The width of the existing deck landing is approximately 8 feet.

Staff notes that the Village cannot approve any permanent structure within an easement. Based on discussions with the County, the existing shed is not on any foundation and is not a permanent structure. Therefore, the shed being in the easement is acceptable to the Village; however, as it is not a permanent structure, it can be moved to meet the 3 foot setback required by both the Village and the County.

Staff finds that both the shed and the deck in their current locations may present a negative impact upon the adjacent property owners. Based upon established County and Village codes, there are alternative locations to construct both the shed and the deck within the buildable area of the lot. Staff also finds that the need for the variation is created by the petitioner and is not unique to the property. Moreover, the variation may also establish a precedent for yard setback relief for other properties in the area. As a practical matter, reductions in side yard setbacks can give an appearance of overcrowding within a subdivision.

Based upon this review, the petition would be inconsistent with established Village policies. Additionally, the petition would be inconsistent with the objectives included as part of the Comprehensive Plan, creates an adverse impact on a neighboring property, and constitutes an excessive encroachment into a required yard.

Concluding, Mr. Moynihan noted that staff is recommending denial.

Mr. Heniff added that staff is seeking direction and comments from the Plan Commissioners. He noted that while the Village Board will not hear this matter until August 20 we look for 2 actions:

- 1. Does the Plan Commission concur with staff?*
- 2. Does the Plan Commission recommend that the Village Board adopt a Resolution of Objection?*

It is possible that the DuPage County Board could hear this petition before the Village Board will but we will share tonight's recommendation with County staff and the County Board of Appeals so they can take these issues into consideration.

Lastly he noted that this petition is similar in nature to a 2002 petition on Lloyd Avenue and located in the same subdivision. At that time the recommendation was to submit a resolution of objection.

It was moved by Commissioner Sweetser, seconded by Commissioner Burke, that this matter be recommended for a Resolution of Objection to the Corporate Authorities. The motion carried by the following vote:

Aye: 6 - Flint, Olbrysh, Sweetser, Burke, Nelson and Cooper

Chairperson's Report

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The Chairperson deferred to the Director of Community Development.

Planner's Report

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The Director of Community Development had nothing to report.

Unfinished Business

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There was no unfinished business.

New Business

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There was no new business.

Subdivision Reports

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There were no subdivision reports.

Site Plan Approvals

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There were no site plan approvals.

Workshops

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There were no workshops.

Adjournment

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The meeting adjourned at 7:57 p.m.

*Donald F. Ryan, Chairperson
Lombard Plan Commission*

*William Heniff, Secretary
Lombard Plan Commission*