

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: October 24, 2016 (B of T) Date: November 3, 2016

TITLE: PC 16-21, 330 S. Westmore-Meyers Road

SUBMITTED BY: Department of Community Development *WKS*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village grant a conditional use, pursuant to 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

The Plan Commission recommended approval of this petition by a vote of 6-0.

The petitioner requests a waiver of first reading of the ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):  
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_


Finance Director X \_\_\_\_\_ Date \_\_\_\_\_

Village Manager X \_\_\_\_\_ Date \_\_\_\_\_



## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**MEETING DATE:** November 3, 2016

**SUBJECT:** **PC 16-21, 330 S. Westmore-Meyers Road**

Please find the following items for Village Board consideration as part of the November 3, 2016 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 16-21; and
3. An Ordinance granting approval of a conditional use pursuant to Section 155.305 of the Lombard Zoning Ordinance.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the November 3, 2016 Board of Trustees agenda with a waiver of first reading.



## VILLAGE OF LOMBARD

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Lombard, Illinois 60148-3926  
(630) 620-5700 Fax (630) 620-8222  
www.villageoflombard.org

November 3, 2016

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**Trustees**  
Dan Whittington, Dist. 1  
Michael A. Fugiel, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Bob Johnston, Dist. 4  
Robyn Pike, Dist. 5  
William "Bill" Ware, Dist. 6

**Village Manager**  
Scott R. Niehaus

*"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."*

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

Mr. Keith T. Giagnorio,  
Village President, and  
Board of Trustees  
Village of Lombard

**Subject: PC 16-21, 330 S. Westmore-Meyers Road**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village grant a conditional use, pursuant to 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on October 17, 2016. Sworn in to present the petition was Jennifer Ganser, Assistant Director of Community Development and the petitioner Dawn Pengiel.

Chairperson Ryan read the Plan Commissions procedures and asked if anyone other than the petitioner intended to cross examine, and, hearing none, he proceeded with the petition.

Ms. Pengiel presented the petition regarding their request for a conditional use. She said she requests the conditional use for her two flat so if it was damaged it could be rebuilt. She said the conditional use is necessary for bank approval of a sale. She said it was a duplex since it was built and her family has owned it since the 1960s.

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment.

Mr. Keith Matthews said he owns a neighboring property and said the duplexes were built in accordance with the law, but then the Village rezoned. He asked if prior to 1960, what the zoning district was and how this was allowed. He said this creates a burden on people who own the duplexes as it becomes non-conforming and requires a conditional use permit at a cost. He said the buildings already exist and asked how a conditional use would be denied. He said he believes the ordinance should be changed to allow these uses to stay.

Chairperson Ryan asked staff to respond to the zoning question. Ms. Ganser said at when built they were lawfully established and legal. However, in 1960s there was a rezoning and that area was rezoned to R2 and therefore the properties became legal non-conforming.

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment. Hearing none, he asked for the staff report.

Ms. Ganser, Assistant Director of Community Development, presented the staff report, which was submitted to the public record in its entirety. The petitioner is the owner of the property at 330 S. Westmore-Meyers Road. The property is a legal nonconforming two-family dwelling. The subject property was built in 1954. The lot was platted in Robertson's Westmore Subdivision in 1922. To address this issue, as outlined in PC 10-17, staff 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 conforming status of the property before it is ever damaged or destroyed. One case has been brought before the Plan Commission, in 2010 for a refinance. That case was approved by the Village Board. This was done as a conditional use so properties can be looked at on a case by case basis. Staff does support this petition, but there may be instances where staff would not support a conditional use. The area is surrounded by R2 Single Family in three directions, with the exception of multi-family housing to the east zoned R3. The proposed conditional use does not change the overall use and intensity of the property.

Chairperson Ryan asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

Commissioner Burke asked how many properties in the village are in a similar position. Ms. Ganser said there isn't a good way to obtain that information. She noted this is a not a requirement for a property owner. Since 2010 there has only been one other petition.

On a motion by Commissioner Burke, and a second by Commissioner Olbrysh, the Plan Commission voted 6-0 that the Village Board approve the petition associated with PC 16-21, subject to the following one (1) condition:

1. Should the existing residential structure be re-built, it shall conform to the current dimensions and setbacks of the existing building.

