



MEETING AGENDA

ZONING BOARD OF APPEALS
WEDNESDAY, July 19, 2017
6:30 P.M.
MEMORIAL HALL – MEMORIAL BUILDING
(Tentative & Subject to Change)

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - a) Regular meeting of June 21, 2017
- 4. APPROVAL OF FINAL DECISION**
 - a) APP-01-17, 444 East Fourth Street/435 Woodside Avenue
 - b) V-04-17, 435 Woodside Avenue
- 5. RECEIPT OF APPEARANCES**
- 6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE**
- 7. PRE-HEARING AND AGENDA SETTING**
 - a) V-06-17, 19 Lansing Street
- 8. PUBLIC HEARINGS – None**
- 9. NEW BUSINESS**
 - a) Discussion and Approval of Proposed Rules for Written Submissions
- 10. OTHER BUSINESS**
- 11. ADJOURNMENT**

The Village of Hinsdale is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities, are requested to contact Darrell Langlois, ADA Coordinator at 630-789-7014 or by TDD at **630-789-7022** promptly to allow the Village of Hinsdale to make reasonable accommodations for those persons.

www.villageofhinsdale.org



MEMORANDUM

DATE: July 14, 2017
TO: Chairman Neiman and Members of the Zoning Board of Appeals
CC: Kathleen A. Gargano
FROM: Christine M. Bruton, Village Clerk
RE: Agenda Item 3a – Approval of Minutes

The minutes of the regular meeting of June 21, 2017, scheduled for approval at the ZBA meeting of July 19th, are not complete at time of packet publication. Every effort will be made to provide these to the Board in a timely fashion prior to the meeting.

Thank you.

FINAL DECISION

VILLAGE OF HINSDALE ZONING BOARD OF APPEALS PETITION FOR STAFF APPEAL

ZONING CALENDAR: App 01-17

PETITIONERS: Matt Bousquette/Kris & Tracy Parker, Co-Petitioners

HEARING HELD: A Public Hearing on the Appeal was held on Wednesday, June 21, 2017 at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois.

PREMISES AFFECTED: The Subject Property is commonly known as 444 E. Fourth/435 Woodside, Hinsdale, Illinois (collectively, the "Property"), with PINS of 09-12-221-006, 09-12-221-008 and 09-12-221-009, and is legally described as:

PARCEL 1 (the "South Lot"):

LOTS 18 AND 19, TOGETHER WITH THAT PART OF THE VACATED STREET LYING EAST OF AND ADJOINING SAID LOT 19 MEASURED 33.07 FEET ON NORTH AND 33.68 FEET ON SOUTH, IN THE RESUBDIVISION OF BLOCK 8 IN WILLIAM ROBBINS' PARK ADDITION TO HINSDALE, A SUBDIVISION OF THE SOUTH ½ OF THE SOUTHEAST ¼ OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2 (the "North Lot"):

LOTS 1, 2, 3 AND 4, TOGETHER WITH THAT PART OF THE VACATED STREET LYING EAST OF AND ADJOINING SAID LOT 1 MEASURED 26.66 FEET ON NORTH AND 33.07 FEET ON SOUTH, IN THE RESUBDIVISION OF BLOCK 8 IN WILLIAM ROBBINS' PARK ADDITION TO HINSDALE, A SUBDIVISION OF THE SOUTH ½ OF THE SOUTHEAST ¼ OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

SUBJECT: The Petitioners appeal a finding by the Village Manager that the North and South Lots are not capable of independent development as of right pursuant to the Village of Hinsdale Zoning Ordinance (the "Zoning Code")

PROCEEDINGS: The Property is located in the R-1 Residential Zoning District in the Village of Hinsdale and runs from Woodside Avenue to Fourth Street. There is currently one (1) single-family residence (the "Existing Residence") on the Property.

Mark Daniel, attorney for the Petitioners, presented the position of the Petitioners on appeal. The Petitioners maintain that the Property is made up of two distinct lots of

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Mark Daniel, attorney for the Petitioners, presented the position of the Petitioners on appeal. The Petitioners maintain that the Property is made up of two distinct lots of

record, the North Lot and the South Lot, and that following relocation of the Existing Residence that currently straddles the lot line between the North and South Lots entirely to the South Lot, the North Lot may then be independently redeveloped as of right with a separate residence.

Mr. Daniel detailed some of the history of the Village's zoning ordinances from the original 1923 ordinance to the present day. Petitioners contend that despite the Existing Residence straddling the line between the North and South Lots, the Property does not currently constitute a single zoning lot. Mr. Daniel noted that only a small portion of the Existing Residence extends across into the South Lot. He further noted that it was possible that the building commissioner in 1929 had waived the requirement that the Existing Residence have a rear yard, but that there was no way to know because records are not available. Mr. Daniel maintained that due to the minimal amount of encroachment by the Existing Residence into the South Lot, it was incorrect for staff and the Village Manager to find that the remainder of the South Lot other than the small part on which the Existing Residence sits was part of the same zoning lot as the North Lot.

One of the issues in the appeal centers on whether the South Lot meets the definition of a legal, nonconforming lot of record in Section 12-206 of the Zoning Code. The Petitioners maintain that upon the relocation of the Existing Residence from its current location straddling the lot line between the North and South Lots, the lots become "vacant" legal, nonconforming lots for purposes of redevelopment under Section 10-105 of the Zoning Code. A legal, nonconforming lot of record is defined in Section 12-206 of the Zoning Code as a nonconforming lot of record that:

A.1. Was created by a plat or deed recorded at a time when the creation of a lot of such size, shape, depth, and width at such location would not have been prohibited by any ordinance or other regulation; and

2. Is located in a residential district and meets the minimum lot area and lot dimension standards of subsection 10-105A of this code, or is located in a district other than a residential district; and

3. Was vacant on June 18, 1988, or became vacant thereafter by reason of demolition or destruction of a precode structure that is not authorized to be rebuilt or replaced pursuant to subsection 10-104C of this code; or

B. Was created pursuant to section 3-110 of this code.

Except as authorized pursuant to section 3-110 of this code, a legal nonconforming lot of record cannot be created by the sale or transfer of property that results in the creation of a nonconforming lot of

record or that increases the degree of nonconformity of any existing nonconforming lot of record.

While the Parties agree that prongs A.1 and A.2 in the above definition are met, there is disagreement about whether the South Lot meets prong A.3., as a lot that was vacant on June 18, 1988, or that became vacant thereafter by reason of demolition or destruction of a precode structure that is not authorized to be rebuilt or replaced pursuant to subsection 10-104C of the Zoning Code.

Mr. Daniel maintained at the Public Hearing that both the North and South Lots will become vacant by virtue of relocation of the Existing Residence, and that A.3. has therefore been met. Upon questioning from Chairman Neiman, Mr. Daniel acknowledged that the Existing Residence currently encroaches onto the South Lot. Mr. Daniel responded that it did not matter if the lot was vacant now, as the Existing Residence would be moved. Mr. Daniel also pointed out that the Zoning Code definition of vacancy did not distinguish between buildings, structures and paving.

Attorney Michael Marrs presented the position of staff. He noted that the Existing Residence clearly crosses the lot line between the North and South Lots and that where a house has straddled a lot line, it has been the consistent position of staff that there is no right to divide the property without a subdivision and any necessary zoning relief. In the opinion of staff, where a house straddles a lot line, a single zoning lot exists, and an owner either needs a subdivision in order to put two (2) houses on the property under Section 3-110 of the Zoning Code, or, assuming the house meets the definition of a precode structure, it would need to be shown that the house could not be rebuilt on the existing lot under Section 10-104 in order to even reach a legal nonconforming lot and vacancy analysis under Section 10-105 of the Zoning Code. In the opinion of staff, even under a Section 10-105 "vacancy" analysis, the South Lot is not a legal, nonconforming lot as defined in the Zoning Code, because it is not vacant, and instead has part of the Existing Residence on it.

Mr. Marrs further explained that in the view of staff, a lot may be subject to either Section 10-104 or 10-105. He explained how the two (2) sections work together. In the opinion of staff, the Existing Residence, which straddles the lot line between the North and South Lots, creates a single zoning lot with a precode structure that can be rebuilt on the 50,000 square foot zoning lot under Section 10-104.

Finally, Mr. Marrs noted that where a house straddles the lot line between two (2) lots of record, staff, and the ZBA, have historically regarded it the property collectively as a single zoning lot. The ZBA's final decision in case APP-1-2002, involving property located at 640 Mills Street, was submitted by Mr. Marrs to the ZBA in support of that point.

Following the arguments of the Parties, no members of the public indicated a desire to offer further public comment, and the public hearing was closed.

The record in this matter consists of the submissions of the Petitioners, as supplemented by additional materials from the Village, all as included in the ZBA Agenda Packet, the ZBA's final decision in case APP-1-2002, submitted by the Village during the public hearing, and the transcript of the ZBA hearing and subsequent discussion in the current matter, all of which are attached hereto and made a part hereof as **Group Exhibit 1**, **Exhibit 2**, and **Group Exhibit 3**, respectively.

DECISION OF THE BOARD: Following the close of the Public Hearing, the ZBA members discussed the positions of the Parties. A majority of the Board felt that the third prong (Prong A.3.) of the definition of Legal, Nonconforming Lot of Record as set forth in Section 12-206 had not been met, as the Property was neither vacant on June 18, 1988, nor became vacant thereafter by reason of demolition or destruction of a precode structure that is not authorized to be rebuilt or replaced pursuant to subsection 10-104C of the Zoning Code. The encroachment of the existing residence is, in the opinion of the Board, dispositive. Because the South Lot is not vacant, it is not a legal, nonconforming lot of record capable of independent development under the Zoning Code without further zoning relief.

A motion to deny the appeal was made by Member Moberly, and seconded by Member Alesia.

AYES: Connelly, Moberly, Giltner, Alesia, Podliska, and Chairman Neiman.

NAYS: None

ABSTAIN: None.

ABSENT: Member Engel.

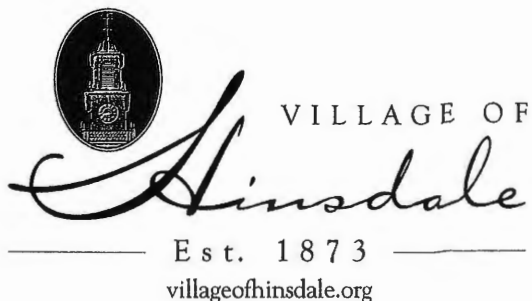
The request of the Petitioners that the decision of the Village Manager in this matter be overturned is denied.

THE HINSDALE ZONING BOARD OF APPEALS

Chairman Robert Neiman

Filed this ____ day of _____, _____, with the office of the Building Commissioner.

Village Hall
19 East Chicago Avenue
Hinsdale, Illinois 60521-3431
630-789-7000



Fire & Police Departments
121 Symonds Drive
Hinsdale, Illinois 60521-3744
Fire 630-789-7060
Police 630-789-7070

STATE OF ILLINOIS)
)
COUNTIES OF DU PAGE)
 AND COOK)

I, Christine M. Bruton, do hereby certify that I am duly qualified and appointed Village Clerk of the Village of Hinsdale, Illinois in whose custody are the records of the Village of Hinsdale.

And, I do further certify that the attached is a copy of the following;

**Zoning Board of Appeals
Final Decision April 29, 2002
APP-1-2002 - John A. Bernard**

WITNESS my hand and seal this 20th day of June, 2017.

Christine M. Bruton

Village Clerk



FINAL DECISION
VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
PETITION FOR APPEAL

Zoning Calendar: APP-1-02

Petitioner: John A. Bernard, regarding the property commonly known as 640 Mills Street.

Meeting held: Public Hearing was held on Wednesday March 20, 2002, at 7:15 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois. No legal notice required for an appeal

Premises Affected: Subject property is commonly known as 640 Mills Street, Hinsdale, Illinois.

(a) Lot 20 in Block 9 in Jefferson Gardens, being a subdivision of a part of the West ½ of Section 6, Township 38 North, Range 12 East of the Third Principal Meridian, all in Cook County, Illinois.

(b) Lot 21 in Block 9 in Jefferson Garden, being a subdivision of a part of the West ½ of Section 6, Township 38 North, Range 12 East of the Third Principal Meridian, all in Cook County, Illinois.

Subject: The Applicant has appealed from the decision of the Village Staff denying him a building permit to construct a house on the portion of the Subject Property known as Lot 21. The Applicant previously had demolished the existing house on the Subject Property and constructed a new single-family detached dwelling on the portion of the Subject Property known as Lot 20. The application for a building permit to construct the second house on the Subject Property was denied on November 29, 2001, because the Subject Property consists of one zoning lot. The Applicant has appealed the determination of the Village Staff that the Subject Property consists of one zoning lot and thus cannot be improved with two single family detached dwellings.

Facts: The evidence presented to this Zoning Board of Appeals during the hearing on this appeal establishes all of the following facts and circumstances:

1. The Subject Property is classified in the R-4 Single Family Residential District.

2. The Subject Property is comprised of two underlying lots of record, known as Lot 20 (the south one-half of the Subject Property) and Lot 21 (the north one-half of the Subject Property).
3. For a long period of time prior to when the Applicant acquired the Subject Property and at the time the Applicant acquired the Subject Property, the Subject Property was developed with one single family detached dwelling (the "Original House") that extended over portions of both Lot 20 and of Lot 21. In addition, a paved driveway serving the Original House extended over both lots and additional paving, including a walkway and a concrete patio, existed on Lot 21. In addition, a small frame shed existed on Lot 21.
4. Section 12-206L of the Hinsdale Zoning Code defines "Lot, zoning" as follows:

A tract of land consisting of one or more lots of record, or parts thereof, under single ownership or control, located entirely within a block and occupied by, or designated by its owner or developer at the time of filing for any zoning approval or building permit as a tract to be developed for, a principal building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Code, to be used with such building or use.

(Emphasis added.)

5. For a long period of time prior to when the Applicant acquired the Subject Property, and after the Applicant acquired the Subject Property, the Original House (a principal building) occupied the whole of the tract of land defined herein as the Subject Property, and the Subject Property and its principal and accessory buildings were designed, arranged, and being used as a single lot. Accordingly, the Subject Property as a whole constituted one "zoning lot" as that term is defined by the Hinsdale Zoning Code.
6. Section 12-101C of the Hinsdale Zoning Code provides as follows:

No structure, no use of any structure or land, and no lot of record or zoning lot, now or hereafter existing, shall hereafter be established, enlarged, extended, altered, moved, divided, or maintained in any manner, except as authorized by the provisions of this Code and except in compliance with the regulations of this Code. Without limiting the foregoing, any such activity that would cause any existing structure not to comply with this code or would create any parcel of land that could not be developed in compliance with this Code shall be prohibited.

7. In general, once a zoning lot has been created, that zoning lot cannot be altered or divided unless all of the resulting lots comply with the regulations of the Hinsdale Zoning Code applicable to the zoning district within which the zoning lot is classified.
8. Pursuant to Section 12-101C, the zoning lot that is the Subject Property cannot be altered or divided into two lots unless each of those lots will comply with the requirements of the R-4 Single Family Residential District.
9. The R-4 District requires each lot classified within that district to have a minimum area of 10,000 square feet. (Zoning Code, Section 3-110C1, C3 and C4.) Lot 20 and Lot 21 each would have an area of only 7,500 square feet, 70 feet of lot frontage and 125 feet in depth. Therefore, neither Lot 20 nor Lot 21 would satisfy the minimum lot area requirement of the R-4 District.
10. Section 12-206N of the Zoning Code defines a “legal nonconforming lot of record” as follows:

A non-conforming lot of record that:

- (1) (a) Was created by a plat or deed recorded at a time when the creation of a lot of such size, shape, depth, and width at such location would not have been prohibited by any ordinance or other regulation; and
(b) Is located in a residential district and meets the minimum lot area and lot dimension standards of Subsection 10-105A

of this Code, or is located in a district other than a residential district; and

(c) Was vacant on June 18, 1988, or became vacant thereafter by reason of demolition or destruction of a pre-code structure that is not authorized to be rebuilt or replaced pursuant to Subsection 10-104C of this Code.

* * *

11. Because the Subject Property constitutes a single zoning lot, the question whether the lots of record known as Lot 20 and Lot 21 are legal nonconforming lots of record is not material to the decision of this Zoning Board of Appeals. Regardless of whether either Lot 20 or Lot 21 is a legal nonconforming lot of record, the Subject Property constitutes a single zoning lot and thus cannot be altered or divided unless each of the resulting lots will comply with the requirements of the R-4 Single Family Residential District in which the Subject Property is zoned.
12. Further, the Original House was not a pre-code structure that was not authorized to be rebuilt or replaced pursuant to Subsection 10-104C of the Hinsdale Zoning Code. The single family dwelling on the Subject Property was authorized to be rebuilt on the Subject Property in conformance with the provisions of Subsection 10-104C1 of the Zoning Code. The Applicant apparently seeks a decision based on whether the Original House could be rebuilt only on one or the other of the underlying Lots 20 and 21, but that is not the proper analysis—the issue is whether the Original House could be rebuilt on the zoning lot on which it was located, that is, the Subject Property.
13. In any event, Lot 21 by itself, on which the Applicant sought to build a separate single family detached dwelling, included concrete paving of the ground, as noted above, which paving was accessory to the Original House.
14. Subsection 12-206V of the Zoning Code defines “vacant” as follows:

Not developed with any building, structure, or paving or surfacing of the ground.

15. The Subject Property was not vacant as of June 18, 1988, or at any time that the Applicant applied for permits and other relief from the Village, or at any time after June 18, 1988.

Action of the Board:

After consideration of all of the evidence, exhibits, and testimony presented at the hearing, and after careful and thorough analysis of the applicable provisions of the Hinsdale Zoning Code, the Zoning Board of Appeals finds, based on the facts stated herein, that the Village Staff correctly interpreted and applied the provisions of the Hinsdale Zoning Code to the applications made by the Applicant. Most members felt that the standards as discussed in 11-503 of the Zoning Code have not been met. Accordingly, THE APPEAL IS DENIED AND THE DECISIONS OF THE VILLAGE STAFF ARE AFFIRMED.

Motion was made by Matthew Fiascone to deny the appeal and sustain the decision of the Building Commissioner. Seconded by Steven Thayer.

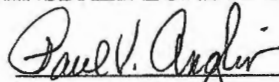
AYES: Matthew Fiascone, Steven Thayer, Paul Anglin

NAYS: Donna Smith, Marianne Powell

ABSENT: Elmer Ramel, Mary Ann Wands

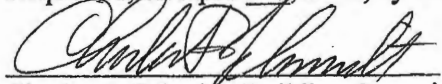
The appeal is denied and the decisions of the Village Staff are affirmed.

THE HINSDALE ZONING BOARD OF APPEALS


Chairman Paul Anglin

Any appeal of this final administrative decision of the Hinsdale Zoning Board of Appeals must be in compliance with the Administrative Review Law, 735 ILCS 5/3-101 et seq.

Filed this 29th day of April 2002, with the office of the Building Commissioner.
Copies to Mr. John Bernard and Donald P. Lasica, Esq., by Certified Mail Return Receipt
Requested, on April 29, 2002, by Charles F. Schmidt, Building Commissioner


Charles F. Schmidt, Building Commissioner

Copy to Petitioner 4-30-2002

STATE OF ILLINOIS)
) ss:
 COUNTY OF DU PAGE)

BEFORE THE HINSDALE ZONING BOARD OF APPEALS

In the Matter of:)
)
)
 444 East Fourth/)
 435 Woodside,)
 APP-01-17.)

REPORT OF PROCEEDINGS had and testimony
 taken at the hearing of the above-entitled
 matter before the Hinsdale Zoning Board of
 Appeals, at 19 East Chicago Avenue, Hinsdale,
 Illinois, on June 21, 2017, at the hour of 6:30
 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;
 MR. MARC C. CONNELLY, Member;
 MR. KEITH GILTNER, Member;
 MR. JOHN F. PODLISKA, Member;
 MR. JOSEPH ALESIA, Member; and
 MR. GARY MOBERLY, Member.

* * * * *

<p>2</p> <p>1 ALSO PRESENT:</p> <p>2 MS. CHRISTINE BRUTON, Deputy Village Clerk;</p> <p>3</p> <p>4 MR. ROBB MCGINNIS, Director of Community Development;</p> <p>5 MR. MICHAEL MARRS, Village Attorney;</p> <p>6 MR. MARK DANIEL, Attorney for Applicants;</p> <p>7</p> <p>8 MR. MATT BOUSQUETTE, Applicant;</p> <p>9 MR. KRIS PARKER, Applicant;</p> <p>10 MS. TRACY PARKER, Applicant;</p> <p>11 MR. DENNIS PARSONS, Witness for Applicants.</p> <p>12</p> <hr/> <p>13 (Members of the audience were</p> <p>14 administered the oath en</p> <p>15 masse.)</p> <p>16 CHAIRMAN NEIMAN: First case is Appeal</p> <p>17 01-17, 444 East Fourth Street and 435 Woodside</p> <p>18 Avenue. And the second case is Case V-04-17</p> <p>19 involving 435 Woodside.</p> <p>20 Would counsel for the parties</p> <p>21 please approach? If you can both introduce</p> <p>22 yourselves for the record.</p>	<p>4</p> <p>1 CHAIRMAN NEIMAN: But that letter also</p> <p>2 said that we don't have to grant that waiver and</p> <p>3 we can run the hearing any way we please. And</p> <p>4 so my threshold question is this to the board</p> <p>5 members.</p> <p>6 Has everyone had a chance to</p> <p>7 thoroughly read and digest the materials that</p> <p>8 were delivered to our homes Friday evening, or</p> <p>9 does any one of the board members want</p> <p>10 additional time to digest those materials?</p> <p>11 MR. CONNELLY: I was out of town until</p> <p>12 yesterday and I would like additional time to</p> <p>13 digest the materials.</p> <p>14 MR. ALESIA: I as well.</p> <p>15 CHAIRMAN NEIMAN: Let me ask another</p> <p>16 question. I'll direct this to Mr. Marrs.</p> <p>17 Given the appeal that was filed, I</p> <p>18 believe it was filed on the 15th, delivered to</p> <p>19 our homes on the 16th, does the village want to</p> <p>20 respond in writing or is the village prepared to</p> <p>21 proceed now or either one?</p> <p>22 MR. MARRS: Either one. The village is</p>
<p>3</p> <p>1 MR. DANIEL: Good evening, Chairman</p> <p>2 Neiman, Members of the ZBA. My name is Mark</p> <p>3 Daniel, Daniel Law Office, P.C., 17W733</p> <p>4 Butterfield Road, Suite F, as in Frank, Oakbrook</p> <p>5 Terrace, 60181.</p> <p>6 MR. MARRS: My name is Michael Marrs,</p> <p>7 law firm Klein Thorpe and Jenkins, 20 North</p> <p>8 Wacker, Suite 1660, Chicago, Illinois 60606. We</p> <p>9 act as general counsel for the village but</p> <p>10 tonight I'm acting -- I'm going to present the</p> <p>11 case on behalf of staff.</p> <p>12 CHAIRMAN NEIMAN: So let me begin with</p> <p>13 the threshold question that is directed to the</p> <p>14 board members.</p> <p>15 Friday evening we each received a</p> <p>16 copy of the appeal and the associated materials</p> <p>17 which were rather lengthy. The village manager</p> <p>18 wrote us a memo saying that she had waived any</p> <p>19 requirements for prior publication and I suspect</p> <p>20 that Chris, would you make that letter part of</p> <p>21 the public record so that everyone can read it?</p> <p>22 MS. BRUTON: Yes.</p>	<p>5</p> <p>1 prepared to proceed tonight. The legal issues</p> <p>2 are the legal issues despite all the additional</p> <p>3 materials supplied by Mr. Daniel. So we are</p> <p>4 prepared to proceed.</p> <p>5 In the event that extra time is</p> <p>6 given, we would not pass up the opportunity to</p> <p>7 respond, but we don't think it's necessary.</p> <p>8 CHAIRMAN NEIMAN: Mr. Daniel?</p> <p>9 MR. DANIEL: If I could, I believe</p> <p>10 tonight we can make a very clear presentation of</p> <p>11 the facts. I believe the ZBA this year has</p> <p>12 twice dealt with historic lots of record and the</p> <p>13 same definitions that we are dealing with this</p> <p>14 evening on the project.</p> <p>15 The variance materials have been in</p> <p>16 the village for some time and I know that the</p> <p>17 ordinance does allow you to take these things in</p> <p>18 tandem under the administrative portion of the</p> <p>19 ordinances but the variance stuff has been in.</p> <p>20 The documentation relating to the history I</p> <p>21 believe can be summed up very quickly.</p> <p>22 CHAIRMAN NEIMAN: I don't know how we</p>

<p style="text-align: center;">6</p> <p>1 can try to reach a consensus here.</p> <p>2 Mr. Daniel, in fairness, your</p> <p>3 letter was 34 pages single-spaced plus a list of</p> <p>4 exhibits.</p> <p>5 MR. DANIEL: We have a history. I</p> <p>6 agree.</p> <p>7 CHAIRMAN NEIMAN: Well, yes. That</p> <p>8 wasn't quite my point but, yes, you supplied us</p> <p>9 with a history.</p> <p>10 I'm not sure that you ever</p> <p>11 submitted a brief to any state or federal court</p> <p>12 of 34 pages a few days -- single-spaced a few</p> <p>13 days before a hearing and the judges get to get</p> <p>14 paid to do that. And so the idea that we are</p> <p>15 supposed to even digest that in such short order</p> <p>16 is, well, a little difficult for some of us to</p> <p>17 digest.</p> <p>18 So, it's up to the board. I think</p> <p>19 we could do it either way. It depends on how</p> <p>20 strongly Joe and Marc feel about the need for</p> <p>21 more time.</p> <p>22 MR. CONNELLY: Everyone who's shown up</p>	<p style="text-align: center;">8</p> <p>1 If there seems to be a feeling</p> <p>2 among the board members that we might be more</p> <p>3 likely to grant the variance than we were to</p> <p>4 grant the appeal, then we could hear the</p> <p>5 variance first and the question then becomes</p> <p>6 would that suffice for the applicants if we were</p> <p>7 to grant the variance if the consensus was --</p> <p>8 and I have no idea if it is, consensus is that</p> <p>9 the variance is the easier of the two cases. If</p> <p>10 you were to win the variance, would that satisfy</p> <p>11 your clients, Mr. Daniel?</p> <p>12 MR. DANIEL: There are two routes to an</p> <p>13 outcome this evening, and I think they overlap</p> <p>14 substantially.</p> <p>15 The variance, if granted, would</p> <p>16 provide substantial relief that we are seeking.</p> <p>17 Hearing the variance first, I suppose, there are</p> <p>18 three issues, and I think I was disappointed to</p> <p>19 learn Ms. Gargano would not be here this evening</p> <p>20 because it's on this point that we need her</p> <p>21 unless counsel for the village has authorization</p> <p>22 and authority to speak on behalf of the village.</p>
<p style="text-align: center;">7</p> <p>1 today I think it would be in the best interest</p> <p>2 to move forward.</p> <p>3 MR. ALESIA: I agree. I just didn't</p> <p>4 have time to read everything. I mean, that's --</p> <p>5 CHAIRMAN NEIMAN: Fair enough. I think</p> <p>6 in fairness to the applicants who -- I don't</p> <p>7 know the details, but I know that they have been</p> <p>8 sent from one office to another to some degree</p> <p>9 and we certainly sympathize with that. Please,</p> <p>10 keep in mind that wasn't our doing. I don't</p> <p>11 know if it was any one individual's doing or the</p> <p>12 village as a whole. Please, keep in mind that</p> <p>13 wasn't us. Okay.</p> <p>14 So the next threshold question that</p> <p>15 I'd like to ask is this. Given what the board</p> <p>16 members have read in the appeal, given what they</p> <p>17 have read in the application for the variance,</p> <p>18 while the village manager suggested that we hear</p> <p>19 the appeal first because if we were to grant the</p> <p>20 appeal, we wouldn't have to consider the</p> <p>21 variance, and that makes a certain amount --</p> <p>22 that's logical.</p>	<p style="text-align: center;">9</p> <p>1 When it comes to appeals and</p> <p>2 variations, the concern is that if you advance</p> <p>3 on the variation ahead of time some people argue</p> <p>4 there's a waiver of your appeal because you have</p> <p>5 two applications pending in the same property</p> <p>6 and when you look at the appeal from our</p> <p>7 perspective we are given the vested rights.</p> <p>8 And when you proceed on a variation, you are</p> <p>9 admitting that those vested rights don't exist,</p> <p>10 we need your help.</p> <p>11 I suppose the way these are</p> <p>12 crafted, they are different in relation to the</p> <p>13 site plan submitted with the variation because</p> <p>14 nothing changes in that instance and the site</p> <p>15 plan attached with a variation.</p> <p>16 CHAIRMAN NEIMAN: Mr. Marrs, from the</p> <p>17 village's viewpoint, would there be such a</p> <p>18 waiver?</p> <p>19 MR. MARRS: No.</p> <p>20 CHAIRMAN NEIMAN: Will that satisfy</p> <p>21 your clients, Mr. Daniel?</p> <p>22 MR. DANIEL: I suppose as long as</p>

<p style="text-align: center;">10</p> <p>1 everyone is in agreement that that binds the 2 village to a position, yes. I don't want to 3 face a situation later where someone states that 4 you waived your right to the appeal. 5 CHAIRMAN NEIMAN: Okay. I'd like to 6 hear from some of the board members on the issue 7 of whether we should hear the variance first 8 with the condition as stated by Mr. Marrs, that 9 the village would not view our granting -- if we 10 were to grant the variance, that it would be 11 considered a waiving in any way of Mr. Daniel's 12 clients' rights to have the appeal heard and in 13 fact, if we were to deny the variance this 14 evening, we could proceed to the hearing on the 15 appeal this evening. 16 I'd like to hear everyone else's 17 thoughts about whether it makes sense to hear 18 the variance case first or the appeal case 19 first. 20 MR. MOBERLY: I think logically it 21 makes more sense to hear the appeal of the 22 village manager's decision first because if we</p>	<p style="text-align: center;">12</p> <p>1 regardless of which way we go on the appeal, we 2 nevertheless are going to proceed to the 3 variance? 4 CHAIRMAN NEIMAN: No. If the appeal is 5 granted, we needn't hear the variance. 6 MR. PODLISKA: If the appeal is denied, 7 then are we intending to proceed with the 8 variance or is there an appellate issue that has 9 to get resolved? In other words, an appeal from 10 the decision here to the circuit court. 11 MR. DANIEL: In light of counsel's 12 statement and the section of the zoning 13 ordinance that I was going to recite was Section 14 11-502F, as in Frank, right to grant variation 15 in deciding appeals. 16 Mr. Marrs indicated that he didn't 17 perceive it as a waiver and in light of that 18 subparagraph F, I think you can go forward on 19 both at the same time. 20 MR. MARRS: Mr. Daniel and I have 21 talked about this within the last few days. We 22 would not, considering that provision of the</p>
<p style="text-align: center;">11</p> <p>1 rule in favor of that, then the variance case 2 goes away. 3 I think the legal issues are more 4 straightforward one way or the other in the 5 appeal case. The issues there are more 6 straightforward and we don't need public input 7 for that. So dispensing with that first and 8 then getting the public input on the variance, 9 would be the best way to proceed but that's just 10 one nonlegal opinion. 11 CHAIRMAN NEIMAN: Anyone else want to 12 weigh in? 13 MR. CONNELLY: I agree. 14 CHAIRMAN NEIMAN: Hear the appeal 15 first. 16 MR. MOBERLY: You feel there's enough 17 stuff in Mr. Daniel's summation to be able to 18 weigh in -- we have all seen the stuff in part 19 B. We have all seen the application for a 20 couple of months now. 21 Somebody make a motion. 22 MR. PODLISKA: Is it clear that</p>	<p style="text-align: center;">13</p> <p>1 code, and the fact that they are concurrent 2 applications, we would not hold proceeding on 3 the variation if the appeal is denied against 4 him in terms of him waiting to get a final 5 decision, taking it to circuit court, et cetera, 6 et cetera. 7 MR. DANIEL: If I could add, we were 8 prepared to go in May but when I talked to 9 Mr. Malina, we had a situation over the phone 10 where we both agreed that the facts are so 11 intertwined. Some of the facts on the appeal, 12 however it goes, would relate to hardship in one 13 respect or another. So having it on two 14 separate nights, on night two you guys are 15 falling asleep in your chairs. 16 MR. PODLISKA: My thought is if we 17 proceed on the variance first and were we to 18 rule in favor of your client on that, then we 19 can proceed to the appeal and if we were to 20 decide against your client on the appeal, then 21 he would be informed as to our decision on the 22 variance. The fact of that end would decision</p>

<p style="text-align: center;">14</p> <p>1 on whether or not he wanted to proceed to the 2 circuit court on the direct appeal itself.</p> <p>3 MR. DANIEL: Well, I understand what 4 each side is saying here. I think when you 5 speak of terms of necessity relating to the 6 variance, the village manager's current decision 7 stands until it's reversed. The hardship is 8 still there. So I don't know if it changes our 9 presentation that much if we were to go first on 10 the variations. We wouldn't want to let the 11 appeal go on too much beyond tonight. I'm going 12 to layout the same history on the variation as 13 we would on the appeal.</p> <p>14 MR. PODLISKA: So your preference would 15 be to do what?</p> <p>16 MR. DANIEL: My preference would still 17 be to handle the appeal first; but again, if the 18 ZBA decides otherwise, we follow the ZBA. I'm 19 not going to stomp my foot.</p> <p>20 MR. MARRS: If I may, keep in mind you 21 don't have final authority over the variation. 22 A recommendation on the variation would go to</p>	<p style="text-align: center;">16</p> <p>1 of the 1935 zoning ordinance in my brief I say 2 were substantially the same as what I expected 3 to see in the January 8, 1929, ordinance and the 4 February --</p> <p>5 CHAIRMAN NEIMAN: We read the brief. 6 Really, we have.</p> <p>7 MR. DANIEL: But I have the ordinances 8 from 1929 to add in the record and give you some 9 of the background on that. And I would like to 10 summarize where we appear to stand on the 11 arguments because we aren't sure whether the 12 village contests this. We attempted 13 stipulations; that didn't fly.</p> <p>14 I think we are down to one key 15 point. And that is the third prong of the 16 definition of legal nonconforming lot of record. 17 And that question is whether a lot was vacant in 18 1988 or became vacant thereafter and could 19 not -- and the structure that was there could 20 not be rebuilt under Section 10-104C.</p> <p>21 I think that is our only issue on 22 the appeal when it comes to the legal analysis.</p>
<p style="text-align: center;">15</p> <p>1 the board, and so I don't know how that affects 2 when the appeal would be heard in the event if 3 you do the variation first.</p> <p>4 MR. DANIEL: We would like to present 5 the appeal tonight.</p> <p>6 CHAIRMAN NEIMAN: Okay. Seems like 7 most of us want to do the appeal first. Does 8 that seem to be the consensus? Okay. Then 9 let's start with the appeal.</p> <p>10 Mr. Daniel, we have all read your 11 submission. Do you have anything new to add?</p> <p>12 MR. DANIEL: We do have some new 13 information to add. I would appreciate it if 14 you could hear from Mr. Parker and 15 Mr. Bousquette, and then I would like to present 16 a handful of items that tie to the ordinance 17 history in town previously.</p> <p>18 CHAIRMAN NEIMAN: These things are not 19 in your brief?</p> <p>20 MR. DANIEL: Well, they are in this 21 respect. In this respect, in my brief I rely on 22 the 1935 zoning ordinance, okay. The provisions</p>	<p style="text-align: center;">17</p> <p>1 I'm not sure if we can narrow it down with 2 counsel for the village.</p> <p>3 MR. MARRS: I agree that that's an 4 issue. I believe there's a second issue. And 5 that's we never get to 10-105 or that third 6 prong if this is because the house straddles the 7 lot line if it's a single, large 50,000 square 8 foot property that is subject to 3-110 9 resubdivision or it's subject to 10-104C and can 10 be rebuilt if it's demolished on the lot, we 11 never get to 10-105, the third prong. So those 12 are the two legal issues.</p> <p>13 CHAIRMAN NEIMAN: Given that the 14 appeal, at least to my mind, involves a legal 15 issue, is it necessary to hear from your 16 clients?</p> <p>17 MR. DANIEL: I believe it is. I 18 believe it's important to hear from them. For 19 the record, I'll have to establish their 20 standing, submit the affidavits relating to the 21 contractual standing of the Parkers, the 22 ownership standing, but they do have a history</p>

<p style="text-align: center;">18</p> <p>1 here with the property and with the legal issues 2 at hand.</p> <p>3 So they are familiar with the 4 building. They have the original plan. They 5 reviewed them to determine what portion of the 6 building may rest on the other side of the line 7 between the north lot and the south lot so there 8 is some discussion.</p> <p>9 MR. PODLIKA: Those facts are not 10 disputed; right?</p> <p>11 MR. DANIEL: Well, I think right now we 12 are at a point of uncertainty on it. Over time 13 the lot depth of lots 1, 2, 3 and 4 in the 14 resubdivision of block 8 shrunk at least by 15 2.2 feet on the west end of the north lot. 16 Towards the center they shrunk even more than 17 that.</p> <p>18 As you work towards the center of 19 the lot, that's where you see the encroachment 20 south. At the same time, the south lot gained 2 21 feet in depth when you compare the 1894 plat 22 that Harold Zook relied on in building the Zook</p>	<p style="text-align: center;">20</p> <p>1 reserving their comments until the variation 2 components and then that would allow me to move 3 into the summary presentation of the facts and 4 the discussion of what we are dealing with.</p> <p>5 CHAIRMAN NEIMAN: Well, again, we have 6 read your written submission. I would like to 7 avoid repetition of that verbally because it 8 would be redundant in the extreme.</p> <p>9 MR. DANIEL: My intention would be to 10 walk through the subdivisions, the vacation of 11 the street, present the lot of record versus the 12 zoning lot question, and then address the three 13 components of a legal nonconforming lot of 14 record.</p> <p>15 I think it's a summary. I know 16 that two members haven't had the full 17 opportunity. Certainly I understand it's a 18 lengthy submission that we provided, but I think 19 it's important that I boil it down briefly for 20 at least the two members that haven't had the 21 full opportunity and I think it's important for 22 the public to hear so that when you make a</p>
<p style="text-align: center;">19</p> <p>1 house in 1929. Those changes occurred over 2 time. You see it in the 1966 survey that we 3 gave you, Sailor's subdivision.</p> <p>4 CHAIRMAN NEIMAN: Do you have a current 5 survey?</p> <p>6 MR. DANIEL: We do. Exhibit B1, I 7 believe.</p> <p>8 MR. ALESIA: Mr. Marrs, does that have 9 any bearing on your stipulation with the legal 10 issue?</p> <p>11 MR. MARRS: It does not. My 12 understanding of all the historical data is that 13 it's based on a set of assumptions and possible 14 surveying errors over the years. But at the end 15 of the day, it's my understanding that the house 16 still sits on the lot line and encroaches in the 17 south lot.</p> <p>18 So to the staff's mind, the legal 19 issue remains, it's a house that straddles a lot 20 regardless of the history.</p> <p>21 MR. DANIEL: Mr. Chairman, if I could 22 suggest, I spoke to my clients, they can work on</p>	<p style="text-align: center;">21</p> <p>1 decision one way or the other, that we are in a 2 position where they have heard it and they know 3 that you have questions or not and we have 4 addressed them whatever way it goes.</p> <p>5 I do have a proposed decision in 6 favor with me tonight that's written and it 7 boils it down. The facts are lengthy but the 8 decision points are very, very narrow.</p> <p>9 CHAIRMAN NEIMAN: Please, be brief 10 because I'm going to cut you off otherwise.</p> <p>11 MR. DANIEL: Okay. I am representing 12 Matt Bousquette and Kris and Tracy Parker this 13 spring, and now summer, on the matter of 444 14 Fourth Street and on the Woodside lot behind it.</p> <p>15 The matter tonight boils down to a 16 question of whether you have one zoning lot or 17 two. If you have two zoning lots, what is it? 18 That's according to the village's side of things 19 and we will touch on that. That is one reason 20 we have some lengthy submittals.</p> <p>21 With respect to the position of the 22 applicants before you on appeal, the Parkers and</p>

<p style="text-align: center;">22</p> <p>1 Mr. Bousquette, respectfully, submit that lots 1 2 through 4 in the resubdivision of block 8 in 3 Robbins Park are one lot of record currently, 4 that they are willing to go forward using as one 5 lot of record.</p> <p>6 Lots 18 and 19 in that same 7 resubdivision of block 8 we also assert is 8 another lot of record. They are historic lots 9 of record that we are dealing with in this 10 instance.</p> <p>11 For the purposes of appeal, I want 12 to be very clear we are asking that you give us 13 the permission to go ahead with the relocation 14 of the Zook house. As a result of the appeal, 15 that home will be situated -- that structure 16 will be situated on the south lot, lots 18 and 17 19.</p> <p>18 Once the home is severed from the 19 north lot, it becomes personal property and the 20 north lot and the south lot, if any part of the 21 home extended over that line between the north 22 and the south lot, those lots become vacant.</p>	<p style="text-align: center;">24</p> <p>1 cabinet with all the old zoning ordinances bound 2 together from all the different years. We could 3 not locate the 1923 ordinance. We could not 4 locate the January 8, 1929, ordinance that 5 created the Class 2A residential district. We 6 couldn't find the February 29th ordinance or -- 7 well, we did find the 1935. Christine then took 8 me to the vault which I did not know existed. 9 The vault contains everything. Fascinating.</p> <p>10 What I handed you this evening is a 11 copy of the January 8, 1929, zoning ordinance 12 that creates the Class 2A residential district. 13 In February of 1929, the village adopted a new 14 entirely amended version of its zoning ordinance 15 that carries forward the Class 2A regulations 16 adopted a month earlier. I have given that to 17 you tonight. I have also given you a certified 18 copy of the 1935 ordinance in its entirety.</p> <p>19 The ordinances from January 8, 1929 20 through 1935, which is the one that we relied on 21 in our brief with the assumption that they are 22 substantially similar with what we expected to</p>
<p style="text-align: center;">23</p> <p>1 That vacancy occurs after 1988. I believe the 2 date was June 18, 1988, under the zoning 3 ordinance.</p> <p>4 At that point in time, an owner in 5 Hinsdale is entitled under 10-105 to go forward 6 with the use of historic lots of record that 7 meet a combination of 3-110, which is your 8 general bulk standards for the R-1, and 10-105, 9 which are your supplemental standards that 10 essentially save the R-1 and the R-4 regulations 11 from substantial difficulties because in the 12 R-1, for example, 92 to 94 percent of the lots 13 are nonconforming. They don't meet the 14 standards of 3-110 so you need to supplement in 15 10-105 to give you relief on lot dimensions, lot 16 area, some side yard relief, and I believe you 17 might even have building height relief in there 18 at least as to the number of stories.</p> <p>19 In the submittal we have addressed 20 the 1935 Hinsdale zoning ordinance. After some 21 time and some discussion, I visited village hall 22 this morning and we reviewed the large file</p>	<p style="text-align: center;">25</p> <p>1 exist in 1929 when the Zook house was built are 2 substantially similar. Things didn't change 3 very much.</p> <p>4 The Class 2A zoning district that 5 this was a part of from January 8, 1929 forward 6 became the R-1 district in 1989. So this 7 property has been in the 2A district most of the 8 time, the R-1 district thereafter. So these 9 certified copies that we have given you reflect 10 that similarity, okay.</p> <p>11 With respect to the last portion of 12 this, I have given you excerpts from the current 13 Hinsdale zoning ordinance printed from online 14 that we expect to rely on and discuss tonight. 15 They have all been discussed. But I do want to 16 point something out.</p> <p>17 When I addressed the village 18 manager's argument concerning the zoning lot, 19 our position is, first of all, the entirety of 20 lots 1 through 4 combined with 18 and 19 are not 21 a single zoning lot. Ms. Gargano's position is 22 they are.</p>

1 So we looked to the definition of
2 zoning lot. And the definition is a tract of
3 lots of record or parts thereof. Or parts
4 thereof is a very important portion of that
5 definition in the context of 100 years of
6 development in Hinsdale. More than that when
7 you think back to 1871.

8 In this instance, if you go through
9 a zoning lot analysis, the lots of record that
10 would comprise a zoning lot are not the entirety
11 of 1 through 4 and 18 and 19, okay. If I step
12 around or pull this back a little bit, this is
13 the resubdivision of block 8 from 1894. Lots 1
14 through 4 are shown in the northeast corner of
15 the block. Lot 1 was on a corner with Oakwood
16 Place and Fourth Avenue; lots 18 and 19 are in
17 the southeast corner. Lot 19 was a corner lot
18 at the time.

19 The home -- and there's no dispute
20 to this -- if it does extend across the line
21 shown between lots 1 through 4 and lots 18 and
22 19 there's that shared, the common line, between

1 the north lot and the south lot. If it does
2 extend over that, it only touches on about 13,
3 maybe 24 square feet of the south lot. The part
4 thereof that you add to lots 1 through 4 because
5 of the encroachment, if it exists, is only that
6 part that extends across the lot line.

7 And the reason for that is that
8 back in 1929 from January 8th forward the rear
9 yards were not required yards. The building
10 commissioner back in 1929 could take an
11 application that consisted of a plat,
12 information on where the home is going to be on
13 the lot and approve the construction of the home
14 by permit and certify occupancy.

15 Back in 1929, the plat from 1894
16 very clearly displayed 192-foot lot depth on the
17 west side of the north lot.

18 As I mentioned before, by the time
19 you get to 1966 with the survey that was
20 submitted to the village relating to an
21 application, 1969 Sailor's subdivision of lots 5
22 through 17, those lot depths changed. Minimum

1 of 2 feet lost on the north and a minimum of 2
2 feet gained on the south.

3 Again, no rear yard was required in
4 the event of a lot that extended from corner-to-
5 corner. In this case, for an odd-shaped lot,
6 the -- I'm sorry, from street-to-street, not
7 corner-to-corner. But a lot that extended from
8 street-to-street, you can take a 90-degree angle
9 from Oakwood Place and hit the corner around the
10 curve of Fourth Street and the northwest corner
11 of lot 4.

12 So as proposed, the Zook house on
13 its plans says, Zook house Fourth Street,
14 Hinsdale, Illinois. It does not say Woodside.
15 There's a massive side yard on the west that's
16 an interior side yard under today's standards.
17 On the corner side of the house there's quite a
18 bit of yard, or there was quite a bit of yard
19 because the home was set back so far.

20 In the situation where a home
21 extended from street-to-street, the building
22 commissioner, with no action of anybody but the

1 building commissioner, could waive the rear
2 yard. We don't know if he did it because the
3 records are not available. But because he had
4 the power to waive it, the rear yard was not a
5 required yard that had to be on the same zoning
6 lot with the principal buildings.

7 So from a zoning lot perspective
8 back in 1929 when the house was built, that
9 zoning lot had to contain the buildings and the
10 required yards. The rear yard was not a
11 required yard under the terms of the ordinance
12 for a lot that extended from street-to-street.

13 Street-to-street is not a reference
14 to a through lot because a through lot was
15 separately defined in the zoning ordinance. A
16 lot that touches on nonintersecting streets.
17 Separate definition. So street-to-street means
18 something different than a through lot. That's
19 why we draw the Fourth to Oakwood Place line on
20 a 90-degree angle.

21 Should you even focus on zoning
22 lots at all is one of the major discussion

<p style="text-align: center;">30</p> <p>1 points. I have laid out why lots 1 through 4 2 and 18 and 19 are not in their entirety one 3 zoning lot.</p> <p>4 If you accept that there is a 5 zoning lot because of the encroachment, that 6 zoning lot for the north stops just a few feet 7 south of the line that you see in the surveys 8 that we submitted and in the 1894 plat. So you 9 are not adding that much land to the north lot.</p> <p>07 19 24PM 10 The south lot remains substantially 11 the same, and it certainly cannot be a through 12 lot because the part thereof is the part of the 13 house and may be some curtilage around the 14 house. To suggest that under 50 feet of land 15 occupied by an encroachment under the chain 16 surveying condition allows the village manager 17 to declare 17,000 square feet off limits is 18 pretty extreme. That's why you have the appeal. 19 All right.</p> <p>07 19 56PM 20 Do you consider a zoning lot in the 21 very first instance? Under the zoning 22 definitions, as we laid out in our materials, a</p>	<p style="text-align: center;">32</p> <p>1 Dennis Parsons is here this 2 evening. That was his work. It shows that you 3 can relocate the Zook house, rotate it and place 4 it on a new foundation on the south lot and 5 comply with all of the standards under 10-105 6 and to the extent 10-105 doesn't give you a 7 break, for example, rear yards are required 8 50 feet regardless of what type of lot you have, 9 we meet the bulk regs that still apply in 3-110. 10 So that is the second test for historic lot of 11 record.</p> <p>12 I don't believe there is any 13 dispute to those two points under the definition 14 of what is a historic lot of record or a legal 15 nonconforming lot of record.</p> <p>16 So far when you think about my 17 discussion of lots of record, okay, I haven't 18 mentioned zoning lot. I got that out of the way 19 first so I wouldn't get confused. All right.</p> <p>07 22 00PM 20 Our position is that the village 21 needs to be extremely cautious in reviewing 22 historic lots of record. Joe Abel is here to</p>
<p style="text-align: center;">31</p> <p>1 historic lot of record gains benefit under 2 10-105A. Those are the supplemental 3 regulations.</p> <p>4 The proposal to relocate the Zook 5 house hinges on a three factor analysis. Is 6 this a historic lot of record, or what's also 7 referred to as a legal nonconforming lot of 8 record?</p> <p>9 The first thing that you consider 10 is whether or not the lots of record at issue 11 evolve from a properly approved subdivision. A 12 plat that was recorded prior to 1988. You have 13 1894. You have the certificates on the plat 14 shown that indicate that it was duly approved by 15 the village board and the certificate also 16 states the plat complies with applicable village 17 ordinances. There's a Chapter 30 that we cite 18 on platting. So we met the first standard.</p> <p>19 The second standard is: Does the 20 relocation comply with 10-105A? It does. We 21 have provided in Exhibit G, or Attachment G, in 22 our application.</p> <p>07 20 40PM</p> <p>07 21 12PM</p>	<p style="text-align: center;">33</p> <p>1 provide more testimony, but there is some 2 history in Hinsdale that relates to the R-1 3 through the R-4 districts, a Class A, 2A, B and 4 the other districts previous to that, but it 5 really ramped up in 1989 when the bulk 6 regulations became so severe. 30,000 square 7 feet, 125-foot lot width minimum, depth of 8 125 feet adding more beyond that. The side yard 9 is increased. 92 percent of the lots in the R-1 10 district don't meet the 3-110 requirements.</p> <p>11 Counsel for the village mentions 12 that 10-105 was intended to take a snapshot of 13 1988 and keep things as they were in 1988. 14 That's not true.</p> <p>15 10-105 came out of the Illinois 16 statutory requirement that as the village of 17 Hinsdale zones, it has to take into account 18 nonconformities and figure out how to deal with 19 them. In some cases Hinsdale said in the R-1 20 district we don't want to have certain 21 nonconforming use period.</p> <p>07 23 13PM</p> <p>07 23 50PM 22 In the R-4 district the most recent</p>

<p style="text-align: center;">34</p> <p>1 example you have is on Sixth Street. 7,000</p> <p>2 square feet was the minimum in the definition of</p> <p>3 legal nonconforming lot of record, you had to</p> <p>4 meet the 10-105A R-4 lot area minimum of 7,000</p> <p>5 square feet or else you are not a legal</p> <p>6 nonconforming lot of record period. Okay. In</p> <p>7 that instance, you varied it down to 6,700</p> <p>8 square feet.</p> <p>9 But anything below what's stated in</p> <p>07 24 34PM 10 10-105, the 7,000 in the R-4, the 14,000 in the</p> <p>11 R-1, it's a no no. The village decided in '88</p> <p>12 and '89 we don't want lots of that to continue.</p> <p>13 If you have a vacant lot in the R-1 under 14,000</p> <p>14 square feet, I'm sorry, you don't have the right</p> <p>15 to do anything with it. Judge Wheaton will</p> <p>16 support that in the 18th Judicial Circuit here.</p> <p>17 She has. But above 14,000 square feet is what</p> <p>18 the village found acceptable if you had a</p> <p>19 70-foot lot width, if you had a lot depth of</p> <p>07 25 04PM 20 125 feet, if you could meet the side yards that</p> <p>21 are adjusted downwards from the requirements</p> <p>22 that are more flexible under 10-105 than they</p>	<p style="text-align: center;">36</p> <p>1 CHAIRMAN NEIMAN: How so?</p> <p>2 MR. DANIEL: Because the Zook house is</p> <p>3 going to be severed from the real estate.</p> <p>4 CHAIRMAN NEIMAN: But it's not vacant</p> <p>5 now. You have conceded in your brief there's a</p> <p>6 sunken cement staircase that leads to the</p> <p>7 basement of the Zook house that's attached to</p> <p>8 the Zook house permanently in the ground that</p> <p>9 encroaches a little bit; correct?</p> <p>07 26 56PM 10 MR. DANIEL: And there's also a shed</p> <p>11 that was --</p> <p>12 CHAIRMAN NEIMAN: Please, answer my</p> <p>13 question.</p> <p>14 MR. DANIEL: Yes. That's correct.</p> <p>15 CHAIRMAN NEIMAN: Okay. Then if that's</p> <p>16 the case, it seems to me that the south lot</p> <p>17 wasn't vacant because you have a cement</p> <p>18 structure attached to the house that you have</p> <p>19 conceded is two or three feet on the south lot.</p> <p>07 27 20PM 20 So let's go through the definitions</p> <p>21 that are applicable. A structure as defined</p> <p>22 under the code, 12-206, it's found at page 792</p>
<p style="text-align: center;">35</p> <p>1 are under 3-110. So the decision on 10-105</p> <p>2 wasn't let's take a snapshot of 1988. It was</p> <p>3 let's think about what's happened to Hinsdale.</p> <p>4 When you think about the first</p> <p>5 zoning map, the majority of your village was</p> <p>6 already platted. 1923 was the first zoning</p> <p>7 ordinance. By 1929 even more was platted. But</p> <p>8 only those 6 years from '23 to '29 was there a</p> <p>9 zoning ordinance and that zoning ordinance was</p> <p>07 25 46PM 10 pretty flexible.</p> <p>11 There were heated debates in 1929</p> <p>12 about how flexible the code was. And when you</p> <p>13 look at the lot of record here compared to what</p> <p>14 surrounds it, these things are tiny.</p> <p>15 Admittedly. But what we are proposing is a</p> <p>16 17,000 square foot lot. One that is wider than</p> <p>17 70-feet, one that is more than 125-feet deep, it</p> <p>18 meets the 10-105 language.</p> <p>19 The question, I suppose, is: Does</p> <p>07 26 16PM 20 it become vacant after 1988? Even if there's an</p> <p>21 encroachment, yes, it does. Both lots. North</p> <p>22 and south become vacant after 1988.</p>	<p style="text-align: center;">37</p> <p>1 of the code. Anything constructed or erected,</p> <p>2 the use of which requires more or less permanent</p> <p>3 location on the ground or anything attached to</p> <p>4 the something having a permanent location on the</p> <p>5 ground, but not including paving or surfacing of</p> <p>6 the ground structure shall, in all cases, be</p> <p>7 deemed to refer to both structures and</p> <p>8 buildings. And the definition of the term</p> <p>9 vacant on page 793 is not developed with any</p> <p>07 28 20PM 10 structure.</p> <p>11 So given the fact that the basement</p> <p>12 cement stairs, sunken into the earth, are surely</p> <p>13 more or less permanent in the ground; they are</p> <p>14 attached to the house. You have conceded that</p> <p>15 those cement stairs encroach on the south lot,</p> <p>16 therefore, please explain to us how the south</p> <p>17 lot is not vacant? It encroaches a little bit.</p> <p>18 That's like saying it's a little bit pregnant.</p> <p>19 MR. DANIEL: Mr. Chairman, I think</p> <p>07 28 59PM 20 that's a fair analogy but that's not the</p> <p>21 question that we are here to ask you tonight to</p> <p>22 rule on. It doesn't matter that it's not vacant</p>

<p style="text-align: center;">38</p> <p>1 now.</p> <p>2 If you take a look at the</p> <p>3 definition of nonconforming lot of record,</p> <p>4 legal, the question is in A3 of that definition,</p> <p>5 this is under 12-206N, as in Nancy, was this lot</p> <p>6 vacant on June 18, 1988, or did it become vacant</p> <p>7 thereafter by reason of demolition or</p> <p>8 destruction of a precode structure.</p> <p>9 CHAIRMAN NEIMAN: But you haven't</p> <p>10 demolished it or rebuilt it. That's what you</p> <p>11 want to do. It has to have been done.</p> <p>12 MR. DANIEL: No, it does not. You have</p> <p>13 historical decisions on that.</p> <p>14 CHAIRMAN NEIMAN: Like what?</p> <p>15 MR. DANIEL: 735 and 739 Phillippa</p> <p>16 Street you have a situation where --</p> <p>17 CHAIRMAN NEIMAN: I understand. We</p> <p>18 have read your briefs.</p> <p>19 Yes, and those involved a fence</p> <p>20 which was not near permanent, dug into the</p> <p>21 ground or you have cited some other cases with a</p> <p>22 trampoline or a patio. Those are not sunken</p>	<p style="text-align: center;">40</p> <p>1 think is obvious and profound but it's not in</p> <p>2 your code, maybe you ought to amend.</p> <p>3 I was before you a few months ago</p> <p>4 on a matter. We addressed the issue of the</p> <p>5 constitutionality of a few provisions. It</p> <p>6 wasn't just the ZBA saying we need help on this</p> <p>7 issue. It was Judge Sheen saying a portion of</p> <p>8 the code was unconstitutional. Have they acted?</p> <p>9 It's their choice; they have not.</p> <p>10 CHAIRMAN NEIMAN: Mr. Daniel, I think</p> <p>11 it's fair to say that there are ambiguities in</p> <p>12 our code --</p> <p>13 MR. DANIEL: It's not an ambiguity,</p> <p>14 it's not there.</p> <p>15 CHAIRMAN NEIMAN: -- that could be</p> <p>16 addressed that would make your life easier and</p> <p>17 mine. But we don't have that and so we are</p> <p>18 charged with the responsibility of interpreting</p> <p>19 the code as best as we can and the standard for</p> <p>20 an appeal is found in Section 11-502B. I'd ask</p> <p>21 that all the board members keep that in mind.</p> <p>22 I'll read it out loud. The appeal</p>
<p style="text-align: center;">39</p> <p>1 into the earth and attached to the house. Don't</p> <p>2 you think there's a distinction there?</p> <p>3 MR. DANIEL: The definition of vacant</p> <p>4 -- there is a distinction but it's not ordained.</p> <p>5 Vacant is there is nothing.</p> <p>6 Take a look at the definition of</p> <p>7 vacant in the ordinance. The definition of</p> <p>8 vacant. Not developed with any buildings,</p> <p>9 structure, or paving, or surfacing of the</p> <p>10 ground. Surfacing of the ground existed in both</p> <p>11 Phillippa Street and in Sixth Street. There you</p> <p>12 found lots of record in both.</p> <p>13 There is no distinction in that</p> <p>14 definition between whether the building</p> <p>15 structure or paving or surfacing is accessory or</p> <p>16 principal. There is no distinction.</p> <p>17 CHAIRMAN NEIMAN: It seems to me that</p> <p>18 there is a logical and profound difference</p> <p>19 between fences and flagpoles and trampolines.</p> <p>20 MR. DANIEL: If there is you know what</p> <p>21 your answer is, it's what you tell the village</p> <p>22 board all the time. We have an issue that we</p>	<p style="text-align: center;">41</p> <p>1 procedure is provided as a safeguard against</p> <p>2 arbitrary, ill-considered, or erroneous</p> <p>3 administrative decisions. It is intended to</p> <p>4 avoid the need for resort to legal action by</p> <p>5 establishing local procedures to review and</p> <p>6 correct administrative errors. It is not,</p> <p>7 however, intended as a means to subvert the</p> <p>8 clear purposes, meanings, or intents of this</p> <p>9 code or the rightful authority of the village</p> <p>10 manager to enforce the requirements of this</p> <p>11 code. To these ends, the reviewing body, that's</p> <p>12 us, should give all proper deference to the</p> <p>13 spirit and intent embodied in the language of</p> <p>14 this code and to the reasonable interpretations</p> <p>15 of that language by those charged with the</p> <p>16 administration of the code.</p> <p>17 Could you explain to us, given the</p> <p>18 fact that you have conceded that the cement</p> <p>19 stairs sunken permanently into the earth and</p> <p>20 attached to the house encroach on the south lot,</p> <p>21 why the village manager's decision was so</p> <p>22 arbitrary that we should overturn it?</p>

<p style="text-align: center;">42</p> <p>1 MR. DANIEL: There are two reasons</p> <p>2 behind it. I have already explained the zoning</p> <p>3 lot failure. Even if you do a zoning lot</p> <p>4 analysis in a historic lot of record situation,</p> <p>5 which you do not, even if you pursue that zoning</p> <p>6 lot analysis, they have it wrong.</p> <p>7 This is not a lot that is a through</p> <p>8 lot that extends from Fourth to Woodside period.</p> <p>9 The lot of record definition very clearly states</p> <p>10 a tract of lots of record or parts thereof. Or</p> <p>11 parts thereof. They took 16,950 additional</p> <p>12 square feet as their part thereof. You cannot</p> <p>13 say faithfully this is a through lot. Because</p> <p>14 if there is an encroachment, the zoning lot is</p> <p>15 defined by a south boundary that is just south</p> <p>16 of the encroachment. And lot -- the north lot</p> <p>17 and the south lot remain substantially the same.</p> <p>18 So even if you accept staff's analysis that you</p> <p>19 should look at the zoning lot, they have that</p> <p>20 wrong. Because they didn't respect the</p> <p>21 definition of the zoning lot.</p> <p>22 And when you think about</p>	<p style="text-align: center;">44</p> <p>1 There's nothing in the ordinance</p> <p>2 that allow the distinction between an accessory</p> <p>3 structure and a building. And I know the</p> <p>4 Chairman and I may disagree on that, but I ask</p> <p>5 you to look at the ordinance and think this</p> <p>6 through.</p> <p>7 If the ordinance that we are</p> <p>8 administering doesn't contain that distinction,</p> <p>9 why are we carrying it forward at such great</p> <p>10 prejudice to an individual property owner in</p> <p>11 town?</p> <p>12 This 10-105 was set up as a safety</p> <p>13 net for the property owners that didn't have</p> <p>14 conforming lots of record. It is a</p> <p>15 constitutional release valve for your 3-110</p> <p>16 regulations that are so severe that 92 to</p> <p>17 94 percent of the lots in the R-1 district do</p> <p>18 not conform.</p> <p>19 10-105 saves your residence and</p> <p>20 your property owners and it has been withheld in</p> <p>21 this instance and to this point on premises that</p> <p>22 are not identifiable through the zoning</p>
<p style="text-align: center;">43</p> <p>1 interpreting zoning ordinances, the Appellate</p> <p>2 Court has held, and the Supreme Court has held,</p> <p>3 that zoning ordinances are penal in nature and</p> <p>4 need to be strictly construed. There's a</p> <p>5 penalty if you don't comply with them. They</p> <p>6 need to be strictly construed. To the extent</p> <p>7 that property is involved, the benefit of the</p> <p>8 doubt goes to the property owner.</p> <p>9 Yes, your ordinance says something</p> <p>10 slightly different. It says if there's error in</p> <p>11 administration. What do they administer? They</p> <p>12 are sworn to uphold the administration of the</p> <p>13 code.</p> <p>14 Article 11 says -- they identify</p> <p>15 everybody in Article 11 that's sworn to</p> <p>16 administer the ordinance. They are not sworn to</p> <p>17 administer rules that don't appear in the</p> <p>18 ordinance. They are not sworn to administer a</p> <p>19 new definition of the word vacant or an</p> <p>20 interpretation of this becomes vacant or was</p> <p>21 vacant on June 18, 1988, or became vacant</p> <p>22 thereafter.</p>	<p style="text-align: center;">45</p> <p>1 ordinance.</p> <p>2 CHAIRMAN NEIMAN: Do any of the other</p> <p>3 board members have any questions?</p> <p>4 (No response.)</p> <p>5 Mr. Marrs?</p> <p>6 MR. MARRS: Thank you. I guess the</p> <p>7 village, you know, there is some common ground</p> <p>8 but we see things fundamentally different on</p> <p>9 some certain key aspects.</p> <p>10 The overarching question here does</p> <p>11 Mr. Bousquette, under the village's zoning code,</p> <p>12 have the right without a variation or any other</p> <p>13 further zoning relief to sell off half his</p> <p>14 property that he owns between Fourth and</p> <p>15 Woodside so there could be two houses there now</p> <p>16 instead of one.</p> <p>17 The evidence that staff has shows</p> <p>18 the existing house crosses the lot line between</p> <p>19 the north and south lots. And, Mr. Chairman, I</p> <p>20 know you talked about this stairway, but if you</p> <p>21 look at his Exhibit B, you will see it's more</p> <p>22 than just a stairway.</p>

1 You can clearly see to the south of
2 the stairway that there is additional house that
3 crosses the lot line. It's not just a stairway,
4 it's a house. And in that case, it's been the
5 consistent position of staff that when you have
6 a house that straddles a lot line, you don't get
7 to divide that property as of right, you need a
8 subdivision.

9 And why is that? First, because
10 either is a single 50,000 square foot zoning lot
11 with a single conforming house on it you would
12 need a subdivision in order to now put two
13 houses there under Section 3-110 of the zoning
14 code; or in the alternative, assuming the house
15 meets the definition of a precode structure as
16 being somehow noncompliant, you can rebuild that
17 single house on the 50,000 square foot lot under
18 10-104 of the code in a manner that conforms
19 with existing regulations. In either of those
20 cases you never get to this question of whether
21 the lot is a legal nonconforming lot and the
22 vacancy issue under 10-105.

1 Second, even if you accept his
2 argument that these should be treated as two
3 separate lots, the conforming north lot with the
4 house on it and the nonconforming south lot that
5 he contends in his submissions has always been
6 intended to be held separately for development,
7 the south lot doesn't meet the definition of a
8 legal nonconforming lot because it simply isn't
9 vacant as defined in the zoning code, it has
10 part of a house on it.

11 And the bottom line is that staff
12 has never regarded a lot where a house straddled
13 the lot line as a lot capable of division as of
14 right. You guys have seen a bunch of these.
15 Even where it's torn down and even if it only
16 crosses by a little bit. You can't have a right
17 to demolish and move that house and replace it
18 with two houses. You have to do it by a
19 subdivision. You can get a variation but you
20 have to go through those processes. So those
21 are the reasons behind the staff decision.

22 If I can give you a little more

1 detail on some of that. We have this -- this
2 first came to light because when they brought in
3 a preliminary plat, Mr. McGinnis noticed that
4 the house straddles the lot line. And again,
5 it's never been their practice when they see a
6 house straddling the lot line to say that you
7 get to just take that house down or relocate it
8 and then put two houses in its place.

9 In addition, in this particular
10 case, where the south lot doesn't meet the
11 minimum lot size of 30,000 square feet as
12 required by 3-110, the owner would in addition
13 to a subdivision need a variation which he
14 applied for earlier this year.

15 Now, in March the owner first
16 raised this issue whether he had the ability to
17 split the lot up as of right. It was at this
18 point that staff got together, we talked about
19 Section 10-105, as well as other provisions in
20 the code, and we decided to kind of drill down
21 on these issues more because it's not the first
22 or last time that staff has had these requests,

1 had to deal with these nonconforming lots.

2 Robb doesn't have an easy job in
3 Hinsdale. Code is almost 30 years old at this
4 point. It has numerous amendments. It has a
5 lot of defined terms and is capable of at times,
6 as the Chairman pointed out, of being subject to
7 multiple interpretations. You guys are well
8 aware of that.

9 So we took a look at everything,
10 including some of your previous decisions. We
11 looked at 10-104, 10-105, and what we concluded
12 is that Mr. Daniel is talking about the need to
13 protect these older platted lots, right? And we
14 understand that. And the protection is there.
15 It is in Sections 10-104 and 10-105.

16 10-104 deals with the precode
17 structures. Where a lot includes all or a
18 portion of the precode primary structure, 10-104
19 clearly allows the continued viable use of that
20 structure. Those homeowners are protected.
21 They can maintain the structure. They can make
22 certain alterations or enlargement to it. You

<p style="text-align: right;">50</p> <p>1 can rebuild, repair, and restore them. All</p> <p>2 subject to those restrictions in 10-104, and I</p> <p>3 see this all the time.</p> <p>4 In 10-104C, you can voluntarily</p> <p>5 demolish a precode structure and rebuild it so</p> <p>6 long as it remains in conformance with all</p> <p>7 applicable standards other than minimum lot area</p> <p>8 and lot dimension requirements. And again, Robb</p> <p>9 reviews plenty of those requests.</p> <p>07:42:48PM 10 Section 10-105 goes with 10-104.</p> <p>11 It similarly deals with these nonconformities,</p> <p>12 in this case with lots. Okay. Sets forth an</p> <p>13 alternative set of bulk standards for</p> <p>14 development on legal nonconforming lots of</p> <p>15 record where nonconforming lot is of sufficient</p> <p>16 size under 10-105, was vacant in '88, or became</p> <p>17 vacant thereafter. Importantly, under</p> <p>18 circumstances which somehow prevented the</p> <p>19 rebuilding and replacement of the previous</p> <p>07:43:10PM 20 precode structure under 10-104, it is a legal</p> <p>21 nonconforming lot and it's always been eligible</p> <p>22 for development under 10-105.</p>	<p style="text-align: right;">52</p> <p>1 The two sections work together but</p> <p>2 you are subject to one or the other. You can't</p> <p>3 move from 10-104 to 10-105 just by demolishing</p> <p>4 your house because it says, you don't get to</p> <p>5 10-105 if you have the ability to rebuild on the</p> <p>6 lot in conformance with all regulations other</p> <p>7 than minimum lot area and lot width.</p> <p>8 CHAIRMAN NEIMAN: Could you address</p> <p>9 Mr. Daniel's argument about the definition of</p> <p>07:44:48PM 10 through lot and how that should affect our</p> <p>11 decisions in this appeal?</p> <p>12 MR. MARRS: Well, my understanding of</p> <p>13 his lot arguments in general -- and if I could</p> <p>14 first address this idea of the zoning lot.</p> <p>15 The house straddles the lot line</p> <p>16 and I think it doesn't make any sense to say the</p> <p>17 only part of the south lot that then counts</p> <p>18 towards the zoning lot is the portion that is</p> <p>19 part of the house. That's never how code is</p> <p>07:45:16PM 20 treating it. That's never how you guys have</p> <p>21 interpreted it to my understanding, and a zoning</p> <p>22 lot where a house straddles the lot line is the</p>
<p style="text-align: right;">51</p> <p>1 So collectively, what we see with</p> <p>2 10-104 and 10-105 is an intent to work together,</p> <p>3 those provisions work together to preserve the</p> <p>4 rights of owners while maintaining the existing</p> <p>5 density of the village as it existed in 1988.</p> <p>6 In the view of staff, a lot may be</p> <p>7 subject to either 10-104 or Section 10-105. If</p> <p>8 a precode structure exists on a lot, you can</p> <p>9 generally continue to utilize it. If a lot</p> <p>07:43:30PM 10 appears to have been platted for development but</p> <p>11 it's vacant and it's never been developed, you</p> <p>12 can do so under 10-105 with certain minimum lot</p> <p>13 area and dimension and other standards are met.</p> <p>14 Based on the vacancy requirement in</p> <p>15 the definition where a nonconforming lot</p> <p>16 contains all or a portion of a precode structure</p> <p>17 and that structure, if demolished, could be</p> <p>18 rebuilt on the property in conformity with the</p> <p>19 applicable district regulations other than</p> <p>07:44:12PM 20 minimum lot area and lot dimensions</p> <p>21 Section 10-104 applies rather than the legal</p> <p>22 nonconforming lot provisions of 10-105.</p>	<p style="text-align: right;">53</p> <p>1 entirety of the property, okay.</p> <p>2 And if this is a lot -- I'm not</p> <p>3 sure what the significance of the through lot</p> <p>4 aspect is. I mean, to us it appears to be a</p> <p>5 through lot. Do you agree, Robb?</p> <p>6 MR. MCGINNIS: That's how we look at it</p> <p>7 today under the code.</p> <p>8 CHAIRMAN NEIMAN: Perhaps in your</p> <p>9 rebuttal, Mr. Daniel, you can address how the</p> <p>07:45:50PM 10 definition of through lot should affect our</p> <p>11 decision.</p> <p>12 Go on.</p> <p>13 MR. MARRS: Okay. Thank you.</p> <p>14 So consistent with the overall</p> <p>15 scheme of maintaining existing density, the</p> <p>16 demolition, destruction, or other disposition of</p> <p>17 a precode structure on a lot made up of multiple</p> <p>18 lots of record and historically used, as they</p> <p>19 have been in this case, as a single zoning lot</p> <p>07:46:14PM 20 would not cause the property to move from 10-104</p> <p>21 to 10-105 except in circumstances for whatever</p> <p>22 reasons where 10-104 would prevent the precode</p>

1 structure from being rebuilt or replaced.

2 So we have a single zoning lot.

3 It's because the house -- where a house
4 straddles the lot line, by definition you view
5 the property altogether. That's always been
6 staff's position.

7 When we went to apply the code
8 provisions of this particular case, the staff
9 position is that either the regular bulk
10 regulations in Section 3-110 apply to the entire
11 property because it's a large single zoning lot
12 or Section 10-104 applies to the entire
13 property.

14 If you view the property as one
15 unified lot with a house straddling the line
16 between north and south, you get one house as of
17 right. That house can be rebuilt on the
18 property either in conformance with 3-110 or
19 10-104; we never get to this question of
20 vacancy.

21 He spends a lot of time in his
22 submittal and touched on it some tonight with

1 his narrative and argument telling you about
2 this history and if you accept certain
3 assumptions in that the lot is incorrectly
4 surveyed at some point, that there was an intent
5 to have the existing residence be only on the
6 north lot and that the south lot has always been
7 intended as vacant land to be held for future
8 development, these arguments are intended to
9 convince you of that, that the original builder
10 meant to situate the home solely on the north
11 lot.

12 None of us can say with any
13 finality what the builder of the house intended
14 in 1929 or whether the zoning administrator at
15 that time waived this rear yard requirement.
16 Mr. Daniel admitted that.

17 But I guess I would submit to you
18 that nothing presented here or in his submittal
19 creates a reasonable inference that the house
20 was always intended to exist wholly on the north
21 lot and for the south lot to be left vacant for
22 future development.

1 What we see when we look at the
2 most recent survey available and provided by the
3 owner to staff is not only a house that sits
4 approximately in the middle of these two large
5 tracts between two streets like it was meant to
6 occupy the entire property but one that actually
7 sits on the lot line and crosses the line
8 between the two lots.

9 So even if we accept his evidence
10 about a possible two-foot zoning error, we have
11 a house that exists on more than one lot of
12 record. It may not cross the lot line by a
13 whole bunch. I think we all agree on that, but
14 it crosses. And the point of staff is we have
15 never taken a position that where a house
16 straddles a lot line that two separate
17 developable lots exist without a subdivision.

18 CHAIRMAN NEIMAN: Mr. Marrs, let me ask
19 you a question.

20 MR. MARRS: Yes.

21 CHAIRMAN NEIMAN: You have often
22 repeated advice, which I believe came from your

1 office, that the zoning board of appeals'
2 decisions have no precedential value and I
3 understand why that doesn't make -- one can make
4 an argument that doesn't make sense because
5 consistency would generally be a good thing.

6 Do you agree that our decisions
7 have no precedential value?

8 MR. MARRS: I think that that advice
9 was given in the context of variations because
10 each variation is taken on its facts.

11 I think that appeals can have some
12 precedential value.

13 CHAIRMAN NEIMAN: Okay. Is that the
14 reason why, to some degree, your office, and to
15 some degree, the village manager engaged in a
16 debate on this case about Phillippa and Sixth
17 Street because those were appeals as opposed to
18 mere variance requests and therefore, we should
19 view those as having more precedential value?

20 MR. MARRS: Yes. On Phillippa, yes.

21 CHAIRMAN NEIMAN: Got it. Okay.

22 MR. MARRS: So at any rate, getting

<p style="text-align: right;">58</p> <p>1 back to the first point where we disagree with</p> <p>2 Mr. Daniel is his premise that you can</p> <p>3 voluntarily demolish a house that's situated on</p> <p>4 multiple lots of record thereby making them</p> <p>5 vacant and can then build houses as of right on</p> <p>6 any of those legal nonconforming lots of record</p> <p>7 that meet the special minimums set forth in</p> <p>8 Section 10-105. We would potentially be giving</p> <p>9 a number of similarly situated owners of big</p> <p>07 51 06PM 10 lots in the village the right to increase</p> <p>11 density in the village without getting any sort</p> <p>12 of zoning relief.</p> <p>13 So that is why we are concerned in</p> <p>14 this particular case. It's simply not how the</p> <p>15 code reads or how staff has ever understood or</p> <p>16 interpreted it and therefore it's concerning.</p> <p>17 The second point of contention is</p> <p>18 this vacancy. If we assume for a moment that</p> <p>19 you accept Mr. Daniel's argument the lot is not</p> <p>07 51 30PM 20 one unified property and that instead what we</p> <p>21 have here is a conforming north lot and a</p> <p>22 nonconforming south lot that's always been left</p>	<p style="text-align: right;">60</p> <p>1 because by fencing and sprinkling it, you</p> <p>2 created a single zoning lot. The owner said</p> <p>3 they would remove the structures, if you can</p> <p>4 recall, and the ZBA, after hearing the evidence,</p> <p>5 overturned the staff decision saying that while</p> <p>6 it technically constitutes a single zoning lot,</p> <p>7 the lots have now been consolidated, there still</p> <p>8 existed a right to rebuild regardless of the</p> <p>9 minor structures so long as they were removed.</p> <p>10 And importantly for the purposes of</p> <p>11 our current matter, when Robb McGinnis was</p> <p>12 speaking to the ZBA on the Phillippa matter and</p> <p>13 his concerns about precedent being set, he said,</p> <p>14 now, this is different than several underlying</p> <p>15 lots of record with a principal structure that</p> <p>16 straddles the lot line. That's a no brainer.</p> <p>17 It's one zoning lot, you can't demolish it, and</p> <p>18 then build two or three homes on that, on those</p> <p>19 two underlying lots of record. There's already</p> <p>07 53 22PM 20 case law in Wheaton on that one; we had a</p> <p>21 challenge here way back.</p> <p>22 And then Mr. McGinnis went on, this</p>
<p style="text-align: right;">59</p> <p>1 for future development and he says the owner</p> <p>2 should be able to as of right separately develop</p> <p>3 those two lots. And the reason he should be</p> <p>4 able to, according to Mr. Daniel, is it's a</p> <p>5 legal nonconforming lot of record under the</p> <p>6 village code under 10-105.</p> <p>7 So he talks a lot about these</p> <p>8 previous decisions of the ZBA and if I could</p> <p>9 just address Phillippa at least for a moment.</p> <p>07 52 05PM 10 He argues that these previous decisions are</p> <p>11 irreconcilable. Four of you were on the ZBA at</p> <p>12 the time that the Phillippa decision was made in</p> <p>13 2013. We have included the transcript and</p> <p>14 decision in that case in your packet.</p> <p>15 The facts weren't there where there</p> <p>16 were two houses on two lots. The one owner</p> <p>17 bought his neighbor's house, tore down the</p> <p>18 neighbor's house, and then installed a sprinkler</p> <p>19 system and fence that were on both lots and</p> <p>07 52 30PM 20 staff, pursuant to its longtime position on</p> <p>21 zoning lots, said, you can't now just divide the</p> <p>22 neighbor's lot back up for separate development</p>	<p style="text-align: right;">61</p> <p>1 situation is a little bit different that you</p> <p>2 don't have a principal structure that ever</p> <p>3 straddled these lot lines. You had a house on a</p> <p>4 nonconforming lot of record and another house on</p> <p>5 a legal nonconforming lot of record.</p> <p>6 CHAIRMAN NEIMAN: What case law in</p> <p>7 Wheaton was Mr. McGinnis referring to there?</p> <p>8 MR. MARRS: He was referring to a 2002</p> <p>9 decision on 640 Mills.</p> <p>07 53 50PM 10 MR. DANIEL: That was in federal court.</p> <p>11 That was a U.S. Federal Court.</p> <p>12 The Wheaton one is a Glen Ellyn</p> <p>13 case that I mentioned. You can zone instead of</p> <p>14 a minimum, you take the low lot minimum based on</p> <p>15 declaring that a lot of record.</p> <p>16 MR. MARRS: We can ask Robb, but my</p> <p>17 understanding is he was referring to the Bernard</p> <p>18 case in 2002, which we were able to find the</p> <p>19 decision on, and I think it's directly on point</p> <p>07 54 15PM 20 because it involved a house that straddles a lot</p> <p>21 line that was subsequently demolished, rebuilt</p> <p>22 somewhere else on the lot, and then the owner</p>

<p style="text-align: center;">62</p> <p>1 said, well, I want to build a second house on 2 this lot now. And the conclusion of the ZBA in 3 2002 was that they could not do that once they 4 have had -- because the house straddles the lot 5 line, there was a single zoning lot and you 6 couldn't then by right break them out and 10-105 7 would not apply.</p> <p>8 So I brought a copy of that 9 decision today because I do think it's relevant 10 to what we are talking about here and if I could 11 pass it out, I would appreciate it.</p> <p>12 CHAIRMAN NEIMAN: Please.</p> <p>13 MR. MARRS: Now, this case was appealed 14 to federal court on an equal protection claim.</p> <p>15 MR. DANIEL: It wasn't an appeal.</p> <p>16 MR. MARRS: It was brought to federal 17 court on an equal protection claim and the 18 village got summary judgment on that. They did 19 not get into the issues of the zoning case at 20 the court.</p> <p>21 CHAIRMAN NEIMAN: So this is a ZBA 22 decision. Did this, in fact, go -- was this</p>	<p style="text-align: center;">64</p> <p>1 on the property, meaning the entire zoning lot. 2 Staff correctly interpreted the code.</p> <p>3 So Phillippa may have created this 4 limited exception for insubstantial accessory 5 structures and paving but not for houses. Staff 6 regards, you know, the Mills case and other 7 cases that have come before it over the time as 8 how they decide cases where houses straddle a 9 lot line, they don't divide them as of right.</p> <p>10 CHAIRMAN NEIMAN: Anyone have any 11 questions?</p> <p>12 (No response.)</p> <p>13 Thank you, Mr. Marrs.</p> <p>14 Mr. Daniel, I'll give you ten 15 minutes for rebuttal.</p> <p>16 MR. DANIEL: Thank you. 735-739 17 Phillippa, Matt Klein stood before you under 18 oath as the witness and told you that the zoning 19 lot analysis does not apply in a lot of record 20 situation. There is nothing in the code that 21 says if 735 and 739 are one zoning lot, that 22 they forfeit their right as two legal</p>
<p style="text-align: center;">63</p> <p>1 reviewed by a state or federal court?</p> <p>2 MR. MARRS: No. The owner brought a 3 federal equal protection claim because he said 4 he was treated differently by the ZBA in this 5 case than they had treated a previous case and 6 that was the issue. It was decided on summary 7 judgment that had nothing to do with the 8 substance of the issues that were decided by the 9 ZBA.</p> <p>10 MR. DANIEL: That's a fair assessment.</p> <p>11 CHAIRMAN NEIMAN: Anybody have any 12 questions of Mr. Marrs?</p> <p>13 MR. MARRS: And if I could just point 14 out quickly two points. In bullet point 11 of 15 the Mills decision says, where a zoning lot 16 exists, the question of whether there are two 17 legal nonconforming lots of record is not 18 material. The zoning lot can't be divided 19 except in compliance with the underlying zoning 20 district requirements.</p> <p>21 In bullet point 12, it is not a 22 precode structure not capable of being rebuilt</p>	<p style="text-align: center;">65</p> <p>1 nonconforming lots of record. Mr. Klein said 2 that. That's in the transcript that you were 3 provided by Mr. Marrs.</p> <p>4 He pointed you to No. 11 in the 5 decision on Mills. I'd like to ask you to open 6 the decision in Mills to the last page. I would 7 like you to set what you have opened next to the 8 definition of legal nonconforming lot of record 9 and focus on A3. And I'd like to ask you: Can 10 you faithfully as great volunteers, people that 11 have helped out in the community a lot, people 12 that we all are relying on, can you faithfully 13 say that the test under A3 of the definition of 14 legal nonconforming lot of record matches bullet 15 point No. 15?</p> <p>16 Bullet point No. 15 states in the 17 Mills decision as a finding that the subject 18 property was not vacant on June 18, 1988, or any 19 time that the applicant applied for permit and 20 other relief from the village or at any time 21 after June 18, 1988. That is not your text.</p> <p>22 And I was asked by the Chairman</p>

<p style="text-align: right;">66</p> <p>1 this evening why isn't it vacant now, or it's</p> <p>2 not vacant now. That matters. It's not going</p> <p>3 to be vacant because you have applied for a</p> <p>4 permit to make it vacant. Right now there's a</p> <p>5 house that straddles both and it's only in the</p> <p>6 future as part of what you are asking us to say</p> <p>7 you can do that it's going to become vacant.</p> <p>8 I will say that Mr. Marrs'</p> <p>9 discussion of how consistent the village has</p> <p>10 been is also incorrect. Mills is a very sad</p> <p>11 case. It is a tragic case. Builder buys two</p> <p>12 historic lots of record, receives a permit,</p> <p>13 builds a foundation, gets a stop work order</p> <p>14 because guess what? Someone changed their mind.</p> <p>15 Someone caught something and said you know what,</p> <p>16 we are going to use our zoning law theory here</p> <p>17 and maybe the ZBA will buy it. Two votes</p> <p>18 against. With No. 15 in there as the finding.</p> <p>19 That decision came up short. That is not what</p> <p>20 A3 asks you to decide.</p> <p>21 I note that the foundation of the</p> <p>22 ZBA granted variance, again, ZBA action on a</p>	<p style="text-align: right;">68</p> <p>1 ZBA, hi. My name, Bob O'Donnell. You all know</p> <p>2 me. I have been here before. I have these two</p> <p>3 legal nonconforming lots of record and I need a</p> <p>4 variance. And you accepted the fact that he had</p> <p>5 two legal nonconforming lots of record and</p> <p>6 granted the variance for 7,000 square feet per</p> <p>7 lot to 6,700.</p> <p>8 It's the component where you</p> <p>9 recognize the legal nonconforming lots of record</p> <p>10 that is precedential. The hardship, that's not</p> <p>11 precedential. But your treatment of a legal</p> <p>12 nonconforming record in that case and Phillippa</p> <p>13 is important because you can't insert new</p> <p>14 provisions in a code that change the code as</p> <p>15 it's written. That's what point No. 15 does.</p> <p>16 When it comes to Mr. Marrs'</p> <p>17 discussion of whether the home can be rebuilt as</p> <p>18 a condition of getting into 10-105, I'm going to</p> <p>19 ask you how. This is the most recent survey.</p> <p>20 You can page to Exhibit B1 in our application or</p> <p>21 attachment B1. Attachment B1 reflects that</p> <p>22 none, none of the Zook house is on lot 18. How</p>
<p style="text-align: right;">67</p> <p>1 legal nonconforming lot of record situation in</p> <p>2 the capacity of making a final decision, you</p> <p>3 granted the variance. It didn't get recommended</p> <p>4 to the village board and the village board</p> <p>5 approve it. You granted this one. So it is</p> <p>6 precedential.</p> <p>7 CHAIRMAN NEIMAN: I'm sorry, I thought</p> <p>8 the distinction Mr. Marrs made about our</p> <p>9 decisions having precedential or not having</p> <p>10 precedential value was that in appeals there may</p> <p>11 be some precedential value but not in variances.</p> <p>12 Now, you are saying the variances have</p> <p>13 precedential value.</p> <p>14 MR. DANIEL: In board granted</p> <p>15 variances, ZBA granted variances. When you</p> <p>16 grant them, that's your history.</p> <p>17 CHAIRMAN NEIMAN: I understand but --</p> <p>18 MR. DANIEL: Let me finish. Each</p> <p>19 variation application is different. You have 8</p> <p>20 factors to look at, yes. But before you got to</p> <p>21 factor No. 1, 2, 3, 4, 5, 6, 7 or 8, what was</p> <p>22 the first question presented? Members of the</p>	<p style="text-align: right;">69</p> <p>1 is lot 18 part of the zoning lot of record if</p> <p>2 the house doesn't encroach on lot 18? Move</p> <p>3 beyond that a little bit.</p> <p>4 Mr. Marrs generalized quite a bit</p> <p>5 in his citation to authority. The question</p> <p>6 under A3 does it become vacant -- was it vacant</p> <p>7 in 1988 or did it become vacant thereafter? And</p> <p>8 can it be rebuilt? Can it be rebuilt under one</p> <p>9 very limited subsection of your code. It's not</p> <p>10 10-104 in general. It's 10-104C, which has two</p> <p>11 subparagraphs.</p> <p>12 10-104C says, yes, you can do this.</p> <p>13 You can maintain your historic home. You can</p> <p>14 rebuild it. You can add on to it within</p> <p>15 reasonable parameters subject to the following:</p> <p>16 Section 1. In the event of voluntary demolition</p> <p>17 or destruction. If it's voluntary, game over.</p> <p>18 It's over. You cannot rebuild that precode</p> <p>19 structure if you voluntarily destroy it or</p> <p>20 demolish it. Okay.</p> <p>21 Mr. Marrs also said --</p> <p>22 MR. MARRS: That's a</p>

<p style="text-align: center;">70</p> <p>1 mischaracterization of the code. That's not 2 what it says.</p> <p>3 MR. DANIEL: Let's look at it. 10-104C 4 has an opening paragraph entitled damage or 5 destruction. I think I gave you the intro 6 accurately. That any precode structure that is 7 demolished, damaged, or destroyed by any means 8 whether or not within the control of the owner 9 thereof, may be rebuilt, restored, or repaired.</p> <p>08 05 06PM 10 I gave you that. That's the intro.</p> <p>11 But it continues and it says, 12 provided, however, that. And then you have 13 Section 1, which I also pointed out to you 14 concerns voluntary damage. In no event shall 15 any demolition, damage, or destruction to such a 16 structure caused by any means within the control 17 of the owner be rebuilt, restored, or repaired 18 except in conformity with all the applicable 19 district regulations other than minimum lot area</p> <p>08 05 38PM 20 and lot dimension regulations. That excepts two 21 regulations. Can we rebuild the Zook house on 22 lots 1 through 4 and 19 if you accept their</p>	<p style="text-align: center;">72</p> <p>1 CHAIRMAN NEIMAN: Why in this instance 2 do we look at rebuilt when you are contemplating 3 moving it? You are not contemplating rebuilding 4 it.</p> <p>5 MR. DANIEL: It's the village saying 6 that, wait a second, you have to analyze whether 7 this precode structure can be rebuilt on the 8 zoning lot. I'm talking about lots of record.</p> <p>9 Even if you take the village's 10 zoning lot analysis, they are saying that you 11 can look at the zoning lot and you can rebuild 12 the Zook house where it is now. The only way 13 you can do that is if you are including lot 18, 14 a lot of record upon which no part of the Zook 15 house sits. No rear yard. No side yard. On 16 the other side here you have a two-car garage, 17 the third, car number three, is parked in the 18 parking area outdoors. It is in the interior 19 side yard setback. That requires another</p> <p>08 08 12PM 20 variance. That's not the test. Because if you 21 end up trying to define a lot of record subject 22 to the future actions of the ZBA in granting a</p>
<p style="text-align: center;">71</p> <p>1 zoning lot theory. No part of the Zook house is 2 on lot 18. No part is on lot 18. It's very 3 clear in B1. Where is your side yard? Where is 4 your rear yard? Your rear yard is required 5 regardless, whether it's under 10-105 or 3-110, 6 your rear yard is nonexistent.</p> <p>7 CHAIRMAN NEIMAN: It can be built/ 8 rebuilt if we grant the variance however; 9 correct? It's not even rebuilding; it's moving</p> <p>08 07 28PM 10 it. It's not being rebuilt.</p> <p>11 MR. DANIEL: It's in compliance with 12 all the other applicable regulations other than 13 lot area and lot dimensions.</p> <p>14 CHAIRMAN NEIMAN: Are you saying that 15 it can't be rebuilt even with the variance then?</p> <p>16 MR. DANIEL: With a variance it can be 17 relocated, yes.</p> <p>18 CHAIRMAN NEIMAN: Okay. Is there a 19 difference between rebuilt and relocated?</p> <p>08 07 46PM 20 MR. DANIEL: In this instance, you look 21 at rebuilt and you look at where the house is 22 now it cannot be rebuilt there.</p>	<p style="text-align: center;">73</p> <p>1 variation, you can never define a historic lot 2 of record. You guys can do anything.</p> <p>3 MR. MCGINNIS: There's no prohibition 4 on off-street parking in the required side yard. 5 The only prohibition is in the required front or 6 corner side.</p> <p>7 CHAIRMAN NEIMAN: So I'm going to thank 8 you, Mr. Daniel.</p> <p>9 Let me ask the other zoning board 10 members for some help here. I spent a long time 11 over the weekend reading the written appellate 12 submission. I have now sat here for well over 13 an hour listening to the arguments. And I'm not 14 sure I understand how 10-104C and the argument 15 that Mr. Daniel just made affects our decision.</p> <p>16 Could either one of the board 17 members explain that to me because I don't want 18 to be dense. Or perhaps Mr. Marrs could explain 19 it to me, but I don't get it. Anybody?</p> <p>20 (No response.)</p> <p>21 Well that makes me feel better.</p> <p>22 MR. DANIEL: It's a three-part test.</p>

1 All I'm asking you to do is a three-part test.

2 CHAIRMAN NEIMAN: To what end? If you
3 meet the three-part test, how does that alter
4 the fact that you have conceded that the sunken
5 cement stairs that are attached to the house
6 encroach on the south lot?

7 MR. DANIEL: The property becomes
8 vacant on or after June 18, 1988.

9 CHAIRMAN NEIMAN: How?

08-10-2020 10 MR. DANIEL: Because the house and the
11 improvements are gone. Gone.

12 CHAIRMAN NEIMAN: How are they gone?

13 MR. DANIEL: You had a severance of the
14 fixture, the residence that is part of the real
15 estate now that is severed, divided from the
16 real estate that is subject to a Bill of Sale
17 because it is not realty anymore.

18 CHAIRMAN NEIMAN: When you move it.

08-11-2020 19 MR. DANIEL: When you move it. And it
20 doesn't have to be vacant at the time I'm
21 speaking to you now. It doesn't have to be
22 vacant on June 18, 1988. It doesn't have to be

1 vacant if your decision that it had to be vacant
2 at some point drove us to file a demolition
3 permit. It doesn't have to go that way. The
4 ordinance says on June 18, 1988, or thereafter.
5 It doesn't say that it has to be part of a ZBA
6 appeal hearing process or a ZBA variance
7 process. It could be part of a future permit
8 that is being planned because we don't want to
9 go to the prejudice of testing the demolition of
08-11-2020 10 the house and do what they did on Mills to find
11 out later.

12 CHAIRMAN NEIMAN: Are there any other
13 questions?

14 MR. MOBERLY: I just find this all
15 circular. It only becomes vacant if we grant
16 this request tonight. Now it's not vacant, it
17 wasn't vacant in 1988.

08-11-2020 18 MR. DANIEL: Right, but it's a future
19 question. Is today the end date of the vacancy
20 window? Is that the end date in the ordinance?
21 It doesn't give you an end date.

22 MR. MOBERLY: I don't think we can

1 answer future questions. I can barely answer
2 questions on June 21st, the first day of summer.
3 I don't know how we can answer future questions.

4 CHAIRMAN NEIMAN: Do any board members
5 have any additional questions for either
6 counsel?

7 MR. CONNELLY: No.

8 CHAIRMAN NEIMAN: Thank you.

9 Is there a motion to close the
08-12-2020 10 public hearing on the appeal?

11 MR. MCGINNIS: Mr. Chairman, before you
12 close the public hearing, you might want to ask
13 for any public comment.

14 MR. DANIEL: Can I ask, Mr. Chairman,
15 if our exhibits and submittals that we have made
16 are part of the record?

17 CHAIRMAN NEIMAN: No problem at all.

18 I guess the question is on an
19 appeal as opposed to a variance application, do
08-13-2020 20 we normally take public comment? It's a legal
21 question, isn't it?

22 MR. MARRS: It is a legal question but

1 because your code phrases it as a public
2 hearing, I think that you offer the opportunity
3 if anybody has any comments on the appeal aspect
4 of it.

5 Would you agree, Mark?

6 MR. DANIEL: I agree with that.

7 CHAIRMAN NEIMAN: Fair enough. Who
8 wants to go first, keeping in mind we have read
9 the letters that many of you have submitted both
10 in favor of this project and against it and keep

11 in mind that many of your letters were in the
12 context of granting the variance because they
13 were written before the appeal was even filed
14 and we have certainly considered those and in my
15 view, the variance question may be significantly
16 easier for us than the question on appeal.

17 But I welcome any comments that any
18 of you would like to make on the legal issue
19 regarding the appeal, keeping in mind you will
08-14-2020 20 have another chance to express your opinions if
21 and when we get to the variance issue later this
22 evening. Don't jump up all at once. Anybody?

1 Would the owners like to address
2 the appeal in any way?
3 MR. PARKER: Just to say thank you,
4 Chairman Neiman. I appreciate your entertaining
5 this discussion and appreciate everyone holding
6 their comments until we get to the variation.

7 MR. MOBERLY: Assuming we get to the
8 variation. You are optimistic.

9 CHAIRMAN NEIMAN: Okay. Motion to
10 close the public hearing on Appeal 01-17?
08:15:18PM

11 MR. GILTNER: So moved.

12 MR. MOBERLY: Second.

13 CHAIRMAN NEIMAN: Roll call, please?

14 MS. BRUTON: Member Connelly?

15 MR. CONNELLY: Aye.

16 MS. BRUTON: Member Moberly?

17 MR. MOBERLY: Yes.

18 MS. BRUTON: Member Giltner?

19 MR. GILTNER: Yes.

20 MS. BRUTON: Member Alesia?

21 MR. ALESIA: Yes.

22 MS. BRUTON: Member Podliska?

1 MR. PODLISKA: Yes.

2 MS. BRUTON: Chairman Neiman?

3 CHAIRMAN NEIMAN: Yes.

4 (WHICH, were all of the
5 proceedings had, evidence
6 offered or received in the
7 above entitled cause.)
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1 STATE OF ILLINOIS)

) ss:

2 COUNTY OF DU PAGE)

3 I, KATHLEEN W. BONO, Certified
4 Shorthand Reporter, Notary Public in and for the
5 County DuPage, State of Illinois, do hereby
6 certify that previous to the commencement of the
7 examination and testimony of the various
8 witnesses herein, they were duly sworn by me to
9 testify the truth in relation to the matters
10 pertaining hereto; that the testimony given by
11 said witnesses was reduced to writing by means
12 of shorthand and thereafter transcribed into
13 typewritten form; and that the foregoing is a
14 true, correct and complete transcript of my
15 shorthand notes so taken aforesaid.

16 IN TESTIMONY WHEREOF I have
17 hereunto set my hand and affixed my notarial
18 seal this 28th day of June, A.D. 2017.
19
20

21 KATHLEEN W. BONO,
C.S.R. No. 84-1423,
Notary Public, DuPage County
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[illegible]

DISCUSSIONS OF THE HINSDALE
ZONING BOARD OF APPEALS

In the Matter of:)
)
)
444 East Fourth/)
435 Woodside, APP-01-17.)

REPORT OF DISCUSSIONS had of the
above-entitled matter before the Hinsdale Zoning
Board of Appeals, at 19 East Chicago Avenue,
Hinsdale, Illinois, on June 21, 2017, at the
hour of 6:30 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;
MR. MARC C. CONNELLY, Member;
MR. KEITH GILTNER, Member;
MR. JOHN F. PODLISKA, Member;
MR. JOSEPH ALESIA, Member; and
MR. GARY MOBERLY, Member.

★ ★ ★ ★ ★

<p style="text-align: right;">2</p> <p>1 ALSO PRESENT:</p> <p>2 MS. CHRISTINE BRUTON, Deputy Village</p> <p>3 Clerk;</p> <p>4 MR. ROBB MCGINNIS, Director of</p> <p>5 Community Development;</p> <p>6 MR. MICHAEL MARRS, Village Attorney.</p> <hr/> <p>7 MR. CONNELLY: I admit to being as</p> <p>8 dense as you.</p> <p>9 CHAIRMAN NEIMAN: High praise, Marc.</p> <p>10 Thank you.</p> <p>11 MR. CONNELLY: Yes. I did not</p> <p>12 understand those aspects that you were</p> <p>13 addressing.</p> <p>14 CHAIRMAN NEIMAN: John?</p> <p>15 MR. PODLISKA: In my view the property</p> <p>16 right now is not vacant and that's what matters,</p> <p>17 that's what's before us.</p> <p>18 In order to do what the owner wants</p> <p>19 to do, the house has to be moved to the north</p> <p>20 lot -- to the south lot, I'm sorry. But the</p> <p>21 encroachment exists now and I don't think that</p> <p>22 either one of these properties, either one of</p>	<p style="text-align: right;">4</p> <p>1 MR. GILTNER: Yes. I would agree with</p> <p>2 the others. I didn't realize that the issue of</p> <p>3 vacancy was based on future vacancy and at least</p> <p>4 from my understanding, that's not something we</p> <p>5 should be considering. So I would vote to deny</p> <p>6 the appeal.</p> <p>7 CHAIRMAN NEIMAN: I agree. Granting</p> <p>8 this appeal requires us to determine that the</p> <p>9 property is a legal nonconforming lot of record</p> <p>10 under 12-206. But 12-206's definition of a</p> <p>11 legal nonconforming lot of record requires,</p> <p>12 among other things, a finding that the lot was</p> <p>13 vacant on June 18, 1988, and it wasn't vacant</p> <p>14 because there was an encroachment on the south</p> <p>15 property as Mr. Daniel has conceded both this</p> <p>16 evening and in his June 15th letter.</p> <p>17 The code defines vacant as not</p> <p>18 developed with any building, structure, or</p> <p>19 paving, or surface of the ground. And part of</p> <p>20 the Zook house that is on the south lot are</p> <p>21 exterior basement stairs which are part of the</p> <p>22 structure under 12-206 because the stairs were</p>
<p style="text-align: right;">3</p> <p>1 these lots, is vacant lot now and, therefore,</p> <p>2 they do not have the right to proceed to move</p> <p>3 the house onto one lot and to sell the other and</p> <p>4 build on the other.</p> <p>5 MR. MOBERLY: Unless we grant a</p> <p>6 recommendation of a variance?</p> <p>7 MR. PODLISKA: Well, I'm saying at this</p> <p>8 stage they don't have the right to do that.</p> <p>9 When it comes to a question of a variance, it</p> <p>10 doesn't matter. I'm not opining on that now.</p> <p>11 I'm opining on whether they do need to come</p> <p>12 before us and ask for a variance in order to</p> <p>13 accomplish this and in my view they do.</p> <p>14 CHAIRMAN NEIMAN: Thank you.</p> <p>15 Gary?</p> <p>16 MR. MOBERLY: I agree with John.</p> <p>17 CHAIRMAN NEIMAN: Joe?</p> <p>18 MR. ALESIA: I do too based on what I</p> <p>19 heard tonight. Again, I haven't had a chance to</p> <p>20 review everything but neither one of these lots</p> <p>21 are vacant right now.</p> <p>22 CHAIRMAN NEIMAN: Keith?</p>	<p style="text-align: right;">5</p> <p>1 more or less permanently attached to the ground</p> <p>2 or more or less permanently attached to the</p> <p>3 house which is attached to the ground.</p> <p>4 The concept of our finding that the</p> <p>5 lot was vacant in June of 1988 because in the</p> <p>6 future the house is going to be moved still</p> <p>7 defies logic to me. I didn't understand it when</p> <p>8 I read it. I didn't understand it this evening.</p> <p>9 Apparently no one understands it and I don't see</p> <p>10 any basis for it in the code. As a result, I</p> <p>11 don't think the requirements are present here so</p> <p>12 I agree with the other board members.</p> <p>13 Do I hear a motion?</p> <p>14 MR. MOBERLY: Motion to deny the appeal</p> <p>15 01-17, 444 East Fourth.</p> <p>16 MR. ALESIA: Second.</p> <p>17 CHAIRMAN NEIMAN: Roll call, please?</p> <p>18 MS. BRUTON: Member Connelly?</p> <p>19 MR. CONNELLY: Aye.</p> <p>20 MS. BRUTON: Member Moberly?</p> <p>21 MR. MOBERLY: Yes.</p> <p>22 MS. BRUTON: Member Giltner?</p>

1 MR. GILTNER: Yes.
 2 MS. BRUTON: Member Alesia?
 3 MR. ALESIA: Yes.
 4 MS. BRUTON: Member Podliska?
 5 MR. PODLISKA: Yes.
 6 MS. BRUTON: Chairman Neiman?
 7 CHAIRMAN NEIMAN: Yes.
 8 MR. DANIEL: Mr. Chairman, may I
 9 approach the podium?
 10 CHAIRMAN NEIMAN: Approach.
 11 MR. DANIEL: Realizing there's a
 12 process for you to get to the point of a final
 13 decision that's published, I had prepared a
 14 final decision in the form required by the code
 15 so that you can make that decision tonight. It
 16 recites the facts. I have circled one box on
 17 the issue of the question of vacancy, a portion
 18 of the decision that I prepared in preparation
 19 for tonight so you can put this thing to rest
 20 under the appeal. It says, the Zoning Board of
 21 Appeals also finds that the north lot and the
 22 south will become vacant after 1988. There are

1 a couple of things in here you will want to take
 2 out, add, deny. I handwrote the roll call vote;
 3 you have a final decision.
 4 MR. PODLISKA: Normally the prevailing
 5 party would submit the order.
 6 MR. DANIEL: I was thinking for your
 7 convenience because we have this variance issue
 8 and I didn't want to have any delays with that.
 9 MR. PODLISKA: Let me just ask whether
 10 the village is in agreement with the proposed
 11 order?
 12 MR. DANIEL: This order grants our
 13 appeal. I just was trying to highlight that if
 14 you maybe took a ten minute recess, counsel
 15 could take a look at the order and just X
 16 through or say does not agree with a
 17 circumstance, and then you have your final
 18 decision.
 19 MR. PODLISKA: I think we need to defer
 20 to the village on this.
 21 MR. GILTNER: What's the advantage to
 22 doing that for us?

1 CHAIRMAN NEIMAN: He wants to go to
 2 Wheaton tomorrow.
 3 MR. DANIEL: No. No. Every time
 4 there's a vote what I do is try to circulate
 5 something that makes it convenient to the folks
 6 I'm appearing for.
 7 CHAIRMAN NEIMAN: It seems to me,
 8 Chris, correct me if I'm wrong, in the past
 9 doesn't the zoning board draft these orders and
 10 not the parties?
 11 MS. BRUTON: Right.
 12 CHAIRMAN NEIMAN: Okay. So the answer
 13 is no, Mr. Daniel. You don't get to draft the
 14 order, we get to draft the order.
 15 MR. DANIEL: It was an offer of
 16 convenience, Mr. Chairman.
 17 (WHICH, were all of the
 18 discussions had in the
 19 above entitled cause.)
 20
 21
 22

1 STATE OF ILLINOIS)
) ss:
 2 COUNTY OF DU PAGE)
 3 I, KATHLEEN W. BONO, Certified
 4 Shorthand Reporter, Notary Public in and for the
 5 County DuPage, State of Illinois, do hereby
 6 certify that previous to the commencement of the
 7 examination and testimony of the various
 8 witnesses herein, they were duly sworn by me to
 9 testify the truth in relation to the matters
 10 pertaining hereto; that the testimony given by
 11 said witnesses was reduced to writing by means
 12 of shorthand and thereafter transcribed into
 13 typewritten form; and that the foregoing is a
 14 true, correct and complete transcript of my
 15 shorthand notes so taken aforesaid.
 16 IN TESTIMONY WHEREOF I have
 17 hereunto set my hand and affixed my notarial
 18 seal this 28th day of June, A.D. 2017.
 19
 20
 21 KATHLEEN W. BONO,
 C.S.R. No. 84-1423
 22

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**FINDINGS OF FACT AND RECOMMENDATION OF THE
VILLAGE OF HINSDALE ZONING BOARD OF APPEALS TO
THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES**

ZONING CALENDAR NO. V-04-17

APPLICATION: **For a Lot Size Variation from Section 3-110 of the
Village of Hinsdale Zoning Ordinance**

CO-APPLICANTS: **Matt Bousquette, Property Owner & Kris & Tracy
Parker, Contract Purchasers**

PROPERTY OWNER: **Matt Bousquette**

PROPERTY: **435 Woodside Avenue, Hinsdale, Illinois**

HEARING HELD: **June 21, 2017**

SUMMARY OF REQUEST AND RECOMMENDATION: The Village of Hinsdale has received a request from Matt Bousquette, Property Owner, and Kris and Tracy Parker, Contract Purchasers (collectively, the "Co-Applicants") of the property located at 435 Woodside Avenue for a lot size variation (the "Requested Variation"). The Requested Variation involves the relocation of an existing residence (the "Existing Residence") that currently straddles the lot line between the 435 Woodside property (referred to herein as the "South Lot") and property located at 444 E. Fourth Street (referred to herein as the "North Lot"), to the South Lot, which would facilitate redevelopment of the North Lot, following a subdivision, with a separate residence. The North Lot and South Lot together are referred to herein as the Property. The Requested Variation is sought relative to the South Lot pursuant to Section 3-110 of the Village of Hinsdale Zoning Code, in order to allow a lot of less than 30,000 square feet.

Following a public hearing held on June 21, 2017, the Zoning Board of Appeals of the Village of Hinsdale ("ZBA") recommended approval of the Requested Variation on a unanimous vote of six (6) in favor and zero (0) opposed, with one (1) member absent.

PUBLIC HEARING: At the public hearing on the Requested Variation held on June 21, 2017, Kris Parker, one of the Applicants, testified that he and his family had a contract to purchase the Existing Residence on the Property, and had been renting and living in the Existing Residence since December, 2016. The Existing Residence was designed by architect Harold Zook, and is approximately 4,100 square feet in size.

Mr. Parker testified that the Property is currently 50,000 square feet and that unless the Existing Residence is allowed to be relocated to the South Lot, and the North Lot is then allowed to be separately developed, the Existing Residence will be demolished, because it is unrealistic for anyone to take on the mortgage payment and tax burden of owning a 4,100 square foot home on a 50,000 square foot lot. He further testified that

**FINDINGS OF FACT AND RECOMMENDATION OF THE
VILLAGE OF HINSDALE ZONING BOARD OF APPEALS TO
THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES**

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PROPERTY OWNER: Matt Bousquette

PROPERTY: 435 Woodside Avenue, Hinsdale, Illinois

HEARING HELD: June 21, 2017

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Mr. Parker testified that the Property is currently 50,000 square feet and that unless the Existing Residence is allowed to be relocated to the South Lot, and the North Lot is then allowed to be separately developed, the Existing Residence will be demolished, because it is unrealistic for anyone to take on the mortgage payment and tax burden of owning a 4,100 square foot home on a 50,000 square foot lot. He further testified that

the Existing Residence is in desperate need of a new foundation and will need to be elevated to accommodate those repairs, or located to a new foundation elsewhere on the Property. Mr. Parker also testified that current owner of the Property, Matt Bousquette, regularly receives offers for the Property as a single lot from people who would tear down the Existing Residence and build a much larger home on the Property. Mr. Parker testified that the South Lot, once subdivided from the North Lot, would be the second largest lot on Woodside, and that the Parkers would be pursuing landmark status of the Existing Residence in the future once it is relocated. In response to an inquiry from Chairman Neiman, Mr. Parker stated that if the Requested Variation is approved, the Parker's will commit to pursue landmark status for the Existing Residence.

Co-Applicant Matt Bousquette testified that during the period of 2004 to 2017, every single home on Woodside other than on certain properties owned by him were demolished and rebuilt as a new house, or expanded to the maximum allowable size of the structure on the lot. Mr. Bousquette purchased the Property as a place for his family to live while his house on a neighboring lot was being renovated. In November, 2016, the renovations were complete, and he and his family moved next door to 448 E. Fourth Street and put the Existing Residence on the Property up for rent. He discussed his plan to reposition the Existing Residence to the South Lot so that the North Lot could be separately developed, his approach of the Village about that idea, and the efforts he and the Parkers undertook to reach out to people in the neighborhood about their plan. Mr. Bousquette testified that the Requested Variation would not negatively affect the character of the neighborhood, would actually enhance property values in the neighborhood, and would not increase traffic on Woodside. He further testified that 90% of the people who had signed a petition opposing the Requested Variation had lots that do not meet the minimum lot size set forth in the Zoning Code, and that economics dictate that if the Requested Variation is not granted, he will be left with no alternative but to demolish the Existing Residence and to sell the Property for development of a single large residence.

Dennis Parsons, architect for the Co-Applicants, testified to the ability of the Co-Applicants to move the Existing Residence and to position it on the South Lot in conformance with all bulk standards, should the Requested Variation be granted. The Existing Residence is proposed to be moved 100 feet, rotated 180 degrees, and placed on a new foundation. The lot is to be regraded, and a new driveway and new utilities will be installed. Staff confirmed that based on a preliminary review, lot area is the only bulk standard for which a variation is needed if the Existing Residence were to be repositioned on the South Lot.

Attorney Mark Daniel, on behalf of the Co-Applicants, testified about how the various standards for a variation have been met in this case. The practical difficulty involves the preservation of the Existing Residence despite the economic circumstances of an existing small home on a large lot, and the fact that the Residence needs a new foundation. The unique physical conditions include the irregularly-shaped lot, the architectural significance of the Existing Residence, the flow of water on the Property

that goes through the original foundation and into the basement of the Existing Residence, and the history of subdivisions on the block and in the Village. Mr. Daniel stated that the practical difficulty was not self created, but was instead the result of the history of subdivisions and development on the Property in 1929 that resulted in a 50,000 square foot lot hosting a 4,100 square foot home, conditions which were not created by the Co-Applicants. Mr. Daniel further stated that the Co-Applicants would be denied substantial rights if they were denied the opportunity to relocate the Existing Residence onto a lot that, with the Requested Variation, would still be the second largest lot on the block, with what could be the smallest home on the block. Similar relief has been provided to others, and the Requested Variation is, therefore, not a special privilege, and the Existing Residence, as relocated if the Requested Variation were to be granted, would be in harmony with the surrounding neighborhood. The division of the Property will increase overall property taxes in the Village, and utilities and facilities are ample. Finally, he stated that there is no other remedy available that would preserve the Existing Residence given the economic realities of the current real estate market.

Ten (10) members of the public spoke in support of the Requested Variation. They testified to, among other things, the importance of preserving the Existing Residence, the fact that the Existing Residence would be demolished based on current real estate market economics if the Requested Variation is not granted, that the Existing Residence can be successfully relocated, and the fact that the Existing Residence helped to establish the historic district in which it is located. The Parkers real estate attorney testified to the fact that there is a binding real estate contract for purchase of the Existing Residence in effect, subject to the Requested Variation being granted.

Four (4) members of the public spoke in opposition to the Requested Variation. They testified to, among other things, the Zoning Code's statement that the R-1 District allow for lower density residential use and larger lot sizes, that approximately 3,000 square feet would need to be deeded to the South Lot from the North Lot in order for the relocated Existing Residence to meet the rear yard setback should the Requested Variation be granted, that granting the Requested Variation is likely to lead to additional similar requests, that no unique physical conditions exist on the Property, that Mr. Bousquette purchased the Property knowing it was a large lot with a smallish residence on it and likely knew the foundation had problems, that approval of the Requested Variation would give the Co-Applicants relief not previously given to anyone in the R-1 District, that the Co-Applicant's would be receiving a special privilege merely because of the significance of the Existing Residence, that granting of the Requested Variation would increase congestion on Woodside, and that no attempt to market the Property with the home as-is has been attempted, so another remedy does exist. Other concerns voiced by opponents included additional flooding as a result of an additional house, and the inconvenience of construction. Another individual testified about other homes designed by Zook that were being renovated and preserved in the area.

It was clarified by Village Staff that in order to meet the rear yard requirement on the South Lot should the Requested Variation be granted, and once the Existing Residence is relocated, it would be necessary to deed over approximately 3,000 square feet from

the North Lot to the South Lot. The deeding over of the approximately 3,000 square feet is part of the plan that has been submitted by the Co-Applicants to the Village.

There being no further questions or members of the public wishing to speak on the application, the Public Hearing was closed.

The members of the ZBA then offered their views on the Requested Variation. Following discussion, Member Podliska made a motion to recommend approval of the Requested Variation to the Board of Trustees, seconded by Member Connelly, subject to the following conditions:

- That the Existing Residence, currently located in part on both the North Lot/PIN 09-12-221-008, and the South Lot/PINs 09-12-221-006 and 09-12-221-009, be successfully relocated entirely to the South Lot; and
- That as part of the subdivision of the collective Property on which the Existing Residence currently sits, and as part of the conveyance of the South Lot, approximately 3,000 square feet of land currently making up part of the North Lot be conveyed to the land currently making up the South Lot, for the purpose of achieving a lot size of approximately 20,000 square feet and an approximate 1 to 5 ratio of the square footage (or a maximum of 5,827 square feet of FAR) of the principal structure to the square footage of the overall lot; and
- That following the relocation, subdivision and conveyance, the Parkers, as contract purchasers, apply for landmark status for the existing home.

The Parkers acknowledged that they were in agreement with all three conditions.

The vote on the motion was six (6) in favor, zero (0) opposed, and one (1) absent.

FINDINGS: In making its recommendation of approval, the ZBA makes the following Findings as to the Requested Variation:

1. General Standard: The ZBA found that carrying out the strict letter of the provisions of the Zoning Code would create a particular hardship or a practical difficulty, based on satisfaction of the additional standards that follow below.

2. Unique Physical Condition: In this case, the Property consists of a unique combination of the overall lot size and the existing position of the Existing Residence itself, the architectural significance of the Existing Residence, and the fact that the Existing Residence will be relocated within the Property and will therefore be preserved. The size of the existing residence relative to the overall size of the Property, in the

opinion of the ZBA, places the Residence and Property in a position of economic conflict that can be resolved through the granting of the Requested Variation with the conditions stated.

3. *Not Self-Created:* A number of factors, including the large size of the Property and the size of the Existing Residence, have combined to create the current unique situation, none of which were created by the Petitioners.

4. *Denial of Substantial Right:* The application of the strict letter of the Zoning Code provisions from which the Requested Variation is sought would deprive the owner of the right to preserve the Existing Residence.

5. *Not Merely Special Privilege:* The immediate neighborhood has lots of similar size to the South Lot, for which the Requested Variation is sought, and the relocated Existing Residence will be substantially smaller than others in the area. Even with the Requested Variation, the ratio of the Existing Residence, once relocated, to the South Lot, with the conditions specified, will be an appropriate 1 to 5 ratio. The ZBA finds that the granting of the Requested Variation, with the conditions specified herein, will not result in a special privilege.

6. *Code And Plan Purposes:* The Requested Variation would result in a use or development of the South Lot that would be in harmony with the general and specific purposes for which the Zoning Code and the provision from which the Requested Variation is sought were enacted. Specifically, the Requested Variation, with the conditions specified herein, will result in the smallest house in the immediate neighborhood being located on the second largest lot in the immediate neighborhood. The Existing Residence, which in the opinion of some members of the ZBA, defines the neighborhood, will, with the conditions specified herein, be preserved.

7. *Essential Character Of The Area:* The ZBA finds that the Requested Variation will not alter the essential character of the area. Among other things, the granting of the Requested Variation, with the conditions specified herein, will result in the landmarking of the Existing Residence, which both supporters and opponents of the Requested Variation desire to see preserved. In addition, the relocation of the Existing Residence upon approval of the Requested Variation will, with the conditions specified herein, result in the smallest house in the immediate neighborhood being located on the second largest lot in the immediate neighborhood, in harmony with the neighborhood.

8. *No Other Remedy:* The Requested Variation is the only available remedy that will realistically result in both the preservation of the Existing Residence and allow a reasonable use of the Property as a whole. The only other economically reasonable alternative is demolition of the Existing Residence and sale of the Property for construction of what is likely to be a very large new residence.

RECOMMENDATIONS: Based upon the foregoing Findings, the ZBA, by a vote of 6-0, recommends to the Board of Trustees the **APPROVAL** of the Requested Lot Size

Variation sought by the Co-Applicants for the Property at 435 Woodside, in the R-1 Residential Zoning District, subject to the following conditions:

- That the Existing Residence, currently located in part on both the North Lot/PIN 09-12-221-008, and the South Lot/PINs 09-12-221-006 and 09-12-221-009, be successfully relocated entirely to the South Lot; and
- That as part of the subdivision of the collective Property on which the Existing Residence currently sits, and as part of the conveyance of the South Lot, approximately 3,000 square feet of land currently making up part of the North Lot be conveyed to the land currently making up the South Lot, for the purpose of achieving a lot size of approximately 20,000 square feet and an approximate 1 to 5 ratio of the square footage (or a maximum of 5,827 square feet of FAR) of the principal structure to the square footage of the overall lot; and
- That following the relocation, subdivision and conveyance, the Parkers, as contract purchasers, apply for landmark status for the existing home.

Signed: _____

Robert Neiman, Chair
Zoning Board of Appeals
Village of Hinsdale

STATE OF ILLINOIS)
) ss:
 COUNTY OF DU PAGE)

BEFORE THE HINSDALE ZONING BOARD OF APPEALS

In the Matter of:)
)
)
 435 Woodside,)
 Case No. V-04-17.)

CONTINUED REPORT OF PROCEEDINGS had and
 testimony taken at the hearing of the
 above-entitled matter before the Hinsdale Zoning
 Board of Appeals, at 19 East Chicago Avenue,
 Hinsdale, Illinois, on June 21, 2017, at the
 hour of 6:30 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;
 MR. MARC C. CONNELLY, Member;
 MR. KEITH GILTNER, Member;
 MR. JOHN F. PODLISKA, Member;
 MR. JOSEPH ALESIA, Member; and
 MR. GARY MOBERLY, Member.

* * * * *

<p>10</p> <p>1 ALSO PRESENT:</p> <p>2 MS. CHRISTINE BRUTON, Deputy Village Clerk;</p> <p>3 MR. ROBB MCGINNIS, Director of Community Development;</p> <p>4 MR. MICHAEL MARRS, Village Attorney;</p> <p>5 MR. MARK DANIEL, Attorney for Applicants;</p> <p>6 MR. MATT BOUSQUETTE, Applicant;</p> <p>7 MR. KRIS PARKER, Applicant;</p> <p>8 MS. TRACY PARKER, Applicant;</p> <p>9 MR. DENNIS PARSONS, Witness for Applicants.</p> <hr/> <p>12</p> <p>13 CHAIRMAN NEIMAN: Let's open the Public Hearing in Case V-4-17, 435 Woodside Avenue.</p> <p>14 Let me begin with a general statement, and this is surely personal opinion, and if anybody else wants to weigh in here, I welcome the other board members.</p> <p>15 A lot of us moved to Hinsdale</p> <p>16 because we liked the old feel of the neighborhood, wasn't like other towns.</p> <p>17 Personally, I tend to err on the side of</p>	<p>12</p> <p>1 had described previously as Lots 18 and 19 in the Block 8 resubdivision. We will present Matt Bousquette, who's the owner of both the north lot where the Zook house is currently and the south lot.</p> <p>2 We will also present Dennis Parsons very briefly to talk about code compliance. I don't think there's any dispute with code compliance with the exception of the one variance, which is a lot area variance, 30,000 square feet down to 20,000 approximately 500 square feet. We will have Joe Abel as a planner. I will also be providing some testimony in this proceeding.</p> <p>3 With that, I'd like Kris Parker to step up. I'll try to interject questions, if necessary, at the end of the testimony so we can try to keep this efficient.</p> <p>4 MR. PARKER: Chairman Neiman and the rest of the board members, I apologize in advance, this statement is a little long and odds of me getting through it smoothly are</p>
<p>11</p> <p>1 preservation, if owners want to preserve something, particularly homes of historic value.</p> <p>2 We have standards for those -- for variances as the one being requested this evening. We have read and digested many letters for and against.</p> <p>3 The question on the variance before us is whether the applicant has met those criteria in the code for the variance that would allow them to move the Zook house from the north lot to the south lot and then build a new home on the north lot.</p> <p>4 So I'd like Mr. Daniel, or the owners or the tenants, whomever in whatever order you would like to tell us what -- explain to us, for the record, what the variance that you are requesting is and why you meet the criteria.</p> <p>5 MR. DANIEL: Thank you, again. Tonight we are going to present Kris Parker, who is one of the tenants in the Zook house currently at 444 East Fourth Street. He's one of the contract purchasers of the Woodside lot that we</p>	<p>13</p> <p>1 probably low. And to our friends who showed up to be here tonight, also thank you. It means a lot to us to see you guys here and support and confidence. Thank you very much.</p> <p>2 There's a lot of other people who wanted to lend their support who weren't able to be here and whose letters weren't able to make it into the packet. We have copies of those letters. I'll just jump into the statement in the interest of time.</p> <p>3 I'm Kris Parker, this is my wife Tracy. We live in the Zook house that's being discussed here today. We live there with our two children, Merrick, 10 years old and Mitchell, 7 years old and our dog Ryder, 2 years old. We have lived there since December 12th and the Zook house is not just a historic, significant and beautiful building to us. It's indeed all of those things, but to our family the Zook house is something much more important. It is our home.</p> <p>4 We are here today because we would</p>

<p style="text-align: center;">14</p> <p>1 like your help staying in our home and making 2 sure that the structure itself is around for 3 generations to come. I'm sure everyone feels 4 connected to their home and you should know that 5 for us this connection is a strong one. 6 When I was little, we visited the 7 Edsel Ford house, a beautiful Cotswold design in 8 St. Claire Shores, Michigan. I was awestruck. 9 The ivy-covered stone exterior and the great 10 wood staircase made huge and, apparently, 11 lasting impressions on me. I could hardly 12 imagine having a home like that someday. 13 Fast forward 35 years or so. After 14 living in Hinsdale for a while, we noticed the 15 Zook on 444 East Fourth while driving to a party 16 on nearby County Line. A beautiful Cotswold 17 just like the Edsel Ford home but right here in 18 our town. What happened a couple short months 19 later was something out of a movie. 20 I'll show you guys. This is 21 actually the Edsel Ford home. This is the Zook 22 on Fourth Street. Similarities pretty striking.</p>	<p style="text-align: center;">16</p> <p>1 discussion about large lot sizes being central 2 to the character of this town. On the surface, 3 I can appreciate that. This area does have 4 large lots. Here's one thing though. We are 5 not proposing to change that. We believe we 6 already have a lot that is perfectly in keeping 7 with those other ones. Heck, even 91 percent of 8 the people that signed the petition to preserve 9 lot sizes have a lot that is too small to 10 conform to the 30,000 square foot requirement. 11 59 percent of those people have lots that are 12 smaller than what we are proposing. 13 I hope the intellectual dishonesty 14 of those facts troubles you as it does me. 15 Worse yet, this misguided view works in direct 16 opposition to preserving the character and charm 17 of R-1 and greater Hinsdale. 18 In simple terms, do we really want 19 people that live on lots smaller than 20,000 20 square feet to tell other people that 20,000 is 21 not enough? Maybe it's like that Groucho Marx 22 quote, They don't want to belong to a club that</p>
<p style="text-align: center;">15</p> <p>1 (Indicating.) 2 CHAIRMAN NEIMAN: Hold it up to the 3 camera. 4 MR. PARKER: Our house on Monroe, which 5 had been on the market for 8 months and 52 6 showings, was finally sold with a 30-day close. 7 After almost six years, it was time for us to 8 move. 9 In discussing our pending search 10 with a friend at the gym, she mentioned that 11 there was a house on Fourth we might want to 12 rent while we look for something permanent. We 13 checked it out and found that the house she 14 suggested was that very same Cotswold we had 15 been admiring from afar. We introduced 16 ourselves to Matt and he gave us a tour. 17 Once we had been inside, the 18 infatuation of the house became a love affair. 19 Matt shared his vision for saving Zook's 20 Cotswold. We went back to our place and quickly 21 agreed this was a no mere rental, this was home. 22 We're going to hear lots of</p>	<p style="text-align: center;">17</p> <p>1 would accept them as a member. 2 I know there are people that want 3 Hinsdale to be exclusive, but I hope they could 4 see that they have taken things too far when 5 they are saying that a lot larger than their 6 own, hurts the character of their district. And 7 I pray we are not willing to let that type of 8 hypocrisy lead us to an interpretation of code 9 that could result in the loss of one of the 10 prime examples of R. Harold Zook's work, the 11 beautiful Cotswold on Fourth Street that my 12 family loves and lives in and that was used to 13 qualify R-1 as a historic district. I sincerely 14 hope that we are better, smarter, and 15 legitimately more respectful of our history and 16 of the special thing we have here in Hinsdale 17 than this would suggest. 18 For starters, I hope we can all 19 agree that if we are not allowed to build on the 20 south lot, this house will be demolished. How 21 do I know that? I know that because the owner 22 is convinced that nobody will want to take on</p>

<p style="text-align: center;">18</p> <p>1 the mortgage payment and tax burden that come 2 with an oversized lot of 50,000 square feet to 3 simply enjoy living in a 4,000 square foot home. 4 That buyer is most definitely a unicorn existing 5 only in fantasy. Even if you could find someone 6 that is not scared off by the prodigious 7 mortgage and taxes that would be required to own 8 both the north and south lots, he or she would 9 still go running upon learning that the house, 10 while in otherwise outstanding condition, is in 11 desperate need of a new foundation and will need 12 to be elevated to accommodate those repairs or 13 located to a new foundation elsewhere on the 14 property. 15 Again, as the couple that lived 16 through eight months of showings to sell a home 17 that was tailor-made for young families leaving 18 the city and as such had a very large universe 19 of possible buyers, we feel very confident 20 telling you that the owner is correct. A 4,000 21 square foot home on a leaky foundation with 22 50,000 square feet of land and the mortgage and</p>	<p style="text-align: center;">20</p> <p>1 business affairs with such little regard to 2 financial reality. Either way, we should not 3 expect that the owner is so inclined. As you 4 will hear from him directly, he is not. Simply 5 put, if we do not receive approval to proceed 6 with our project, it is certain that the Zook 7 house will be demolished and what a loss that 8 would be. 9 For those of you who don't know the 10 history of this house, before Matt owned it, it 11 was the longtime residence of Al and Lila Self. 12 They were a tremendously well-liked and 13 respected couple and they were extremely 14 generous toward their community. They endowed 15 many fellowships and trusts, were active and 16 ardent supporters of their beloved alma mater 17 and Lila was particularly involved with the 18 Hinsdale Historical Society. Her passion? 19 Documenting and preserving the great work of R. 20 Harold Zook. 21 As Tracy and I fight to maintain 22 something of the legacy the Selfs left us, we</p>
<p style="text-align: center;">19</p> <p>1 taxes that come with is not going to be a quick 2 turn. 3 It's also important to understand 4 that Matt receives offers regularly to sell the 5 land as a single lot. These offers come from 6 people who would tear down the Zook home and 7 build a much larger house on the lot, more than 8 three times the size of the Zook home. If Matt 9 accepts one of those offers, he will make more 10 money than if he sells the lot in two pieces. 11 There is that small but vocal group 12 suggesting that Matt should wait and try to sell 13 this house or sell it for less than it's worth 14 so that someone would buy it and rehab it. 15 Again, it's tough to view these comments as 16 intellectually honest. Were they in Matt's 17 place, would they be willing to burn through 18 their own money to wait for the unicorn buyer or 19 let go of one of their own assets for less than 20 full value? I guess I just struggle to believe 21 that these people would be able to afford to 22 live in Hinsdale if they really conducted their</p>	<p style="text-align: center;">21</p> <p>1 hope that all of you will consider not only our 2 obligation to repay their efforts but how 3 unfortunate an irony it would be to see Lila's 4 own home destroyed when there was a family 5 willing to save it and to do so on their own 6 dime. 7 There's some other things we hope 8 you will keep in mind tonight. There's a letter 9 of the law and a spirit of the law. None of the 10 zoning code you are asked to interpret is meant 11 to be used to prevent us from preserving our 12 history. None of it was meant to grant 13 privilege to some at the expense of others. 14 The south lot fails to conform to a 15 standard that only 8 percent of homes in R-1 16 district actually meet. How can it be called a 17 standard if 92 percent of homes don't meet it? 18 The lot we seek to buy is actually 19 the second largest on Woodside and would be the 20 single largest if it had another 800 square 21 feet. 22 The homes on the block are</p>

1 generally the same size as ours so we would have
2 a better ratio of land to lot. In no way can
3 anyone claim this is a case of shoehorning a
4 home into an undersized lot.

5 Approving the appeal in our case --
6 we don't need to talk about.

7 The two lots, the north on Fourth
8 and the south on Woodside are actually more in
9 keeping with the lot sizes on those streets than
10 the 50,000 square feet the home sits on now. An
11 argument could be made that we are simply
12 rightsizing these lots in order to better match
13 the neighborhood.

14 We would also be making sure that
15 this house is truly preserved by pursuing
16 landmark status not just saving a facade or
17 chimney or some other token gesture toward
18 preservation.

19 Similarly, this house has stood for
20 almost 90 years without an addition and our
21 project assures it never needs one as the home
22 itself is more than adequate for a family of

1 four presently and will be even more so when
2 sitting atop a new and finished basement,
3 something it has never had in its history.

4 We truly believe our project is a
5 win for everyone, including those who came
6 before us. It beautifies Woodside by clearing
7 up an ugly collection of trees and growth and
8 replaces it with a beautiful stone and slate
9 Zook house and manicured yard. Instead of
10 remaining interrupted and unfinished, Woodside
11 will now appear both more vibrant and complete.

12 The Zook house fits perfectly with
13 the character of Woodside and complements the
14 stone homes that would be on either side after
15 its relocation. We will be reducing not
16 increasing access to Woodside by one driveway.
17 We would be improving the drainage situation on
18 Woodside.

19 Given all the above, I have learned
20 that the project would improve the property
21 values on Woodside. Makes sense, doesn't it?
22 Last, but not least, we would be protecting a

1 house that has been recognized for contributing
2 significantly to the district's beloved look and
3 feel.

4 One more thing. Matt, thank you.
5 Despite the cost you have incurred, character
6 attacks you have endured and red tape that seems
7 to have been invented just for you, your
8 patience should be rewarded. We know that you
9 have multiple options and we are grateful that
10 we are part of the one you chose for now.

11 Members of the ZBA, I hope you will share these
12 sentiments and support the appeal.

13 In close, please allow us the use
14 of the south lot, a lot like those around us are
15 allowed to have and enjoy. Please reverse -- we
16 don't have to talk about the village manager's
17 decision.

18 Please, don't set us on a course
19 that results in another lost Zook. Please,
20 don't force our family from our home. Thank
21 you.

22 MR. DANIEL: Just one question.

1 When you say desperately in need of
2 a new foundation, does that relate to water,
3 whatever the cause is?

4 MR. PARKER: Yes.

5 MR. DANIEL: So you have water
6 infiltration through the foundation into the
7 basement?

8 MR. PARKER: Yes.

9 MR. DANIEL: Okay. Thank you.

10 MR. MARRS: Mr. Chairman, can I
11 interject a comment on behalf of staff for you
12 guys to keep in mind?

13 CHAIRMAN NEIMAN: Please.

14 MR. MARRS: Okay. I don't doubt the
15 sincerity of the Parkers and I think they have
16 every intention of moving the house, preserving
17 it, maybe even landmarking it so it's protected
18 in the future, but I think it's important from
19 the standpoint of interpreting the variation
20 standards that you keep in mind that it's not a
21 landmark structure and if you grant the
22 variation, there's nothing to stop its

<p style="text-align: center;">26</p> <p>1 demolition. There's nothing currently in your 2 code that would prevent it from being demolished 3 in the future.</p> <p>4 CHAIRMAN NEIMAN: No. But we could, as 5 a condition of granting the variance, put in a 6 provision that says that the Zook house, when 7 moved to the south lot, shall not be torn down; 8 correct?</p> <p>9 MR. MARRS: I don't disagree with that. 10 I'm just pointing out that from a pure 11 standpoint of the standards, it's not landmarked 12 today.</p> <p>13 CHAIRMAN NEIMAN: Understood. Thank 14 you, Mr. Marrs.</p> <p>15 MR. PARKER: I just wanted to say that 16 we would be willing to sign something that says 17 that that is something we are committed to and I 18 have already told people and I'm a man of my 19 word. So if we are granted the variance, we are 20 going to be pursuing landmark status.</p> <p>21 I do have a question. As you guys 22 know, we are your biggest fans. We have been at</p>	<p style="text-align: center;">28</p> <p>1 reasons why you had the first hour of testimony. 2 Had you bought our appeal, had you 3 accepted that issue and not dealt with the 4 vacancy question the way you did, tomorrow we 5 would have been discussing the redevelopment 6 agreement. The village would have been 7 obligated to move trees in the parkway. We 8 would have been obligated to move the Zook 9 house. I just don't want you to lose sight of 10 that --</p> <p>11 CHAIRMAN NEIMAN: Mr. Daniel, can we 12 focus on the issue at hand, please? Please. 13 It's been a long evening already. We spent 14 hours reading your 68 page brief. Enough.</p> <p>15 MR. ALESIA: It is enough. It's more 16 than enough.</p> <p>17 CHAIRMAN NEIMAN: You were doing so 18 well, Mr. Daniel.</p> <p>19 Mr. Bousquette, please?</p> <p>20 MR. BOUSQUETTE: Good evening. Thank 21 you for your time. My name is Matthew 22 Bousquette. I'm here tonight as the last</p>
<p style="text-align: center;">27</p> <p>1 a lot of your meetings. I have never seen the 2 village attorney involved in any of the 3 variation requests. Is that --</p> <p>4 CHAIRMAN NEIMAN: No. I think in 5 fairness, Mr. McGinnis frequently gives us 6 advice when we are in the middle of a variance 7 hearing and I think that's all Mr. Marrs was 8 pointing out. I didn't take Mr. Marrs' comment 9 as advocating one way or the other, he was just 10 pointing out a fact. But it's a fair concern 11 and a fair point.</p> <p>12 MR. MARRS: Right. I certainly did not 13 mean to imply that the village doesn't want the 14 house preserved. That's not true.</p> <p>15 MR. DANIEL: If I can also clarify that 16 there was no implication that efforts were not 17 made to commit us to a path of preserving the 18 Zook house.</p> <p>19 Prior to submitting the request for 20 interpretation, we had inquired specifically 21 about a redevelopment agreement that would 22 govern those two lots and that's one of the main</p>	<p style="text-align: center;">29</p> <p>1 attempt to save the Zook house at 444 East 2 Fourth Street by repositioning it on Woodside. 3 Two buildable lots, one on Woodside and one on 4 Fourth Street.</p> <p>5 I thought that I would provide a 6 little background as to why we are here tonight. 7 In July of 2008, I purchased a lot at 445 East 8 Woodside, which is immediately adjacent to the 9 proposed lot to the Zook house. At the time, it 10 was just an empty lot, as the seller had torn 11 down the existing house prior to my purchase.</p> <p>12 Just to refresh everybody's memory, 13 it's this lot right here. So here's my house on 14 Fourth Street. This lot right here, this is 15 Woodside. You want to see it in a bigger 16 picture, you can see it's this lot here. 17 (Indicating.) So when we refer to 445 Woodside, 18 it's a vacant lot and that's the size of it and 19 you can see where it's located. Thank you.</p> <p>20 Since the purchase, this lot has 21 remained empty. It grafts trees and a wooden 22 fence. At the same time I also purchased 448</p>

<p style="text-align: center;">30</p> <p>1 East Fourth Street, which backed to Woodside, 2 and they would have shared adjoining fences but 3 there's no fence. So you guys understand the 4 two pieces the way they are together? Great. 5 Today Woodside has served as an 6 additional backyard for our house. Unlike most 7 homes in the neighborhood, this created a large 8 green space with trees creating a uniquely large 9 backyard. I paid \$1,050,000 to enjoy that 10 additional green space by that extra lot and 11 leave it vacant. 12 During the years 2004 to 2017, 13 while our lot on Woodside remained vacant, every 14 single home on the Woodside block with the 15 Woodside address was either demolished and 16 rebuilt as a new house or expanded. In all 17 cases the houses were expanded to the maximum 18 allowable size of the structure to the lot. 19 So just to say it again. During 20 the time period from 2004 to 2017, while my lot 21 remained vacant and green, every other house on 22 the street with the exception of one that was</p>	<p style="text-align: center;">32</p> <p>1 slowed the progress of any renovation we were 2 doing in our house. 3 In an effort to stop the madness, 4 we purchased 444 East Fourth Street, which is 5 the Zook home, which is next door to the house 6 that we were renovating. It was hopefully to 7 provide us a permanent place for my family so we 8 weren't moving every nine or ten months and 9 hopefully was going to allow us to oversee the 10 renovation and complete it much faster. 11 In November of 2015, we completed 12 the renovation and moved next door into 448 East 13 Fourth Street and put 444 East Fourth Street, 14 the Zook house, up for rent. 15 In May of 2016, I attended the 16 historic preservation board workshop and asked 17 in the public Q & A of the board and consultant 18 Susan Benjamin what they suggested I do 19 regarding a possible repositioning of the Zook 20 home. I was given a contact for a house mover 21 by the members of the board at that time. 22 In June of 2016, I presented to the</p>
<p style="text-align: center;">31</p> <p>1 demolished and rebuilt to the maximum FAR with 2 the exception of one which was renovated to the 3 maximum FAR. 4 In terms of my home purchase at 448 5 East Fourth Street, unlike the vast majority of 6 the homes in town, at that time I sought to 7 renovate the house instead of knocking it down. 8 It would have been much quicker and much cheaper 9 to knock it down and start over, however, we 10 liked the way it fit in the neighborhood. 11 The renovation of the house took 12 much longer than expected due to unforeseen 13 circumstances, including a contractor who 14 bankrupt his company in the middle of the 15 renovation with all the prerequisite 16 subcontractor payment issues. 17 While the house was under 18 construction, we rented a local Hinsdale house. 19 Unfortunately for us, it sold within the year. 20 It then happened again. We ended up moving five 21 times in five years with three kids five years 22 old. It was a nightmare. And obviously that</p>	<p style="text-align: center;">33</p> <p>1 board of trustees and asked them if they would 2 conceptually support the use of two lots to 3 reposition the Zook house if I was able to find 4 somebody to renovate it and move it because 5 obviously, it would be very time consuming to go 6 down a route if they weren't in favor of it. At 7 that point in time, the direction I interpreted 8 was at least favorable. 9 In late fall, I found a buyer, the 10 Parkers, that guaranteed to move the house and 11 restore it. I signed a contract with them and 12 that's where we are in terms of the history. 13 You should know that the Parkers 14 and I conducted an outreach effort over a number 15 of months to members of the neighborhood and the 16 community regarding our desire to reposition the 17 Zook house. Coffees, tours, drinks, food, 18 anything anybody wanted to do. We wanted to 19 make sure everybody understood and had the 20 opportunity to understand our motivation and 21 what the project was all about. 22 Unfortunately, there were a number</p>

<p style="text-align: center;">34</p> <p>1 of people who appear to be against it who did 2 not take us up on that opportunity. And 3 instead, they chose to use the public forum via 4 letters and petitions to address their comments 5 rather than discussing it with me. 6 I want you to know honestly, it 7 makes me unbelievably uncomfortable to talk in 8 public and address the comments targeted at me, 9 my family, the aspirations, the scope of the 10 project, but given the amount of misinformation 11 and disinformation that I read in some of the 12 documents provided to you, which I also got a 13 copy of, I find myself no other alternative than 14 to address them in public here now. 15 What I found was, unfortunately, 16 several themes. So it seemed to me that people 17 who were not in favor of the project instead of 18 sitting down and spending the time with me 19 walking through it got together to have several 20 themes in terms of why it's a bad idea. 21 The first theme -- basically the 22 first theme submitted was that it ignored</p>	<p style="text-align: center;">36</p> <p>1 that the placement of the Zook house on Woodside 2 would destroy the essential character of the 3 neighborhood. In moving the Zook house onto 4 Woodside would negatively effect the character 5 of the neighborhood overall. 6 I started researching from a 7 financial and aesthetic standpoint both. 8 Financially, I learned from several real estate 9 agents that placement of a 4,000 square foot 10 Zook home on a 20,000 square foot lot on 11 Woodside would actually enhance the values of 12 the street not destroy them. It would be the 13 smallest house on the second largest lot. 14 So then I turned to the negative 15 aesthetic possibilities and what every single 16 person -- as we know, everybody is entitled to 17 their own opinion of what they like and what 18 they don't like. I admit that. 19 I have an incredibly difficult time 20 thinking that the Zook house would be destroying 21 the value of the neighborhood. And in 22 particular, and I, again, I hate to do this, but</p>
<p style="text-align: center;">35</p> <p>1 everything that occurred on Woodside prior to 2 their individual purchases. They presented a 3 position as if life started on the street when 4 they arrived. For example, correspondence to 5 you suggest because my home on Woodside, the 6 Woodside lot was demolished before they moved 7 onto the block, it shouldn't count for its 8 historical density and the addition of another 9 house would be unfair. 10 As I mentioned earlier, every other 11 house on the street was demolished or renovated. 12 In each case, green space and trees were reduced 13 in favor of larger structures, and in each case 14 drawing construction traffic as each house 15 underwent construction. 16 Now that all the houses are 17 complete, I guess what they are saying all done; 18 we are full. Sorry, no more room on the street. 19 Obviously, all I'm asking you to do is consider 20 my request in historical context of a longer 21 period of time on Woodside. 22 The second general theme suggested</p>	<p style="text-align: center;">37</p> <p>1 I need to give you some context. 2 One of the objections is that we 3 would be ruining the neighborhood. And when we 4 first moved into the Zook house, one morning we 5 were awoken by a number of loud saws and we 6 watched over a two-day period as workers 7 deforested the lot at 425 Woodside. It was one 8 of the most densely-wooded lots in the 9 neighborhood, a stunning architectural 10 significant home set deep in an unobtrusively on 11 down slope lot. Once the lot was striped of 12 over a dozen mature trees and well-seasoned 13 ornamentals, the 3,300 square foot house was 14 demolished. What followed changed our 15 neighborhood forever. 16 The beautiful topography of the 17 down slope lot was built up into an enormous 18 bare mountain of dirt like you see in strip- 19 mining operations. Then on top of the mountain 20 for the next year was constructed a structure. 21 So at the end of two years the neighborhood now 22 had to contend with the structure that was a</p>

1 maxed out house in excess of 8,500 square feet,
2 approximately twice the size of every other home
3 on the street, towering over the neighbors on
4 Fourth Street on its nonconforming lot.

5 If you will permit me for one
6 second. So this was the original house as you
7 can see on Fourth Street that was there and you
8 can see a picture of the backyard. This is it
9 standing on the street. You can see the down

08 57 28PM

10 slope lot of what's there. And I apologize for
11 my pictures. Another view again from Woodside
12 of that lot. This is the aerial view of the
13 same original house on Woodside. (Indicating.)

14 This was the inside and you can see
15 the beautiful trees that you can see outside
16 each of the windows of the house. This is
17 looking out of the kitchen into the backyard of
18 that house. We used to call it the Morton
19 Arboretum house. (Indicating.)

08 57 31PM

20 Another picture of the same
21 backyard looking out of the house. This is now
22 under construction. Anything green was

1 demolished as the house was being constructed.

2 Here is the end product. There's
3 the end product with no longer a down slope.
4 It's about 5 or 6 feet higher and I think that
5 the point here we were making earlier is it has
6 created water problems for other people in the
7 neighborhood. And there it is in the back.
8 (Indicating.)

9 Again, everybody has a right of
10 their own personal opinion on what they think is
11 right or wrong but I have a difficult time
12 hearing that that contributes to the
13 neighborhood and putting the Zook house next
14 door to that would destroy it.

08 58 08PM

15 MR. GILTNER: Matt, can you just point
16 out where that 425 is on there?

17 MR. BOUSQUETTE: Yes. It is right
18 here. Here is -- 06 and 09 are the 2 lots we
19 are proposing to put it on. This is that house
20 right here. (Indicating.)

08 58 44PM

21 MR. MOBERLY: Do you know how many
22 square feet is that lot?

1 MR. BOUSQUETTE: The lot, this lot is
2 400 square feet larger than what we are
3 proposing here and the house is twice the size.
4 Or 800 square feet larger. It's 21,000.

5 MR. MOBERLY: I'm just trying to get a
6 perspective.

7 MR. BOUSQUETTE: The third theme is
8 that repositioning the Zook house would increase
9 traffic on the relatively narrow Woodside Road.

08 59 00PM

10 I currently own a driveway on
11 Woodside which is shared by 444 and 448. I had
12 an additional driveway for 445 Woodside; it was
13 removed when the house was demolished. So
14 essentially right through here you can see this
15 is basically it. (Indicating.) That was a road
16 that was given to these two houses and that sort
17 of services both of these guys. There was a
18 separate driveway off of this lot right here
19 onto Woodside but when the house was knocked
20 down, that was taken out. (Indicating.)

08 59 13PM

21 Any placement of the Zook house on
22 Woodside should not increase the number of cars

1 as the Zook home currently already has access to
2 Woodside from its garage. Moreover, if the
3 opportunity exists for concerned neighbors to
4 mitigate travel by simply using their primary
5 driveway on Sixth Street instead of the
6 secondary one on Woodside.

7 Frankly, it was stunning to me to
8 read a directive that I needed to remove my
9 driveways from 444 and 448 to Woodside. In
10 fact, to the best of my knowledge, that drive's
11 existed in that location for more than 100
12 years.

08 59 25PM

13 MR. MOBERLY: Who told you you had to
14 move the drives? When was that?

15 MR. BOUSQUETTE: It's letters that you
16 got from neighbors suggesting that I --

17 MR. MOBERLY: Okay. I'm sorry. But
18 there was no official directive from the
19 president?

08 59 40PM

20 MR. BOUSQUETTE: No.

21 MR. MOBERLY: Okay.

22 MR. BOUSQUETTE: It's kind of the

1 common theme when I read through the stuff it
2 basically says we have ours, no more room for
3 yours and please remove it despite it's been
4 there a hundred years.

5 My fourth general theme is that if
6 I place any structure on my land, that it will
7 ruin the green views and the open spaces that
8 they currently benefit from.

9 As I noted earlier, I paid more
10 than a million dollars for the extra yard on
11 Woodside and kept it empty to enjoy the backyard
12 greenery and mature trees. The Zook house as
13 well next door came at a significant premium for
14 lots 18 and 19. Those lots -- I had to pay an
15 additional sum to own those lots as well.

16 Without question, my neighbors have
17 benefited, in some cases for years, from my
18 investment in 30,000 extra square feet of
19 greenery. 30,000 extra square feet of greenery.
20 In fact, my lots are the only ones on the street
21 with significant amount of mature foliage left.
22 The only ones.

1 I thought about it -- in my own
2 mind I thought perhaps the fact that your trees
3 are destroyed by making a larger house, I don't
4 think I should be required to supplement what
5 you destroy. If you want more trees, more land,
6 buy it. I was kind of shocked.

7 I had the opportunity to review the
8 petition. The first thing that popped out of my
9 mind was that 90 percent of the people that
10 signed the petition objecting to the Zook house
11 have lots that don't meet the minimum
12 requirement by code.

13 And even more interesting was the
14 majority of them have lots that are smaller than
15 the one I proposed for the Zook home. And so
16 that's just a lot of gobbledegook words. How do
17 you boil that down into something to think about
18 it. I thought of it as I don't want to live
19 next door to somebody who has what I have. And
20 I just found that stunningly ironic.

21 I spent the -- as we know, we have
22 already talked about that 90 percent of the

1 homes in the R-1 district aren't 30,000 square
2 feet. I suspect that the 20,000 square foot lot
3 on Woodside would probably exceed the average
4 lot in the R-1 district. Here's from doing my
5 own survey. Again, everybody has their own
6 point of view. I'm just giving you mine.

7 The fifth theme is that I lack an
8 understanding what to do with my own property,
9 which I enjoyed that one. It appears that the
10 petition crafters have done the neighbors a
11 terrible disservice. It's my understanding that
12 there is a belief that they will be able to
13 force my family into an end result of their
14 liking at the end of this.

15 In the submission to the board,
16 there's a laundry list of specific directives on
17 how and what I could do with my house. I can't
18 really think that it's appropriate to have one
19 neighbor dictate every detail what the home
20 should look like and even where the garage
21 should go.

22 So to disband the alternative set

1 of facts and for the sake of clarity in today's
2 real estate market, I am thrilled to have a
3 buyer who desires to save and renovate the Zook
4 house in its entirety not the facade as it
5 happened with the Robbins house on Sixth Street.

6 But if the Zook house cannot be
7 moved, simple economics dictate it will be
8 demolished and the land on Woodside will be
9 built upon and the best of my knowledge, the
10 village has acknowledged that this is reasonable
11 and completely legal option. Is that not true?

12 MR. MCGINNIS: That's correct.

13 MR. BOUSQUETTE: Thank you.

14 The sixth theme is that the
15 approval to reposition the Zook house will set a
16 precedent that will have the entire Robbins
17 district torn down as builders reap with
18 profits.

19 These facts don't support the
20 hysteria. First, Mr. Chairman, as you have
21 pointed out in previous meetings, each decision
22 is a stand-alone decision based upon unique

<p style="text-align: center;">46</p> <p>1 circumstances.</p> <p>2 Secondly, as I'm sure you are aware</p> <p>3 for Hinsdale's own study, that there aren't that</p> <p>4 many lots with the 100 by 120, plus 30,000 that</p> <p>5 they could even go divide. So if somebody says</p> <p>6 I want to go divide my lot in half, you are</p> <p>7 going to need -- the frontage doesn't exist.</p> <p>8 Moreover, the concept that hundreds</p> <p>9 of houses straddle multiple lots of record and</p> <p>09 04 34PM 10 that each one is at least 70 by 125 in the</p> <p>11 Robbins R-1 district is again not factually</p> <p>12 correct.</p> <p>13 You should know, and I did this on</p> <p>14 my own, so it's nonscientific. I went every</p> <p>15 single street with the lots of record and the</p> <p>16 zoning map and I found that there are</p> <p>17 approximately 14 houses in total in the Robbins</p> <p>18 historic district that would meet those</p> <p>19 requirements that straddle 2 lots of record,</p> <p>09 05 00PM 20 that each lot would be at least 70 by 125 in the</p> <p>21 R-1 district. Of those 14 homes 8 of those</p> <p>22 exist very large, very new, extremely expensive</p>	<p style="text-align: center;">48</p> <p>1 Hinsdale right now. Right now in Hinsdale there</p> <p>2 are 41 homes for sale for more than \$2.5</p> <p>3 million. In the past 4 months 5 have sold. At</p> <p>4 that rate of sale, it would take 2 years to sell</p> <p>5 the existing inventory of houses for sale</p> <p>6 without a single new home coming on the market.</p> <p>7 At \$3 million, which this would be,</p> <p>8 things are even more dismal. There are 26 homes</p> <p>9 for sale, one has sold in the past 3 months. At</p> <p>09 06 34PM 10 that rate of sale, it would take 6 years to sell</p> <p>11 the existing homes that are for sale assuming no</p> <p>12 other home came on the market.</p> <p>13 Further, a number of older homes</p> <p>14 which finally did sell took long periods of time</p> <p>15 to sell, sold significantly below the asking</p> <p>16 price and more importantly, in a lot of cases</p> <p>17 sold for less than the land was worth.</p> <p>18 The submission cites you the recent</p> <p>19 sale of the Zook house at 46 County Line as</p> <p>09 07 08PM 20 proof my Zook would sell. The estate of the</p> <p>21 owners of the house sold the property for 70</p> <p>22 percent of the list price and well below the</p>
<p style="text-align: center;">47</p> <p>1 mansions and in one case one is under</p> <p>2 construction. That leaves 6 lots. One of them</p> <p>3 is mine. That leaves 5 others that might, I say</p> <p>4 might, benefit from your decision should it</p> <p>5 become precedent.</p> <p>6 So there's the proclamation that we</p> <p>7 stand on the edge of destruction as Hinsdale's</p> <p>8 rebelling are slightly overstated.</p> <p>9 The seventh theme is that I never</p> <p>09 05 32PM 10 marketed my property appropriately and that if I</p> <p>11 did so, I would find a buyer for the home in its</p> <p>12 current location who would be willing to buy it</p> <p>13 and renovate it to the neighbors' approval and</p> <p>14 of course move my driveway to Fourth Street and</p> <p>15 close the other driveway and keep all the other</p> <p>16 greenery.</p> <p>17 It's easy to ignore the reality</p> <p>18 when it doesn't cost you anything. In fact,</p> <p>19 this fantasy narrative appears to be meant for</p> <p>09 05 52PM 20 them to profit on their investments.</p> <p>21 Here's the unfortunate facts. And</p> <p>22 they are unfortunate for all of us here in</p>	<p style="text-align: center;">49</p> <p>1 price of raw land at \$44 a foot.</p> <p>2 Much has been heralded about the</p> <p>3 Hinsdale founder's house, the Robbins' house, or</p> <p>4 known as the Judy Biggert house, which after 8</p> <p>5 months sold for 63 percent of its list price and</p> <p>6 was sold for less than land value. And, other</p> <p>7 than the front 2 rooms of the house, have been</p> <p>8 destroyed and it rises behind it an enormous,</p> <p>9 gigantic house.</p> <p>09 07 42PM 10 Further, I understand that the</p> <p>11 marketing of my house was accused of being</p> <p>12 subpar. So I thought I would look at some</p> <p>13 marketing efforts of others to see what I was</p> <p>14 missing. So what I did was look at older houses</p> <p>15 in my neighborhood who were marketed by what are</p> <p>16 considered the old-house specialists, I guess.</p> <p>17 So here they are. We will start with 425</p> <p>18 Woodside.</p> <p>19 MR. PODLIKA: Sir, is this discussion</p> <p>09 08 30PM 20 going to help us determine whether you have met</p> <p>21 the criteria that we have to look at in order to</p> <p>22 determine whether a variation --</p>

<p style="text-align: right;">50</p> <p>1 MR. BOUSQUETTE: Yes, it will.</p> <p>2 MR. ALESIA: How?</p> <p>3 MR. BOUSQUETTE: In terms of the</p> <p>4 individual criteria that -- it will go through</p> <p>5 the individual criteria in a minute.</p> <p>6 MR. PODLIKA: We would appreciate it</p> <p>7 if you go to that now because that's what we</p> <p>8 need to hear about.</p> <p>9 MR. DANIEL: 6, 7, 8 is what your</p> <p>10 testimony ties to.</p> <p>11 CHAIRMAN NEIMAN: I think what we are</p> <p>12 trying to get at, Mr. Bousquette, is while the</p> <p>13 historical background of the other lots and the</p> <p>14 real estate values may be interesting as a side</p> <p>15 bar, the question before us, two and a half</p> <p>16 hours into the meeting, is whether you meet the</p> <p>17 8 criteria for us to grant the variance. And so</p> <p>18 if you could get to that point so we could</p> <p>19 address the issue at hand, it would help.</p> <p>20 MR. BOUSQUETTE: I think it should tie</p> <p>21 6, 7, 8 in the criteria.</p> <p>22 CHAIRMAN NEIMAN: Okay. Please, keep</p>	<p style="text-align: right;">52</p> <p>1 got the block offsets for Woodside per the code</p> <p>2 and came up with a front yard of 36-foot</p> <p>3 5 inches as the average setback. We put 50-foot</p> <p>4 rear yard, which is also the requirement in the</p> <p>5 R-1 district and we were able to fit the house</p> <p>6 on there with a 30-foot side yard on one side</p> <p>7 and a 28-foot side yard on the other. So it's</p> <p>8 well over the side yard requirements.</p> <p>9 Then we looked at allowable FAR and</p> <p>10 we are over a thousand square feet under on our</p> <p>11 FAR by moving the house there, and we looked at</p> <p>12 the building coverage and we are allowed 5,000</p> <p>13 feet. We only cover 2,700 with the building.</p> <p>14 So we are well under all of these numbers. So</p> <p>15 the density on this lot is much less than any</p> <p>16 new house would ever be. So we felt very</p> <p>17 comfortable with this proposition.</p> <p>18 I think the village is very</p> <p>19 fortunate to have someone who is willing to move</p> <p>20 this house and restore this house on their</p> <p>21 nickel. This is not a light undertaking. This</p> <p>22 is a major undertaking to pick this house up,</p>
<p style="text-align: right;">51</p> <p>1 in mind that if it doesn't tie into it real</p> <p>2 soon, I'm going to ask you or --</p> <p>3 MR. BOUSQUETTE: So I'll sit down.</p> <p>4 CHAIRMAN NEIMAN: I didn't mean to cut</p> <p>5 you off. It's just we are trying to get to the</p> <p>6 substance of the issue before us. If you would</p> <p>7 like to address the criteria, we would be more</p> <p>8 than willing --</p> <p>9 MR. BOUSQUETTE: No. That's okay.</p> <p>10 I'll sit down. Thank you.</p> <p>11 MR. DANIEL: At this time, I'd like to</p> <p>12 ask Dennis Parsons to step to the podium and</p> <p>13 just pose a handful of questions. I think</p> <p>14 everybody knows Dennis. I'm not going to spend</p> <p>15 your time on the introduction of background.</p> <p>16 There is one plan that Dennis</p> <p>17 prepared that's part of the packet. It's</p> <p>18 attachment G in the appeal. It is also the site</p> <p>19 plan.</p> <p>20 MR. PARSONS: I was approached by</p> <p>21 Mr. Bousquette and the Parkers to see if this</p> <p>22 would work. So we took lots 18 and 19 and we</p>	<p style="text-align: right;">53</p> <p>1 rotate it 180 degrees and move it 100 feet up</p> <p>2 the hill and put it on a new foundation and to</p> <p>3 regrade and put a new driveway in and everything</p> <p>4 else that goes along, new water service, new</p> <p>5 sewage, everything else that goes along with</p> <p>6 moving this house. This is no small</p> <p>7 undertaking. So we should be thanking the</p> <p>8 Parkers for saving this house because without</p> <p>9 them, it's gone, and it's gone forever.</p> <p>10 Any other questions about density</p> <p>11 or FAR?</p> <p>12 (No response.)</p> <p>13 MR. DANIEL: I believe Mr. McGinnis has</p> <p>14 also confirmed that the lot area is the only</p> <p>15 issue that we are dealing with with the</p> <p>16 placement of the home on the Zook house as shown</p> <p>17 on the site plan. I'm not sure if you want to</p> <p>18 confirm that with Mr. McGinnis.</p> <p>19 MR. MOBERLY: Confirm: Yes or no?</p> <p>20 MR. MCGINNIS: Based on preliminary</p> <p>21 look, it appears to fit well within the confines</p> <p>22 of this lot.</p>

<p style="text-align: center;">54</p> <p>1 MR. DANIEL: At this point in time, I'd</p> <p>2 like to touch on some of the general standards</p> <p>3 that you have heard about.</p> <p>4 The particular hardship. You heard</p> <p>5 about comparisons of lot size, land-to-building</p> <p>6 ratio. You heard about comparisons to homes in</p> <p>7 a situation where the home is demolished and the</p> <p>8 house is sold as vacant land for redevelopment,</p> <p>9 how long the listing periods are with respect to</p> <p>10 2 price points, \$2 million and \$3 million.</p> <p>11 CHAIRMAN NEIMAN: Mr. Daniel, could you</p> <p>12 please take us through the standards for a</p> <p>13 variation.</p> <p>14 MR. DANIEL: It's your first standard.</p> <p>15 Your first standard is particular hardship and</p> <p>16 practical difficulty, Mr. Chairman, F1.</p> <p>17 CHAIRMAN NEIMAN: No, the first</p> <p>18 standard is general standard; the second is</p> <p>19 unique physical conditions. They are spelled</p> <p>20 out in Exhibit F of the variance application.</p> <p>21 Will you, please, go through those.</p> <p>22 MR. DANIEL: No variation shall be</p>	<p style="text-align: center;">56</p> <p>1 difficulty when it comes to preserving the</p> <p>2 house.</p> <p>3 Are there unique physical</p> <p>4 conditions involving the property. You have a</p> <p>5 fantastic home that is worth preserving. The</p> <p>6 footprint is under 2,700 square feet. You have</p> <p>7 an irregularly-shaped lot. You have one that</p> <p>8 was originally a situation where in 1984 forward</p> <p>9 they encountered multiple lots of record in the</p> <p>10 district. We have addressed that. But you have</p> <p>11 the ability to place the Zook house on Woodside.</p> <p>12 The extraordinary physical</p> <p>13 condition is related to not only the home but</p> <p>14 the location of the home and the path of the</p> <p>15 flow of the water that is getting through the</p> <p>16 foundation. You heard that from Mr. Parker.</p> <p>17 CHAIRMAN NEIMAN: Let me ask you a</p> <p>18 quick question. In Exhibit F, the statement is</p> <p>19 unique physical condition justifies the</p> <p>20 variances that the property was originally</p> <p>21 subdivided well before the current code was</p> <p>22 adopted.</p>
<p style="text-align: center;">55</p> <p>1 granted pursuant to this section unless the</p> <p>2 applicant shall establish that carrying out the</p> <p>3 strict letter of the provisions of this code</p> <p>4 would create a particular hardship. That is</p> <p>5 what I was on. Thank you.</p> <p>6 On practical difficulty, you have a</p> <p>7 couple and a willing seller that is willing to</p> <p>8 allow the relocation of a home that everybody</p> <p>9 treasures. You heard about the background</p> <p>10 personally to the Parkers.</p> <p>11 You heard that in this circumstance</p> <p>12 the home needs a new foundation. This is one</p> <p>13 answer for that. When it comes to practical</p> <p>14 difficulty in historic preservation in Hinsdale,</p> <p>15 you also heard significant testimony about lots</p> <p>16 sold and listings and the general effect of the</p> <p>17 zoning ordinance on lots in the historic</p> <p>18 district. Most of them are demoed, built to the</p> <p>19 maximum FAR behind the facade in some cases.</p> <p>20 The entire block was affected according to</p> <p>21 Mr. Bousquette's testimony. Here you have</p> <p>22 preservation. And they do face practical</p>	<p style="text-align: center;">57</p> <p>1 Could you put a little meat on that</p> <p>2 bone and explain to us how that meets the</p> <p>3 physical condition criteria?</p> <p>4 MR. DANIEL: With respect to that</p> <p>5 condition we do have -- it's a two-part</p> <p>6 question. I did not bring the 1871 plat that we</p> <p>7 used in the prior case. The 1871 plat</p> <p>8 considered 2 homes on that lot.</p> <p>9 In 1894, which is the second plat,</p> <p>10 it created 19 lots of record. At the time your</p> <p>11 corner lots couldn't exceed 50 feet so the lots</p> <p>12 naturally had to be joined with others. The</p> <p>13 subdivision in 1894 and up to the point of 1929</p> <p>14 would have required 2 homes on a lot that had a</p> <p>15 corner to the north with Oakwood Place and</p> <p>16 Fourth Street and a corner to the south between</p> <p>17 Woodside and Oakwood Place.</p> <p>18 So the original planning is much</p> <p>19 more consistent with having two homes, one up</p> <p>20 north and one to the south. That's what you saw</p> <p>21 in the Sailor's subdivision from 1969.</p> <p>22 In the Sailor's subdivision you</p>

<p style="text-align: center;">58</p> <p>1 carved up essentially the west half of the block</p> <p>2 and you put homes back to back in between the</p> <p>3 subject property and Oak Street, the home on Oak</p> <p>4 Street. It is unique in light of its</p> <p>5 surroundings and internally.</p> <p>6 Denied substantial rights. I'm</p> <p>7 sorry, not self-created. These owners didn't</p> <p>8 play a role in Sailor's platting the block.</p> <p>9 These owners didn't play a role in the</p> <p>09 18 44PM 10 redevelopment of 425. They didn't play a role</p> <p>11 in the development of a circumstance where 92 to</p> <p>12 94 percent of the R-1 lots are nonconforming and</p> <p>13 where they are stuck with a 50,000 square foot</p> <p>14 lot for one home.</p> <p>15 The circumstance develops from the</p> <p>16 history that is very likely fortuitous. We all</p> <p>17 recognize the encroachment of the home is de</p> <p>18 minimus. It exists but it's de minimus. The</p> <p>19 home was built in 1929 under different</p> <p>09 19 22PM 20 conditions.</p> <p>21 During the variance hearing, I</p> <p>22 referred to a decision on where the home would</p>	<p style="text-align: center;">60</p> <p>1 area that we are speaking of --</p> <p>2 MR. PODLISKA: So that it's not a</p> <p>3 special privilege; right?</p> <p>4 MR. DANIEL: It's not a special</p> <p>5 privilege. It has been granted to others.</p> <p>6 MR. PODLISKA: And it's in harmony with</p> <p>7 the surrounding community. I think you have</p> <p>8 established that as well.</p> <p>9 MR. DANIEL: I believe so, yes.</p> <p>09 21 04PM 10 When it comes to code and plan</p> <p>11 purposes, I just reviewed your comprehensive</p> <p>12 plan, the difficulties that you have had</p> <p>13 encouraging historic preservation which is now a</p> <p>14 voluntary matter. This house will be dedicated</p> <p>15 to that. That is one of the planning purposes</p> <p>16 contemplated overall in the comprehensive plan.</p> <p>17 With respect to the essential</p> <p>18 character of the area, there are a number of</p> <p>19 things that Mr. Bousquette addressed. One thing</p> <p>09 21 26PM 20 he did not touch on at great length is</p> <p>21 stormwater but we all know the countywide</p> <p>22 stormwater and flood plain ordinance controls</p>
<p style="text-align: center;">59</p> <p>1 be planted on the property and the potential for</p> <p>2 a waiver. And because the potential of the</p> <p>3 waiver was there whether it was granted or not</p> <p>4 meant that a rear yard didn't have to be on that</p> <p>5 north lot. Well, those were the conditions in</p> <p>6 1929. Those were different times. Hinsdale has</p> <p>7 changed its code quite a bit.</p> <p>8 What developed from 1929 forward is</p> <p>9 not the creation of Mr. Bousquette or the</p> <p>09 19 58PM 10 Parkers. Yes, they bought the property. But</p> <p>11 that's about all they did. The potential for</p> <p>12 relocating the home is unique.</p> <p>13 MR. PODLISKA: Could you move on to</p> <p>14 denied substantial rights, please?</p> <p>15 MR. DANIEL: Denied substantial rights.</p> <p>16 You heard, again, that 8 percent of the owners</p> <p>17 of property in the R-1 district meet the bulk</p> <p>18 requirement we are trying to get a variation</p> <p>19 from.</p> <p>09 20 28PM 20 We are trying to proceed with the</p> <p>21 second largest lot on the block and what could</p> <p>22 be the smallest home on the block. The wide</p>	<p style="text-align: center;">61</p> <p>1 and the village is not going to allow a</p> <p>2 violation of that.</p> <p>3 There is no increase in danger of</p> <p>4 flood or fire. When it comes to taxing public</p> <p>5 utilities and facilities in the area, those are</p> <p>6 ample.</p> <p>7 The lots have been separately</p> <p>8 assigned pin numbers so that there have been</p> <p>9 three pin numbers assigned, one for what is</p> <p>09 21 52PM 10 essentially the north and two for the south</p> <p>11 lots. The two south lots have always been</p> <p>12 assessed as vacant land. Those south lots will</p> <p>13 create a benefit to the taxing bodies in town.</p> <p>14 It will be vacant land plus a valuable structure</p> <p>15 that is separately assessed.</p> <p>16 No other remedy. We have tried.</p> <p>17 You saw me sweating up here during the first</p> <p>18 part of the night. We tried. We have exhausted</p> <p>19 our efforts. There is no other remedy.</p> <p>09 22 28PM 20 In this instance you have heard</p> <p>21 that Mr. Bousquette faces a decision in the face</p> <p>22 of a denial of to try to sell the lot at a</p>

<p style="text-align: center;">62</p> <p>1 percentage of land value. You heard that with 2 regard to the Biggert house. You heard that 3 with regard to a handful of others. Lots or 4 homes, parcels on the market for a long period 5 of time, selling below the land value, set aside 6 the structure, selling below the land value. 70 7 percent of asking value he mentioned.</p> <p>8 Are we seeking the minimum 9 variation? When you look at the block, the 10 minimum variation is defined by two contexts. 11 You look at what's necessary next door to create 12 some uniformity and you try to match the rear 13 lot lines.</p> <p>14 In the circumstance of this 15 particular lot, the 20,500 and so square feet 16 that we are dealing with matches other lots 17 approved in the 1969 Sailor's subdivision and 18 again exceeds 54 to 58 percent of the lots in 19 the petition. It depends on whether you view 20 the petition by name of the assignee or by lot 21 owned. But this lot is in substantial 22 conformity with the trend of development.</p>	<p style="text-align: center;">64</p> <p>1 neighborhood.</p> <p>2 With respect to the ability to 3 impose conditions, there is a provision in the 4 code that allows you to do that, and I believe 5 it is a fair condition to reflect the sworn 6 testimony from Mr. Parker and Mr. Bousquette 7 about preservation.</p> <p>8 I want to thank you for your time. 9 I'll be happy to answer questions that you have 10 or the neighbors may have as well.</p> <p>11 CHAIRMAN NEIMAN: I guess it's now time 12 to hear any public comment pro or con unless the 13 owners or any of the other people who have been 14 helping the owners and tenants would like to add 15 anything.</p> <p>16 (No response.)</p> <p>17 Any members of the public who would 18 like to speak pro or con come on up. Please, 19 state your name for the record.</p> <p>20 MR. HOOKS: My name is Harold Hooks, 21 Junior. I reside at 125 Hillcrest for the last 22 3, 4 years. Prior to that, about 10 years, at</p>
<p style="text-align: center;">63</p> <p>1 I brought Joe Abel here tonight to 2 talk about the difficulties in the R-1 districts 3 and the importance of the variation and the 4 importance of a lot of things that Mr. Parker 5 and Mr. Bousquette laid out for you. I think 6 it's important that they covered their basis. 7 They covered a lot of what Joe might say.</p> <p>8 Joe participated some time ago in a 9 survey of all the R-1 lots. That's where we get 10 our 92 to 94 percent figure. It related to the 11 Ryan parcel, 901 South Park. At that point in 12 time, it was quite clear that the village did 13 not have any disagreement with Mr. Abel's 14 conclusion that 92 to 94 percent of the lots in 15 the R-1 district are nonconforming and primarily 16 in relation to the minimum lot area.</p> <p>17 MR. PODLISKA: You seem to be going 18 over a lot of the same ground, counsel. Can you 19 wrap it up?</p> <p>20 MR. DANIEL: Yes, I think I can. I 21 think the merits are met. We have met the 22 minimum variation; it won't upset the</p>	<p style="text-align: center;">65</p> <p>1 522 East Third Street on 2 nonconforming lots of 2 R-1.</p> <p>3 I'm here just to support that I'd 4 like to save the Zook.</p> <p>5 CHAIRMAN NEIMAN: Thank you.</p> <p>6 Come on up.</p> <p>7 MS. BRADEN: I'm Alexis Braden. I live 8 at 436 East First Street. Thank you, Commission 9 and Board and to you, Mr. McGinnis, for 10 educating me on this one when I came to the 11 village to see you.</p> <p>12 I'll keep this short given I have 13 spoken at the previous historical preservation 14 commission meeting.</p> <p>15 I'm a R-1 resident. My husband and 16 I through John Adams and Paul Primauf of 17 Homecrafters have extensively rehabbed a home 18 built in the '50s on a lot smaller than this 19 30,000 requirement. I point this out because 20 contrary to statements made by members of the 21 historical preservation commission, there are 22 smaller lots in R-1. This goes back to the</p>

1 video that you probably watched. As people
2 know, 90 percent of lots in R-1 are below the
3 30,000 square feet.
4 We are talking about 100 feet
5 roughly. 100 feet to preserve a Zook home.
6 Last month alone our R-1 district saw two
7 historic homes torn down to accommodate new
8 construction, one on Fourth and one on Garfield.

9 We all know what's going to happen
10 here. Given the enormous lot size and property
11 taxes, no one is going to keep this home
12 standing. They may say they will, but the
13 demolished historic home on Third known as the
14 pink home was an absolute proof point to the
15 contrary.

16 I encourage you to take a tour of
17 the home so you can see firsthand that it's in
18 mint condition minus this foundation work.
19 Speak to the moving companies involved. They
20 have given their expert opinion on how this home
21 could, without a doubt, withstand a move. Speak
22 to experts on how drainage issues could be

1 resolved and drastically improved with this
2 move. Speak to the trustees of the historical
3 society, which I'm a former trustee, on why Zook
4 is so important to our village.

5 CHAIRMAN NEIMAN: Anyone else?

6 MS. BARCLAY: Good evening. My name is
7 Sarah Barclay. I reside at 606 East Third
8 Street. So just a few blocks from the home in
9 question. I also have a master's degree in
10 architectural history from the University of
11 Virginia so this is a topic of particular
12 importance to me. I'm obviously here in support
13 of the relocation of this home.

14 Something is going to be built. So
15 what does the village of Hinsdale want to see?
16 What are its priorities? That's a concern for
17 me as a member of this community. And remember,
18 this is a historic district. This home helped
19 to establish this area as a historic district.

20 The village of Hinsdale's own
21 application for such a district maintains that
22 the area have general architectural and historic

1 significance. This home contributes all of
2 those things. Would a new build contribute
3 these things? Would a new build enhance the
4 general architectural and historic significance
5 of this area? I think not. I think proof of
6 what we have seen that's happened here in the
7 last couple of years, especially on Woodside, is
8 proof of that.

9 As an architectural historian, I
10 would hate to see this home demolished. The
11 village of Hinsdale has gone to great lengths to
12 tout the character of its town even so far as
13 working with the Hinsdale Historical Society to
14 develop an app that allows people to take a
15 walking tour of the Zook homes.

16 We have the Parkers here committed
17 community members who would like to retain and
18 enhance this home without negatively impacting
19 its neighbors. This is a win-win. And it would
20 seem to me that in a town so committed to its
21 history that it established a historic
22 preservation commission, that such a group would

1 be working tirelessly to come to resolutions to
2 satisfy the concern of nearby homeowners and the
3 best interest of the town looking to move away
4 from the overbuilding that has taken place in
5 recent years.

6 This is an opportunity to establish
7 precedent for how the village values its
8 historically significant homes, as well as
9 showing current and future homeowners that local
10 government is willing to work with its
11 homeowners to come to a reasonable solution free
12 of undue burdens both financial and otherwise
13 and in this case maintaining the significant
14 contribution made by Harold Zook to the village
15 of Hinsdale. Thank you for your time.

16 MR. DAVIS: My name is Champ Davis, 24
17 West Ogden Avenue, Hinsdale. As we have
18 acknowledged, it's the first day of summer.
19 It's also the longest day of year. I was hoping
20 that the longest day of the year would have
21 prevailed for us here but it's now nighttime.
22 It also happens to be my birthday and it's my

<p style="text-align: center;">70</p> <p>1 50th birthday today, so I'll make this very 2 brief.</p> <p>3 I would like to say that as a 4 resident of Hinsdale for 23 years, I have good 5 friends on both sides of the aisle, so I'm 6 friends with the bride and the groom here today. 7 I'm also a trustee on the board of the Hinsdale 8 Historical Society and it's going to be very 9 disappointing for the app that we have worked so 10 hard on to drive by the bicycle tour of the Zook 11 homes in Hinsdale to drive by and just have to 12 show a flag or a cross or some memorial flowers 13 here. So we would like to -- personally 14 speaking, I think it's a wonderful plan. I 15 think it's a real win-win. I grew up in a Zook 16 home and there's some real special features of 17 this Zook home.</p> <p>18 The Parkers have been gracious 19 enough to invite the historical society over for 20 an open house. We took them up at their 21 generous offer to host that. It further 22 revealed for us our belief and commitment that</p>	<p style="text-align: center;">72</p> <p>1 and having the longest day of the year I guess 2 didn't help us. But thanks, everybody.</p> <p>3 MR. BOYLE: Chairman Neiman, the Board, 4 thank you very much. My name is Kevin Boyle. 5 My wife, Karen and I, came out to Hinsdale about 6 13 years ago from downtown Chicago. There we 7 had rehabbed two historic buildings, a graystone 8 and a brownstone.</p> <p>9 We moved out to 132 East Fifth 10 Street. It was known as Mrs. Guido's home. It 11 was a nonconforming, noncompliance, precode 12 structure, a through lot, and we spent a lot of 13 time here because what we did was with the idea 14 of preserving the structure, we moved the 15 entrance from Sixth Street to Fifth Street so we 16 changed the garage. The garage happened to be 17 leaning over the setback and as such, we spent a 18 lot of time.</p> <p>19 In that process with the help of 20 Mr. Parsons we learned that that home had a Zook 21 addition to it. So even more important that we 22 preserved that home.</p>
<p style="text-align: center;">71</p> <p>1 this is a wonderful preservation effort and an 2 opportunity that we are really proud to see in 3 our community.</p> <p>4 So I would also just suggest that 5 any opposition to this house or this project, 6 this preservation effort would probably be folks 7 that have this situation in their direct 8 backyard and will be kind of a nimbly approach, 9 and I don't mean that disparagingly, but I do 10 feel that unfortunately in situations like this 11 when you have the opposition, this is actually 12 in their direct backyard, it's not really an 13 objective opposition, it's a very personal and 14 sort of a conflicted opposition.</p> <p>15 But I would also add to that that 16 there's probably 17,000 other residents of 17 Hinsdale where this is not in their backyard, 18 that had they become aware of these proceedings 19 would certainly also support having a preserved 20 Zook home in the community.</p> <p>21 So with that, I just want to thank 22 the Parkers and the board here for all the time</p>	<p style="text-align: center;">73</p> <p>1 Five years ago we moved to 329 2 South County Line Road, so we are about a half a 3 block from the Parkers. Have long admired the 4 Zook home there and were very happy when they 5 moved in. Our kids are classmates. We are 6 parishioners at St. Isaac and we want to see 7 that home preserved.</p> <p>8 We did everything we could do at 9 132 East Fifth with the drainage and all the 10 codes. It worked out just fine. The home was 11 sold. It's still standing. And I think it's a 12 testament to preserving some of the history of 13 Hinsdale. That's why we moved out here and 14 that's why we intend to stay. So I urge you to 15 grant the variance and keep that home and keep 16 it with the Parkers. Thank you.</p> <p>17 MR. BAGULL: My name is Jeff Bagull, 18 505 The Lane, Hinsdale.</p> <p>19 So like you, Mr. Chairman, we moved 20 out here because we like the look and the feel 21 of the town. I think many who are here agree 22 with the idea of preserving these older homes.</p>

<p style="text-align: center;">74</p> <p>1 You have owners who are willing to sign the 2 dotted line while keeping the Zook home intact. 3 My understanding is there's very few Zook homes 4 actually still left in the neighborhood. We 5 have the ability to save one of these houses. 6 The lot fits the neighborhood, the house fits 7 the lot. It just seems like it all kind of 8 winds up in a way to preserve the house instead 9 of having somebody come in and demolish it. I 10 think you should grant the variance. Thank you.</p> <p>11 MR. MALINOWSKI: Hi. Michael 12 Malinowski, 635 East Sixth. 13 I would just like to add that I 14 have been a longtime resident of the town. Very 15 fond of Zook homes. I want to applaud and 16 support the Parkers in the preservation of this 17 home. 18 I think we moved here many, many 19 years ago, and many people will attest that many 20 of the characteristics that brought us to the 21 town was the mix of this wonderful old historic 22 architecture as well as these wonderful new</p>	<p style="text-align: center;">76</p> <p>1 MR. COFFEY: My name is John Coffey, 2 316 East First Street. 3 I have nothing new to add other 4 than ditto to what everybody else has said. I 5 know the Parkers well. They are good people and 6 I hope you guys look at it the same way I do. 7 Thank you.</p> <p>8 MR. HOLMES: Hello. My name is Kevin 9 Holmes. I and my wife reside at 425 Woodside, 10 which has been mentioned earlier today. 11 I would just like to quickly speak 12 on some of what the applicant spoke to on my 13 house. First of all, I didn't build the house; 14 we moved into an existing house that was built. 15 The applicant got the square 16 footage quote from the MLS listing, which as we 17 probably all know, can sometimes not be so 18 truthful. So the square footage that he quoted 19 was 8,000 some square feet that included 20 finished basement and the attic. So it's not 21 quite that big. It's a big house but it's more 22 like 6,000 square feet. So I just wanted to</p>
<p style="text-align: center;">75</p> <p>1 homes that they are currently building. And 2 people who refer to Harold Zook as being the 3 Frank Lloyd Wright of Hinsdale. So I think the 4 community should consider doing everything it 5 could possibly do to maintain that home and 6 obviously give the Parkers the home that they 7 love so much. 8 MS. KUCHIPUDI: Hi. My name is Deepa 9 Kuchipudi. I live over at 212 Eastern in 10 Clarendon Hills. 11 I'm the Parkers residential real 12 estate attorney who's handling this transaction 13 for them and I wanted you to know that we do 14 have a contract that is in full force and 15 effect, binding, valid and all the contingencies 16 have been met. Only thing outstanding is this 17 variance to be granted. 18 MR. MOBERLY: It's contingent on this 19 variance; right? 20 MS. KUCHIPUDI: Yes. Once it's 21 granted, then we can move forward with the 22 closing.</p>	<p style="text-align: center;">77</p> <p>1 clear that up too. 2 And I also wanted to just touch 3 real quick on -- 4 CHAIRMAN NEIMAN: Were you referring to 5 your house? 6 MR. HOLMES: Correct, the 425 Woodside 7 house which was mentioned. 8 First of all, I'd like to thank the 9 board. I know it's a long night and I feel as 10 if we have been a little bit hijacked and I just 11 want to make sure that we have our voice in this 12 situation too. 13 There's been a lot of discussion 14 about the historical significance of the Zook 15 home. My wife and I do not disagree with that. 16 We would love to also preserve that Zook home 17 too. 18 The village has correctly made it a 19 priority to conserve old historic homes and the 20 way they do this is in the form of historical 21 preservation designation and in tax relief for 22 anybody who would like to purchase a Zook home</p>

1 or historical home. It isn't in the -- it
 2 shouldn't be in granting variance requests.
 3 So I know it's been a long night
 4 and I know that you guys are tired. We are
 5 tired too, but this is an emotional situation
 6 for us as well. We are the property directly to
 7 the west of the proposed lot. And so I just
 8 want to make sure that we at least have an
 9 opportunity to speak.

09 41 04PM

10 MR. MOBERLY: Are you speaking for the
 11 whole opposition? We take your position very,
 12 very seriously. So take your time and say what
 13 you need to say. Because we do take that very,
 14 very serious. I'm assuming you might be the
 15 only one here because it's a long night and
 16 whatnot, so just take your time, make the points
 17 you need to make.

18 UNIDENTIFIED SPEAKER: There will be
 19 others.

09 41 10PM

20 MR. MOBERLY: Okay, sir.

21 MR. HOLMES: So just to give you a
 22 little bit of background on me. Once again, I'm

1 Kevin Holmes, 425 Woodside.

2 My wife and I moved to Hinsdale
 3 just about a little over five years ago. We had
 4 one kid. We were living in the city, we had one
 5 kid and one on the way, and when we figured out
 6 -- or when we came to the conclusion that our
 7 condo's walk-in closet wasn't going to serve as
 8 an appropriate nursery, we decided that we
 9 needed a little more space.

09 41 46PM

10 We didn't have any connection to
 11 Hinsdale. We just came out looking for houses
 12 in several different suburbs and fell in love
 13 with the town, the beautiful homes, the parks,
 14 the downtown area and, of course, the schools.
 15 We just knew that it would be a great place to
 16 raise our children.

17 We moved into what for us at the
 18 time was a perfect house. It was on Walker Road
 19 in the Lane school district. And like I say, it
 20 was perfect for us at the time. We had great
 21 neighbors, it was a great neighborhood and fit
 22 exactly what we needed.

09 42 12PM

1 During that time, my wife and I had
 2 sort of gotten into a discussion about whether
 3 to have a third kid or not. I was perfectly
 4 happy with our two and was voting to not have a
 5 third kid.

6 MR. MOBERLY: This is being recorded,
 7 sir, just so you know.

8 MR. HOLMES: My wife was in favor of
 9 having a third kid. So needless to say, when we
 10 had our third kid, we decided that we needed a
 11 little more space and so we started passively
 12 looking around. We needed a little more yard
 13 and more space.

09 42 40PM

14 We saw online the newly constructed
 15 home at 425 Woodside. We made the mistake of
 16 touring the house and fell in love with it. We
 17 fell in love with the yard, the trees, the
 18 streets, and everything about the house. So we
 19 took a chance and we bought it last May and
 20 moved in shortly thereafter. And up until we
 21 received the note in December that there was
 22 this false dilemma of either we are going to --

09 43 04PM

1 either you support separating these two lots and
 2 moving the Zook home over or we are going to
 3 tear down the Zook house.

4 And so it was at that moment that
 5 we started looking into what our options
 6 actually were. So that's why I want to get into
 7 a little bit about the actual standards that
 8 need to be met for the ZBA to approve a variance
 9 request.

09 43 46PM

10 Zoning Section 3-101 -- I know that
 11 we have had a lot of numbers thrown at us the
 12 whole night. It specifically says, The single-
 13 family districts provide for a limited range of
 14 housing densities consistent with the village's
 15 established residential neighborhoods. The R-1
 16 and R-2 districts allow for lower density
 17 residential use and larger lot sizes. The R-3
 18 and R-4 districts allow for somewhat higher
 19 density residential use and smaller lot sizes.

09 44 16PM

20 So the zoning code specifically
 21 state that the R-1 district's primary focus
 22 should be on preserving lower density

<p style="text-align: right;">82</p> <p>1 residential use and larger lot size.</p> <p>2 It goes on further in Section 2-102</p> <p>3 to say the R-1 district shall be deemed the most</p> <p>4 restrictive residential district. If allowed,</p> <p>5 the new size of the lot on Woodside would be</p> <p>6 20,000 square feet. Now that's actually not</p> <p>7 totally correct. The new lot that would be</p> <p>8 broken out would be 17,000 square feet. They</p> <p>9 would have to then rezone 3,000 square feet in</p> <p>10 order to fit the Zook house on the lot.</p> <p>11 It's a misrepresentation that says</p> <p>12 that if you totally separate the two lots as is</p> <p>13 that the house will fit there. It will not. It</p> <p>14 will not clear the backyard variance, which is</p> <p>15 at least 50 feet from the backyard.</p> <p>16 Now, Mr. Bousquette owns both of</p> <p>17 those, the whole lot, so he could then rezone it</p> <p>18 to make it bigger. You are looking at me like</p> <p>19 I'm --</p> <p>20 CHAIRMAN NEIMAN: No. Mr. McGinnis,</p> <p>21 could you give us your view on the statement</p> <p>22 that was just made?</p>	<p style="text-align: right;">84</p> <p>1 that additional land to the lot that additional</p> <p>2 land a condition of the variance?</p> <p>3 MR. MCGINNIS: There's certainly no</p> <p>4 downside to that. We are belting and</p> <p>5 suspendering it. At the end of the day, there's</p> <p>6 no permit issued unless all those bulk regs are</p> <p>7 met. But certainly you can make that a</p> <p>8 condition of it.</p> <p>9 CHAIRMAN NEIMAN: Can someone make a</p> <p>10 note of that, that if and when we vote to grant</p> <p>11 the variance, that should be another condition</p> <p>12 if we grant it at all.</p> <p>13 MR. ALESIA: This is a recommendation.</p> <p>14 CHAIRMAN NEIMAN: Yes, a</p> <p>15 recommendation. Absolutely right. Thank you.</p> <p>16 MR. HOLMES: And so going back to the</p> <p>17 whole idea of the minimum lot size and your</p> <p>18 restrictiveness of the R-1. This is, to my</p> <p>19 knowledge, and I have asked Mr. McGinnis several</p> <p>20 times, this would be the first variance request</p> <p>21 for a lot size reduction in the R-1 district,</p> <p>22 the very first. And this is a lot size</p>
<p style="text-align: right;">83</p> <p>1 MR. MCGINNIS: Sure. If they have</p> <p>2 excess property on Fourth Street frontage, they</p> <p>3 can deed that over to the Woodside lot. There's</p> <p>4 an exception under the plat act they can take</p> <p>5 care of that. The rear yard requirement has to</p> <p>6 be met. The only way that's met is by deeding</p> <p>7 over that excess property from the 444 East</p> <p>8 Fourth lot.</p> <p>9 CHAIRMAN NEIMAN: And is that the plan?</p> <p>10 MR. PARKER: Yes.</p> <p>11 MR. HOLMES: I know it's the plan. It</p> <p>12 seems a little bit disingenuous.</p> <p>13 CHAIRMAN NEIMAN: Should we make that a</p> <p>14 condition of the variance if we were to pass it?</p> <p>15 MR. PODLISKA: But they haven't asked</p> <p>16 for that variance so they wouldn't be able to do</p> <p>17 it.</p> <p>18 MR. GILTNER: It's not a variance.</p> <p>19 MR. MCGINNIS: They don't need a</p> <p>20 variance for that.</p> <p>21 CHAIRMAN NEIMAN: If we were to grant</p> <p>22 the variance, shouldn't we make the deeding of</p>	<p style="text-align: right;">85</p> <p>1 reduction of 33 percent.</p> <p>2 So the minimum lot size is 30,000,</p> <p>3 they are asking for 17 or 20, however you guys</p> <p>4 interpret that, but this, I believe, would set a</p> <p>5 terrible precedent. And I know that we talked</p> <p>6 about variance requests not setting a precedent</p> <p>7 but they get referred to all the time in further</p> <p>8 legal standards.</p> <p>9 Even if it doesn't set a precedent</p> <p>10 and you guys are confident in the fact that you</p> <p>11 can decide each case on its own individual</p> <p>12 merits, it certainly will raise the question of</p> <p>13 -- it will certainly raise more of these coming</p> <p>14 before you. I can't imagine that would not be</p> <p>15 the case.</p> <p>16 MR. MOBERLY: Mr. Holmes, your square</p> <p>17 footage of your house is misrepresented, so</p> <p>18 what's the square footage of your lot?</p> <p>19 MR. HOLMES: 21,000.</p> <p>20 MR. MOBERLY: So you don't have a</p> <p>21 30,000 square foot lot now. It's not your</p> <p>22 fault.</p>

1 MR. HOLMES: Well, that's another thing
2 I question. At some point the village looked at
3 the lot sizes and therefore looked at the
4 different zonings and said you know what, we
5 want to preserve large lots and right now in all
6 these different cases, specifically R-1, people
7 are dividing these lots and we don't want to
8 have smaller lots. We want to preserve this
9 area, this one quarter of Hinsdale to say we
10 want large lot sizes and we want lower
11 densities. That should be our primary focus in
12 R-1.

13 MR. ALESIA: But your lot is 21,000.

14 MR. HOLMES: It definitely is.

15 MR. ALESIA: Why can't they have the
16 same thing?

17 MR. HOLMES: Well, because it's not an
18 existing lot. I mean, if the argument is why
19 shouldn't they have it because you have it?

20 Well, I have it because I bought it and it was
21 already -- the situation was already there.

22 I agree that maybe it doesn't make

1 sense to have 30,000 square foot lot size
2 minimum requirement, but you would assume that
3 the zoning board at some point, whoever designed
4 these, made that a requirement because they
5 didn't want situations like this to happen where
6 people are saying, oh, you know what? I have a
7 very large lot, maybe I can divide it and profit
8 from splitting this up and having two lots.

9 MR. ALESIA: What's the problem there?

10 Why if somebody owns all these lots, why can't
11 they if it conforms and everything?

12 MR. HOLMES: Well, because it's against
13 the code and they need to get a variance
14 request.

15 MR. ALESIA: They are seeking a
16 variance request.

17 MR. HOLMES: Sure. Going to that they
18 have to prove the 8 different criteria, right?

19 MR. ALESIA: Right. Just to skip
20 ahead, what's your problem -- which of the 8
21 criteria do you have a problem with?

22 MR. HOLMES: I actually have a problem

1 with all of them. The proposed property creates
2 a unique physical condition. I agree that the
3 20,000 square foot lot isn't unique to the
4 block.

5 When they talk about the block,
6 there's actually 4 homes that have Woodside
7 addresses, mine and 3 others. Now, there are a
8 total of 9 and 10 if you include
9 Mr. Bousquette's other home that actually
10 accesses Woodside.

11 I assume you guys have a copy of my
12 packet, but the existing lot is here in yellow.
13 And all these other lots around here are large
14 lots. There's a 50,000 square foot lot 444,
15 40,000 square foot lot which Mr. Bousquette
16 owns, 49,000 on Oak, which is right here right
17 next to it. (Indicating.)

18 So there's several large lots in
19 the immediate vicinity. So while splitting the
20 lot doesn't necessarily create a unique physical
21 condition. I have watched a lot of your past
22 zoning board meetings, and the existing lot

1 doesn't have any unique physical limitations.
2 It's not unique to the neighborhood at all. The
3 50,000 square foot lot is not unique to the
4 block in question. There are lots of large lots
5 there.

6 CHAIRMAN NEIMAN: Doesn't the existence
7 of the Zook home, of the structure, render it a
8 unique physical condition though?

9 MR. HOLMES: I'm sorry, can you say
10 that again?

11 CHAIRMAN NEIMAN: Sure. Doesn't the --
12 the unique physical condition criteria states
13 that the subject property is exceptional as
14 compared to other lots subject to the same
15 provision by reason of a unique physical
16 condition, including the presence of an existing
17 structure whether conforming or nonconforming.

18 MR. HOLMES: I'm just saying the
19 existing house and the existing lot in no way is
20 a unique physical condition to the neighborhood.

21 CHAIRMAN NEIMAN: And I appreciate
22 that, but we are allowed to take into account,

<p style="text-align: right;">90</p> <p>1 the existing structure of the Zook home, in 2 determining whether or not there's a unique 3 physical condition. It's not just the land 4 itself.</p> <p>5 MR. HOLMES: Sure. Okay. 6 Not self-created. The Zook home 7 was built on the subject property in 1929. The 8 applicant purchased the property September of 9 2013, so that's less than four years ago he 10 purchased the property.</p> <p>11 I watched a lot of the zoning 12 meetings before and most of those requests that 13 come to you are from people that have lived in 14 the house for decades and somehow fell into a 15 situation where they needed relief because maybe 16 they didn't do anything when the zoning codes 17 got more stringent.</p> <p>18 MR. CONNELLY: But again, there's no 19 precedent that's set by the board at any meeting 20 regardless of how many you view.</p> <p>21 MR. HOLMES: Sure. But I would contend 22 that this is entirely self-created. The</p>	<p style="text-align: right;">92</p> <p>1 Not merely a self-privilege. And I 2 agree. I only say this because it's been 3 mentioned several times, but I think the only 4 reason that we are even talking about this is 5 because it's a Zook home.</p> <p>6 If approved -- so once again, if 7 this was approved, it would be largely because 8 it was a Zook house. I think by definition this 9 means it's a special privilege.</p> <p>10 Coding and planning purpose. As I 11 talked about before, the village comprehensive 12 plan for the R-1 district, which is less than 13 one-fourth of the whole area, its sole purpose, 14 the sole thing that I think you guys should be 15 thinking about is for low density and large lot 16 size. That's what the zoning codes say. That's 17 what the R-1 district should be focused on.</p> <p>18 CHAIRMAN NEIMAN: I'd like to go back 19 to not merely special privilege for just a 20 moment.</p> <p>21 Part of the criteria, the 22 description of that criteria is that the alleged</p>
<p style="text-align: right;">91</p> <p>1 applicant states that the Zook house has a 2 unique physical characteristic in that it was 3 built on an oversize lot, a lot too big for a 4 home that size. If that is true, wasn't that 5 the case three-and-a-half years ago when he 6 purchased this house? And if the basement had 7 problems flooding, wasn't that the case when he 8 purchased this house? I mean, he hasn't lived 9 in this house for very long, nor has he rented 10 it for very long. If there is a problem with 11 this house on this lot, it is solely self- 12 created. He's only lived there for a short 13 time, only owned the house for a short time.</p> <p>14 A denial of substantial rights. 15 From what I gather there have been no other 16 variance requests for a reduction of lot sizes 17 that have been approved in the R-1 district. 18 Denial would by no means deprive the applicant 19 of any right commonly enjoyed by owners of other 20 lots. Contrary, approval would give the 21 applicant the right not previously enjoyed by 22 anyone in the R-1 district.</p>	<p style="text-align: right;">93</p> <p>1 hardship or difficulty is not merely in the 2 ability to make more money from use of the 3 subject property.</p> <p>4 From what I understand, if the Zook 5 house was torn down, the owner could make more 6 money selling the lot than what he's doing now.</p> <p>7 MR. HOLMES: See, I don't -- I disagree 8 with that, and I can't speak on that because I 9 think that's such a subjective question where 10 you would need to actually market both of those 11 things. It's never been marketed as one 12 specific lot. It's never been marketed that 13 way.</p> <p>14 He bought it three-and-a-half years 15 ago for \$2.2 million. Now he wants to sell it 16 as two separate lots. And I don't know if in 17 the contract it talks about what the Parkers are 18 purchasing it for, but he's put the other lot up 19 for \$2 million just the north lot. So I don't 20 know. I mean, who knows? The market is what 21 the market is.</p> <p>22 CHAIRMAN NEIMAN: Fair enough.</p>

<p style="text-align: center;">94</p> <p>1 MR. HOLMES: Essential character of the</p> <p>2 area. I think we talked about that a lot. It</p> <p>3 would add to the congestion on Woodside.</p> <p>4 As pointed out, there are currently</p> <p>5 4 properties with addresses on Woodside but 10</p> <p>6 properties that access it via the drive. This</p> <p>7 would add another one.</p> <p>8 The applicant points out that at</p> <p>9 one time the house at 445 Woodside, which was</p> <p>09 56 38PM 10 torn down so that it wouldn't add any new</p> <p>11 density, but he failed to point out that that</p> <p>12 house was torn down over 20 years ago. So no</p> <p>13 one living on that block knows exactly what that</p> <p>14 was like or what that extra house did to the</p> <p>15 congestion on that street.</p> <p>16 And finally, I'd like to talk about</p> <p>17 the no other remedy thing. And this is where I</p> <p>18 think it fails the -- the biggest failure. And</p> <p>19 I think it's unfortunate.</p> <p>09 57 06PM 20 The applicant has made no attempt</p> <p>21 to market the home as is. Someone, I would</p> <p>22 think, maybe I'm wrong, but he's never attempted</p>	<p style="text-align: center;">96</p> <p>1 correctly placed an emphasis on preserving</p> <p>2 historical homes and they showed this commitment</p> <p>3 in the form of tax incentives for people who</p> <p>4 want to buy and renovate these historic homes</p> <p>5 not by splitting the lots and granting the</p> <p>6 variance requests.</p> <p>7 So I'd like to close with a few</p> <p>8 remarks. We request -- or I request that the</p> <p>9 board adhere to the code and listen to the</p> <p>09 58 48PM 10 concerns of the neighbors, the ones who will be</p> <p>11 directly affected by the split of this lot and</p> <p>12 deny this variance request.</p> <p>13 Like I said, I have watched several</p> <p>14 of the ZBA meetings in the past and to me it</p> <p>15 seems like some of the things that you guys</p> <p>16 focus on, or the two things you guys focus on</p> <p>17 most are you like to know what the character of</p> <p>18 the -- how things would change if the character</p> <p>19 -- or how the character of the neighborhood</p> <p>09 59 18PM 20 would change if this would be granted.</p> <p>21 I believe the Sixth Street one you</p> <p>22 guys granted the variance request because the</p>
<p style="text-align: center;">95</p> <p>1 that. You would think that maybe given an</p> <p>2 attempt to do that, someone might come in and</p> <p>3 buy the house and renovate it. It would be a</p> <p>4 prime example of what the historical society has</p> <p>5 put in place for the tax savings when you buy a</p> <p>6 house, renovate it and for eight years you get</p> <p>7 to keep your tax base of the purchase price or</p> <p>8 the assessed value. There has been no attempts</p> <p>9 to do that.</p> <p>09 57 46PM 10 He points out in his statement that</p> <p>11 the tearing down of the Zook home would be the</p> <p>12 unpalpable because of his fondness of the Zook</p> <p>13 home. If that is true, why hasn't he ever just</p> <p>14 tried to sell the Zook house or landmark it and</p> <p>15 sell it the way it is now? Now, I contend that</p> <p>16 that would give him less money, right? It might</p> <p>17 cut his profit down. But that's not what we</p> <p>18 should be thinking about here. We should be</p> <p>19 thinking about what is right for the neighbors,</p> <p>09 58 16PM 20 what is right for the R-1 district, and what is</p> <p>21 right for this situation.</p> <p>22 So once again, the village has</p>	<p style="text-align: center;">97</p> <p>1 lot size for the two lots was going to be twice</p> <p>2 as large as any other lot size on that block.</p> <p>3 That's not the case here.</p> <p>4 The other thing that you guys</p> <p>5 focused on is what do the other neighbors around</p> <p>6 think. And I can tell you, as Ms. Brickman will</p> <p>7 discuss, the entire block is not supportive of</p> <p>8 this. We have 27 names of people specifically</p> <p>9 in the R-1 district who do not support this.</p> <p>09 59 38PM 10 And real quick, I know it's been a</p> <p>11 long night, but I just want to end this real</p> <p>12 quick. And this is more directed for the people</p> <p>13 in the room.</p> <p>14 This process has been an absolute</p> <p>15 nightmare for me, my wife and our family. While</p> <p>16 I know we are not alone in having to live</p> <p>17 through this difficult and emotional situation,</p> <p>18 I will say that of all the people who have been</p> <p>19 affected by this, there are only two parties who</p> <p>10 00 18PM 20 chose to be involved: The applicant and the</p> <p>21 potential buyers.</p> <p>22 Since being pulled into this, we</p>