Respectfully,

**VILLAGE OF LOMBARD**

Donald Ryan, Chairperson  
Lombard Plan Commission

c. Lombard Plan Commission

September 19, 2016

**Title**

PC 16-21

**Petitioner**

Dawn Pengiel  
6N392 W. Ridgewood Lane  
St. Charles IL 60175

**Property Owner**

Same

**Property Location**

330 S. Westmore Meyers Road  
06-09-308-019  
Trustee District #5

**Zoning**

R2

**Existing Land Use**

Legal nonconforming duplex

**Comprehensive Plan**

Low Density Residential

**Approval Sought**

Conditional use, pursuant to 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

**Prepared By**

Jennifer Ganser, Assistant  
Director



LOCATION MAP

**PROJECT DESCRIPTION**

The petitioner is the owner of the property at 330 S. Westmore-Meyers Road. The property is 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 petitioner is seeking a conditional use to continue the use “as is” and have the ability to re-establish the legal conforming status of the property if it is ever damaged or destroyed. No changes or improvements are proposed.

The property owner contacted the Village to obtain a legal nonconforming letter for a potential sale. The bank noted that the property would not be allowed to be rebuilt if it was damaged or destroyed more than 50%. Granting a conditional use would allow the use to be re-established and therefore rebuilt.

**APPROVAL(S) REQUIRED**

The petitioner requests that the Village grant a conditional use, pursuant to 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

**PROJECT STATS**

**Lot & Bulk**

Parcel Size: 0.196 acres

**Submittals**

1. Petition for a public hearing;
2. Response to Standards for a Conditional Use, prepared by the petitioner; and
3. Plat of Survey, prepared by Gentile and Associates, Inc., dated August 13, 2002.

**EXISTING CONDITIONS**

The subject property is legal nonconforming duplex built in 1954. The lot was platted in Robertson's Westmore Subdivision in 1922.

**INTER-DEPARTMENTAL REVIEW**

**Building Division:**

The Building Division has no comments.

**Fire Department:**

The Fire Department has no comments.

**Private Engineering Services:**

Private Engineering Services (PES) has no comments.

**Public Works:**

The Department of Public Works has no comments.

**Planning Services Division:**

The Planning Services Division (PSD) notes the following:

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.

To address this issue, as outlined in PC 10-17, staff 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 conforming status of the property before it is ever damaged or destroyed. As this property meets the provisions of the text amendment, the property owner is seeking a conditional use.

### *Surrounding Zoning & Land Use Compatibility*

	<b>Zoning Districts</b>	<b>Land Use</b>
<b>North</b>	R2	Single-family dwelling
<b>South</b>	R2	Two-flat residential dwelling
<b>East</b>	R3	Multi-family residential dwelling
<b>West</b>	R2	Single-family dwelling

The area is predominantly single-family detached. The area is surrounded by R2 Single Family in three directions, with the exception of multi-family housing to the east zoned R3. Staff finds that although two-family dwellings are not consistent with the R2 district, unless abutting property in the B3, B4 or B4A Districts, the proposed conditional use does not change the overall use and intensity of the property.

The duplex has existed since 1954, per the York Township Assessor. In addition, if the property were to receive the conditional use approval, the property would still be considered legal nonconforming. Therefore the underlying zoning, which is consistent with the surrounding land uses, would still govern the site. The conditional use would allow the building to be rebuilt as a duplex if it was damaged or destroyed.

#### ***Parking***

A detached garage and driveway provides parking for each unit. The Zoning Ordinance requires two spaces for each unit. Since each unit has one garage space and adequate room for an additional parking space in front of the garage unit, the parking requirements meet Village Code.

#### ***Comprehensive Plan Compatibility***

The Comprehensive Plan identifies this area for low density residential. The area is predominantly single-family detached. When uses and structures do not meet the provisions of the Zoning Ordinance and are considered legal nonconforming, Section 155.303 of the Zoning Ordinance specifies those circumstances and conditions under which nonconforming buildings, structures, and uses shall be permitted to continue. The reason for having nonconforming provisions is that over time, those uses would cease and only permitted/conditional uses would be allowed. If the property were to receive the conditional use approval, the property would still be considered legal nonconforming. Therefore the underlying zoning, which is consistent with the Comprehensive Plan, would govern the site.

### **FINDINGS & RECOMMENDATIONS**

Staff finds that the duplex use is consistent with its surrounding context, the Village of Lombard Comprehensive Plan, and Zoning Ordinance.