<p style="text-align: center;">98</p> <p>1 have gotten bad looks. People we thought were</p> <p>2 our friends no longer said hello or completely</p> <p>3 ignored me, my wife or my children. Somehow we</p> <p>4 have become the bad people in this situation.</p> <p>5 So if you are here tonight in the</p> <p>6 supporting of the Zook house -- I'm sorry. If</p> <p>7 you are here tonight, I would just like to ask</p> <p>8 you what would you do if you were put into our</p> <p>9 situation? I just want to give you a quick</p> <p>10 timeline.</p> <p>11 We made a substantial investment</p> <p>12 and purchased the home of our dreams back in May</p> <p>13 a year ago. Eight months later we received a</p> <p>14 certified letter that stated we had two choices:</p> <p>15 To support the lot split and have a home placed</p> <p>16 in the backyard of the lot next to you or you</p> <p>17 would be responsible for tearing down a historic</p> <p>18 home. What would you do?</p> <p>19 I met a lot of people living in</p> <p>20 Hinsdale but I have yet to meet a passive</p> <p>21 go-with-the-flow person who would sit back and</p> <p>22 just let this happen to them or their family. I</p>	<p style="text-align: center;">100</p> <p>1 current location.</p> <p>2 If the Zook home gets torn down,</p> <p>3 you shouldn't blame the ZBA, the Holmes or the</p> <p>4 neighbors who are getting this left with. If</p> <p>5 the Zook home gets torn down, there is only one</p> <p>6 person to blame and that's the person who has</p> <p>7 the control over it: The owner.</p> <p>8 Just one quick thing.</p> <p>9 Mr. Bousquette seemed to take our letter against</p> <p>10 this very personally. It wasn't meant to be</p> <p>11 personal. It was simply meant to state our side</p> <p>12 of this. So for him to drag all that personal</p> <p>13 stuff into this, it was never meant to that. If</p> <p>14 having an opinion that is against what you think</p> <p>15 is wrong and he can't accept it, I don't know</p> <p>16 what to say. But I will say that it was not a</p> <p>17 personal attack on him.</p> <p>18 MR. MOBERLY: I know there's some other</p> <p>19 folks here, since you sort of headed up the</p> <p>20 petition drive, I want to --</p> <p>21 MR. HOLMES: I did not. The petition</p> <p>22 drive was headed up by neighbors of the area.</p>
<p style="text-align: center;">99</p> <p>1 see neighbors stop talking just because they</p> <p>2 didn't like the landscaping choices of the</p> <p>3 neighbor. So before you judge or mark us down</p> <p>4 as bad people, ask yourself what would you do if</p> <p>5 you were put in this situation.</p> <p>6 Our objection has never been about</p> <p>7 the Parkers. I'm confident they would be fine</p> <p>8 neighbors. As a matter of fact, we were very</p> <p>9 excited when we learned of them moving into the</p> <p>10 Fourth Street house. We came over with cookies</p> <p>11 with our family, introduced our family to them,</p> <p>12 and that was before we knew about this petition.</p> <p>13 But becoming neighbors with someone shouldn't</p> <p>14 have to happen this way. This isn't a</p> <p>15 popularity contest and a historical home</p> <p>16 shouldn't be used as a pawn in an attempt to</p> <p>17 make a profit.</p> <p>18 If you are here tonight to support</p> <p>19 the Zook home, I say welcome. Please join us in</p> <p>20 our attempt to convince the applicant to give an</p> <p>21 honest attempt to sell this home and have</p> <p>22 someone preserve it and renovate it at its</p>	<p style="text-align: center;">101</p> <p>1 MR. MOBERLY: Okay. Can I just ask the</p> <p>2 ugly, ugly, ugly elephant in this room that I</p> <p>3 think Alexis Braden kind of touched on it is if</p> <p>4 we deny this petition, by lunchtime tomorrow a</p> <p>5 developer will own that house. Your house is</p> <p>6 6,000 square feet. They can put up with no</p> <p>7 input from anybody in this room, they need a</p> <p>8 building permit, 12,777 square foot, over twice</p> <p>9 the size of your house.</p> <p>10 They can also put up 26,000 square</p> <p>11 feet, which is more than my yard and my yard</p> <p>12 next door, of ancillary structures. They could</p> <p>13 put up sports courts, six-car garages, the full</p> <p>14 Hinsdale package. They are going to almost</p> <p>15 clear-cut that lot. I'm not blaming you but</p> <p>16 that's the alternative. It's not the cute and</p> <p>17 cuddly Zook that's there.</p> <p>18 The applicant has been very</p> <p>19 transparent that this is an investment. It's</p> <p>20 his decision, his timing. He can do what he</p> <p>21 wants to do when he feels just like I can do</p> <p>22 with my investment what I want to do and you can</p>

1 too, sir.

2 I just really see that being a very
3 real reality. This could be just a monstrous
4 house. And I see some of those houses over
5 there in the Oak school district as us poor
6 folks call you guys. Some of them are
7 beautiful. Yours is beautiful. Actually, I
8 like your house. I like the windows. I think
9 it's landscaped nicely. Some of those are
10 clunkers. And you may get a clunker next door
11 to you that could be very, very, very large.

12 MR. HOLMES: Well, there's other
13 alternatives, too, right?

14 MR. MOBERLY: But he doesn't have to
15 pursue that. Tomorrow morning he can sell this
16 lot.

17 MR. HOLMES: Well, if that's the case,
18 that's what I contend. I don't think you guys
19 can grant that variation request simply because
20 he can do this with his property. He could also
21 deed off a special part of that, maybe allocate
22 10,000 square feet and approach me. Maybe I'll

1 buy it. Maybe I'll put that sports court up.
2 There's never been any attempts to do anything
3 except separate the lots or teardown the house.
4 He can also control that process a little bit as
5 owner of the property. He could make
6 contingents on the buyer. He could do a lot of
7 different things other than teardown the house
8 or split the lot and there's never been any
9 attempt --

10 CHAIRMAN NEIMAN: Here's the point. I
11 personally studiously avoided listening to any
12 of the planning commission meetings or the
13 historical preservation meetings because I had
14 heard that there was something going on and I
15 didn't want those meetings to color my view.

16 But the fact remains, while you are
17 correct that the owner could do those things,
18 what I have never quite understood to the extent
19 that I have heard that the historical
20 preservation commission was against allowing
21 this, what I never quite understood is if we
22 deny this variance, we are all taking the bet

1 that the owner wouldn't in fact teardown the
2 house, that he would still market it the way you
3 would like to see it marketed, but I'm not sure
4 that's what we are here for. And it seemed like
5 backwards logic to me because from what I
6 understand, everybody agrees that if we deny the
7 variance, the owner can teardown the house
8 tomorrow.

9 MR. HOLMES: He can and that would be
10 his choice.

11 CHAIRMAN NEIMAN: Okay. Thank you for
12 your comments.

13 MR. HOLMES: Thank you for your time.

14 MR. MOBERLY: Thank you for your time
15 and your detail.

16 MS. BRICKMAN: Hi. I'm Donna Brickman,
17 439 East Sixth Street. I'll try to keep this
18 short because I know we are all tired.

19 I guess one of the things I want to
20 mention is the petition that was started is just
21 basically that we are against splitting this lot
22 and I wanted to give everyone a copy about who

1 signed the petition. There's 20 out of 27
2 people. They are in yellow on this map, and I
3 wanted you to see the proximity of where they
4 are to the lot.

5 So if we are going to criticize the
6 people on the petition, if I just focus on the
7 neighbors on Woodside because it affects the
8 most, there's 10 houses on Woodside, some of the
9 lots are on County Line and Woodside or they are
10 on Oak and Woodside, but if there's 10 houses
11 and I take 1 house out being the lot in
12 question, I have 9 residents. I have signatures
13 from 9 residents who are against this and I
14 think that, obviously, we are the most affected,
15 it's our street. This is not a street that's
16 like Fourth Street or Sixth Street where it's a
17 big, huge, wide street. This is kind of a
18 little narrow hairpin turn, wooded street.

19 I was one of the ones that
20 commented. I think that 425 Woodside is a big,
21 vertical house and you have this big, vertical
22 Woodside and then you have the Bensons' house

1 which is all vertical. I just think it's a lot
2 of big houses on a very small street and I think
3 it looks very crowded and consolidated, and I
4 don't think that moving to southeast Hinsdale
5 that's really what anybody wants and I think
6 that our opinion matters.

7 I live in a 1937 Zook house. Our
8 house was renovated. The previous owner spent
9 over a million dollars on it, and I don't see
10 why we haven't marketed this house, and I would
11 like some proof was this ever listed in MLS or
12 why don't we make more effort to find somebody
13 like the Eck family or like our family, like the
14 previous family that owned our house.

15 I can give you four Zook houses
16 that have been renovated within like a three-
17 block radius. You have 46 South County Line
18 Road that's being renovated right now, which is
19 a Zook house; you have 430 East Third Street,
20 this is O'Hara's house. They have spent a
21 million dollars renovating that Zook house. You
22 have 405 East Seventh Street, which is for sale

1 again, but that person spent over a million
2 dollars renovating that Zook house, it's on a
3 large lot. You have our house who previous
4 owners spent over a million dollars renovating
5 it.

6 I think once these homes are
7 renovated, then there's no chance of them being
8 torn down because they are up to speed and they
9 are what people want. Old houses aren't selling
10 anymore and people just want new houses and they
11 want new renovations.

12 One of my concerns is, obviously, I
13 want to save the Zook house. I live in a Zook
14 house; I'm passionate about Zook houses. But
15 what I'm concerned about is okay, if you pick up
16 the house, you turn it around, you put it on
17 this lot on Woodside, is there room on that
18 house to ever expand or do any renovations on
19 the lot? Because the last time, which I looked
20 up in the city records, this house was renovated
21 in the 1990s so it's due for renovation. We are
22 hearing that it has foundation issues. Is there

1 room on the lot if they move it to bump out or
2 make expansions, make a master bedroom, do a
3 modern kitchen like everybody wants to get more
4 space. I don't know what's allowed. That's
5 just one of my concerns. You picked up the
6 house, you move it, it never gets renovated. If
7 they don't get historical status, someone is
8 just going to tear it down because they are
9 going to say oh, I don't want an old house and
10 it's going to be gone. This is just kind of a
11 delay to the inevitable of a Zook house being
12 torn down.

13 I asked Mr. Bousquette, I said, so
14 what happens if this gets moved and then the
15 Parkers sell the house and it gets torn down?
16 He said, it's not my problem. So my question
17 how sincere everyone's love is, you know, for
18 this house, or is it a pawn to make money?

19 You have a house that he bought in
20 2013 for \$2.2 million. You are selling the
21 front lot on Fourth for \$2 million. You are
22 giving the back lot to the Parkers for about a

1 million dollars. That looks like a big profit
2 to me, and I think this should be a concern.

3 CHAIRMAN NEIMAN: Let me ask a question
4 of the owner. Would the Parkers be willing as
5 an additional condition of a variance to seek
6 the historical status that would prevent any of
7 those things from happening?

8 MS. PARKER: Yes.

9 MR. PARKER: Yes.

10 MR. CONNELLY: I think they already
11 testified that they would do that.

12 MR. GILTNER: That's the landmark
13 status?

14 MR. CONNELLY: Yes.

15 MR. GILTNER: Just to clarify, what
16 does that prevent them from doing?

17 MR. PARKER: We are not that far into
18 the process, but I believe it guarantees that we
19 are going to preserve it in its condition. The
20 one thing that we would ask if we go down that
21 road is just that we have time to execute the
22 physical relocation and that it's not a landmark

<p style="text-align: center;">110</p> <p>1 house as we move in.</p> <p>2 MR. BOUSQUETTE: A landmark status</p> <p>3 house in the village you can't tear it down and</p> <p>4 the historic preservation commission can prevent</p> <p>5 that. So they can say no and you can't tear it</p> <p>6 down.</p> <p>7 MR. GILTNER: So it has to go before a</p> <p>8 board before an owner can make that decision?</p> <p>9 MR. BOUSQUETTE: Once you landmark it,</p> <p>10 you can't tear it down.</p> <p>11 MR. GILTNER: How many houses in</p> <p>12 Hinsdale have that landmark status?</p> <p>13 MR. MCGINNIS: You may have a better</p> <p>14 handle on that than I. 15, maybe.</p> <p>15 MR. BOUSQUETTE: Yes. I was going to</p> <p>16 say somewhere between 12 and 24.</p> <p>17 MR. GILTNER: Okay.</p> <p>18 CHAIRMAN NEIMAN: Please, continue.</p> <p>19 Thank you.</p> <p>20 MS. BRICKMAN: You know, there was a</p> <p>21 comment made about people signed the petition</p> <p>22 having small lots. Well, we signed the</p>	<p style="text-align: center;">112</p> <p>1 to say, but I want to keep this short.</p> <p>2 I guess Kris Parker stated no one</p> <p>3 wants this whole lot. Once again, I don't</p> <p>4 believe they had a chance to sell it as one lot.</p> <p>5 I know that Mr. Bousquette has made no effort to</p> <p>6 sell it as one lot.</p> <p>7 I actually mentioned to him that I</p> <p>8 had somebody who renovated the house next door</p> <p>9 to me to the west and that they would be</p> <p>10 interested in doing the Zook house. The person</p> <p>11 wanted to renovate it, said they couldn't get to</p> <p>12 the right price because he was asking for too</p> <p>13 much money when he spoke to somebody.</p> <p>14 And there was another person that I</p> <p>15 emailed him about. He was a very reputable</p> <p>16 person who was mentioned in Crane's as wanting</p> <p>17 to renovate \$2 to 4 million homes who has very</p> <p>18 strong financial backing and I'm sure if</p> <p>19 Mr. Bousquette talked to this person, he would</p> <p>20 take on this project.</p> <p>21 So I feel like there are people out</p> <p>22 there that like old homes and that have the</p>
<p style="text-align: center;">111</p> <p>1 petition. We have a lot that's about 40,000</p> <p>2 square feet, our taxes are \$46,000. There's</p> <p>3 this big lot on Oak and Woodside that's an acre.</p> <p>4 She signed the petition. The other two lots on</p> <p>5 Oak and Woodside across the street from that,</p> <p>6 across from it and that's a good 200 by 200 lot.</p> <p>7 The old Biggert house that's been referred to</p> <p>8 that the Ecks have purchased is the same size as</p> <p>9 the lot in question. You know, that sat on the</p> <p>10 market for a while and you found the Ecks that</p> <p>11 bought it and are doing this major renovation to</p> <p>12 it.</p> <p>13 I think these older houses they are</p> <p>14 not going to go for top dollar because they have</p> <p>15 to go for a lower price because someone has to</p> <p>16 put a million dollars plus into it to bring it</p> <p>17 up to speed, to preserve it, to make it current</p> <p>18 with what people want if it's ever going to sell</p> <p>19 again and if it's going to stick around.</p> <p>20 I'm just concerned that I think</p> <p>21 this thing is for profit and I don't think</p> <p>22 anyone is really addressing that. I have more</p>	<p style="text-align: center;">113</p> <p>1 financial whereabouts to make these kind of</p> <p>2 improvements. Are they maybe more of a dime a</p> <p>3 dozen, yes. But they are out there if you make</p> <p>4 the effort or you are talking to people and</p> <p>5 spreading the word the right way. This has</p> <p>6 never been mentioned to anybody. I have never</p> <p>7 been able to find it on a MLS anywhere.</p> <p>8 I just want to say I hope you guys</p> <p>9 think this through. I guess I'm concerned that</p> <p>10 we are being kind of bullied into do this or we</p> <p>11 are going to tear the house down. I don't</p> <p>12 understand why he would be allowed to tear down</p> <p>13 an old Zook house. I mean, is there any sort of</p> <p>14 protection over old houses? Why all of a sudden</p> <p>15 is it just this or tier it down? Why is this</p> <p>16 the only option?</p> <p>17 MR. MCGINNIS: There are no protections</p> <p>18 in place unless the house is locally landmarked</p> <p>19 or part of the national registry.</p> <p>20 CHAIRMAN NEIMAN: And that is the</p> <p>21 predicament that we are in in trying to preserve</p> <p>22 old homes that ultimately the person who buys an</p>

<p style="text-align: center;">114</p> <p>1 older home can tear it down. That's one of the</p> <p>2 problems with southeast Hinsdale, in my view, as</p> <p>3 it is. Too many nice, old homes weren't</p> <p>4 preserved.</p> <p>5 And so the answer to your question</p> <p>6 is no, there's nothing that prevents it and</p> <p>7 southeast Hinsdale is a testament to that fact.</p> <p>8 UNIDENTIFIED PERSON: He could landmark</p> <p>9 the house right now.</p> <p>10 CHAIRMAN NEIMAN: Yes, he could. You</p> <p>11 are quite right.</p> <p>12 MS. BRICKMAN: I want you guys to think</p> <p>13 long and hard before you make this decision</p> <p>14 because there's lots of developers in the area</p> <p>15 who are wringing their hands at your decision</p> <p>16 and I think this decision is going to pave the</p> <p>17 way for other decisions in the future, and I</p> <p>18 just ask you to consider that when you are</p> <p>19 thinking about it.</p> <p>20 CHAIRMAN NEIMAN: Thank you.</p> <p>21 MR. BRICKMAN: Hi. My name is Andrew</p> <p>22 Brickman. I actually live with her at 439 East</p>	<p style="text-align: center;">116</p> <p>1 moved back here in 2004, I was frustrating</p> <p>2 Donna, my wife, because I said I wasn't going to</p> <p>3 live in a teardown home. I only wanted to live</p> <p>4 in a home that was original. And at the time,</p> <p>5 that significantly reduced our options.</p> <p>6 So we started over on 25 East Fifth</p> <p>7 with a nice lot and a nice home and it was only</p> <p>8 after a few years that we were able to move to</p> <p>9 439 and the Zook home. I give Bill Loose a lot</p> <p>10 of credit. He lovingly restored that home. He</p> <p>11 also worked with the neighbor to demolish the</p> <p>12 house in between them, split the lot to make</p> <p>13 sure that it was unbuildable to preserve lot</p> <p>14 size.</p> <p>15 So as we look at our lot, it's a</p> <p>16 combination of two lots. I learned that when I</p> <p>17 didn't pay taxes on the additional lot and got a</p> <p>18 penalty bill, so now I'm very careful about</p> <p>19 paying both bills.</p> <p>20 So we love the area. There were a</p> <p>21 lot of homes when we originally moved here we</p> <p>22 would have liked to have bought and I never</p>
<p style="text-align: center;">115</p> <p>1 Sixth. We have a unique lot. It is a restored</p> <p>2 Zook home.</p> <p>3 It's unique in the sense that it's</p> <p>4 got a driveway on Sixth and it's got a driveway</p> <p>5 that goes through to Woodside. We are within</p> <p>6 200 feet of the property in question, so we are,</p> <p>7 in fact, neighbors of this property.</p> <p>8 Just a little background on me. We</p> <p>9 moved to town in 1964. I know that because when</p> <p>10 I was born, we no longer fit in our house in</p> <p>11 LaGrange so it was to Hinsdale we came. And in</p> <p>12 those days, we had to live in Cook county</p> <p>13 because that was more affordable than DuPage</p> <p>14 county. I didn't experience it but my parents</p> <p>15 spent quite a bit of money stretching for the</p> <p>16 house we lived in on 803 McKinley Lane. The</p> <p>17 house still stands. They taught us to cherish</p> <p>18 that home but they had to cut a lot of corners</p> <p>19 to make that work.</p> <p>20 I guess this whole thing is rather</p> <p>21 disappointing as someone who's been around the</p> <p>22 town for a long time. When Donna and I first</p>	<p style="text-align: center;">117</p> <p>1 thought of coming to you guys to rezone things</p> <p>2 so I could buy those homes. It's probably a</p> <p>3 good plan. I think the Parkers may be on to</p> <p>4 something. Maybe we just go to the zoning</p> <p>5 board, recondition the lot so we can afford to</p> <p>6 cut the taxes and that allows us to buy the</p> <p>7 home. But I don't think that's technically the</p> <p>8 way it works.</p> <p>9 I think this has become very</p> <p>10 personal. Friends are being asked to take</p> <p>11 sides. I think it's been particularly hard on</p> <p>12 our neighbors and I feel for them. I know no</p> <p>13 one on our block is supportive of this to a</p> <p>14 person. The silver lining in this cloud is that</p> <p>15 it's kind of gotten us all together as</p> <p>16 neighbors. We have all spent a lot of time</p> <p>17 together and we have gotten to know each other</p> <p>18 better. So that is good news.</p> <p>19 I think the Zook thing here, I live</p> <p>20 in a Zook house. I like Zook. I think it's a</p> <p>21 bit of a smokescreen. This is about dollars</p> <p>22 plain and simple. Matt is trying to maximize</p>

1 his return. I get it. Self-interest is a part
2 of life. And self-interest isn't a bad thing.
3 But the reasons committees like this exist is to
4 protect against self-interest. It's to create
5 that balance that we need. So I think that
6 is -- I think that is a pretty important thing.

7 I am pretty confident he never did
8 try to sell this home as a full lot. As a
9 matter of fact, I think he tried to sell it as a
10 half lot and figured out that wasn't allowed and
11 destroyed all the records of that.

12 I'm not sure that legalese and
13 lawyers and threats is the way that Hinsdale was
14 when I grew up in it. I'm not sure it's the way
15 we want it to be. I'd like to see this home
16 restored. Jay Eck and I grew up together in
17 Hinsdale. Jay bought the Biggert home. Matt is
18 correct that he is doing a very large renovation
19 of that home. Very large. But that home will
20 sustain. And that's a historical home. So I
21 give him credit for investing in it and doing
22 the right thing by that. And as my wife pointed

1 out, there's a lot of people that have done the
2 right thing by Zook homes. So playing the Zook
3 card just to squeeze more money out of this, I
4 think that's Matt's game.

5 We have all fallen in love with
6 something that's out of reach and I can totally
7 understand why the Parkers have fallen in love
8 with something that's a little out of reach and
9 why they want to recondition it so that it is
10 within reach, I get it. I understand that. But
11 at times you have to make hard decisions and
12 hard choices and I don't know that we should
13 restructure the whole lot and our zoning just so
14 they can get the house of their dreams. Maybe
15 they have to find a new house. Sorry.

16 There are solutions to this. Matt
17 could landmark the Zook house, okay? Save the
18 Zook house that way. Doesn't maximize his
19 dollars, I understand that.

20 There's a lot of friendship and
21 support for the Parkers. I think that's great.
22 Maybe they can help them finance purchasing the

1 lot from Matt. Maybe they can all come in
2 together. Maybe you can get your friends to
3 help you.

4 MR. MOBERLY: Let's stop the personal.
5 Let me ask you a direct question, sir. We
6 roughed up the applicant pretty good. So I need
7 to ask you this question and don't take that as
8 disrespect or taking a side or the other.

9 MR. BRICKMAN: That's fine.

10 MR. MOBERLY: I drive around --
11 actually, the Monroe district everything has
12 been torn down and rebuilt. I drive around your
13 neighborhood. I see these monstrous three-and-
14 a-half-story brick and stone houses. How do you
15 guys feel about that? That's the reality here.
16 You say Hinsdale's changed. It's changing as we
17 speak.

18 MR. BRICKMAN: I abhor it. And what I
19 see now is we are going to create density by
20 doing this. I guarantee it. We are going to
21 create density by doing this. And if he sells
22 that lot for \$2 million, let's not assume that

1 they are going to put some small house on it.

2 MR. MOBERLY: 12,777 square feet, not
3 a foot less, 35 feet tall. I promise you.

4 MR. BRICKMAN: If he sells that lot,
5 there's going to be two big homes on these lots.

6 CHAIRMAN NEIMAN: I want to address a
7 larger issue here. This is a microcosm of the
8 problems that we have nationally and the idea
9 that both sides are apparently engaging in
10 name-calling rather than trying to hear each
11 other's views, we can't make a ruling on that.
12 We can't force good behavior. We can't force
13 people to be good neighbors even if they
14 disagree on issues, but we shouldn't encourage
15 it. So I encourage both sides to stop with the
16 name-calling. If you would like to address the
17 criteria for a variance which is before us, and
18 it's been before us now for some time, I'd
19 appreciate it, otherwise sit down.

20 MR. BRICKMAN: I will do it. I will do
21 it. I'd like to close.

22 To your point, Robert, there is

<p style="text-align: center;">122</p> <p>1 more at stake here than just this lot. And I 2 think the consideration that we have to think 3 through is what kind of precedence this sets, to 4 your point, Gary, and that is what I'm concerned 5 about, not just the Zook home. I'd love to see 6 the Zook home refurbished. I'd love to see it 7 landmarked. I'd love to see done what a number 8 of people have done with Zook homes. I think it 9 would be great.</p> <p>10 But I'm more worried about how they 11 start carving up these lots even more and 12 creating more mc-mansions because that is not 13 what we want in Hinsdale. I don't think it's 14 good for real estate values in general. I don't 15 think it's good for the town. I don't think 16 it's good in general.</p> <p>17 But I do think there's a lot of 18 ways to solve this problem. If Matt cares about 19 the Zook status, maybe he can help them get 20 there. I'm just trying to find a way to help 21 them keep their house without destroying the 22 integrity of that property.</p>	<p style="text-align: center;">124</p> <p>1 variance request. So we are very interested in 2 the feedback of the neighbors who oppose it, 3 right. And there's no criticism of the 4 neighbors. There's very much an open listening 5 from our side in terms of what your concerns are 6 because someone is seeking an exception and so 7 I'll just leave it at that.</p> <p>8 MR. BRICKMAN: Well, yes. I mean, I 9 bear no malice to the Parkers. They got put in 10 the situation. They did. They got put in the 11 situation. They were put in the middle. But I 12 think there's ways to save that house without 13 doing what we have done. And thank you.</p> <p>14 MS. HOLMES: My name is Joy Holmes. I 15 reside at 425 Woodside. I have that Morton 16 Arboretum view, the picture that was shown. I 17 still have that view. It's beautiful.</p> <p>18 As Kevin stated, we lived there a 19 short time. We love the area, but I have 20 concerns regarding subdividing the lot of 444 21 East Fourth Street and the lot size variance 22 request as it does not meet the R-1 standards.</p>
<p style="text-align: center;">123</p> <p>1 CHAIRMAN NEIMAN: The problem is we 2 have -- there's a variance request before us. 3 There are criteria that have to be met. What 4 you would like to see the owner do with the 5 property is not before us.</p> <p>6 MR. BRICKMAN: Correct.</p> <p>7 CHAIRMAN NEIMAN: So address the 8 criteria or let's get on with it.</p> <p>9 MR. MOBERLY: He doesn't have to 10 address the criteria.</p> <p>11 MR. BRICKMAN: Is that true?</p> <p>12 MR. MOBERLY: The burden is on the 13 applicant and I think other folks have addressed 14 why it doesn't meet the criteria. If you wanted 15 to go through why it does not meet the criteria, 16 but that's not your concern.</p> <p>17 MR. GILTNER: Let me ask this question.</p> <p>18 MR. MOBERLY: Okay. I'm sorry.</p> <p>19 MR. GILTNER: Name-calling aside, the 20 neighbors' views are very important for that 21 fact. The burden of proof is on the applicant. 22 So you are not the one that decides to do a</p>	<p style="text-align: center;">125</p> <p>1 Main concerns of what it will cause 2 to Woodside as everyone else has stated. 3 Currently, there's not a continuous sidewalk 4 down the street. The street floods when you 5 make that little hairpin turn that Donna was 6 talking about in the winter, you slide across 7 the street.</p> <p>