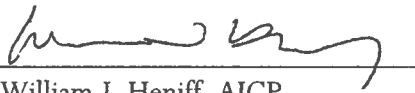
The Inter-Departmental Review Committee has reviewed the standards for the requested conditional use for the duplex and finds that the use **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval based on the above considerations. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 16-21:



Based on the submitted petition and the testimony presented, the proposed conditional use does comply with the standards required by the Village of Lombard Zoning Ordinance and that granting the conditional use permit is in the public interest and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Committee Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 16-21, subject to the following conditions:

1. Should the existing residential structure be re-built, it shall conform to the current dimensions and setbacks of the existing building.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

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**STANDARDS  
FOR CONDITIONAL USES**

The following is an excerpt from the Lombard Zoning Ordinance. A **detailed response** to all of these standards should be provided for all conditional uses of the Lombard Zoning Ordinance.

SECTION 155.103 (F)(8) OF THE LOMBARD ZONING ORDINANCE:

No conditional use shall be recommended by the Plan Commission unless it finds:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;

**RESPONSE: The relief is to maintain the legal non-conforming status of the property if it were to be damaged or destroyed more than 50% of its fair market value. Maintaining the legal non-conforming status will not be detrimental to public health, safety, morals, comfort, or welfare.**

2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located;

**RESPONSE: The use will not diminish or impair property values as it has existed as a duplex since 1954 (according to York Township Assessor). There are other duplexes in the immediate area.**

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

**RESPONSE: The conditional use will not impede development, as the use has existed since 1954 (according to York Township Assessor). The relief would be utilized only if the property were to be damaged or destroyed more than 50% of its fair market value.**

4. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

**RESPONSE: These facilities have already been provided and are in place.**

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

**RESPONSE: Ingress and egress will not change is already provided.**

6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and,

**RESPONSE: The conditional use is consistent with the R2 District and granting the conditional use would allow for the property to be rebuilt.**

7. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission

**RESPONSE: Granting the conditional use would allow the property to be rebuilt as duplex if it were to be damaged or destroyed more than 50% of its fair market value.**



## Nowakowski, Tamara

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**From:** Ganser, Jennifer  
**Sent:** Wednesday, October 19, 2016 9:34 AM  
**To:** Nowakowski, Tamara  
**Subject:** FW: waiver

For PC 16-21

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**From:** [iiyouts@comcast.net](mailto:iiyouts@comcast.net) [<mailto:iiyouts@comcast.net>]  
**Sent:** Wednesday, October 19, 2016 9:32 AM  
**To:** Ganser, Jennifer  
**Subject:** waiver

As petitioner, I am requesting a waiver of first because I would like to obtain conditional use as soon as possible as not to lose a potential buyer.

Thank you,  
Dawn Pengiel

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING A CONDITIONAL USE  
PURSUANT TO TITLE 15, CHAPTER 155, SECTION 155.305 OF  
THE LOMBARD VILLAGE CODE**

PC 16-21, 330 S. Westmore-Meyers Road

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Lombard Village Code; and,

WHEREAS, the Subject Property, as described in Section 2 below, is zoned R2, Single Family Residence District; and,

WHEREAS, an application has been filed requesting approval of a conditional use pursuant to Title 15, Chapter 155, Section 155.305 of the Lombard Village Code to provide 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance; and

WHEREAS, a public hearing on the forgoing application was conducted by the Village of Lombard Plan Commission on October 17, 2016 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the conditional use described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That a conditional use is hereby granted for the Subject Property, as described in Section 2 below, pursuant to Title 15, Chapter 155, Section 155.305 of the Lombard Village Code to provide 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 permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

SECTION 2: That this Ordinance is limited and restricted to the property located at 330 S. Westmore-Meyers Road, Lombard, Illinois and legally described as follows:

LOT 182 IN ROBERTSON'S WESTMORE, A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1922 AS DOCUMENT 156381 IN DU PAGE COUNTY, ILLINOIS.

Parcel Number: 06-09-308-019; (the "Subject Property").

SECTION 3: The conditional use, as provided for in Section 1 of this Ordinance, shall be granted subject to compliance with the following conditions:

1. Should the existing residential structure be re-built, it shall conform to the current dimensions and setbacks of the existing building.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2016.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2016, pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
Re: PC 16-21  
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Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Keith T. Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published in pamphlet from this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk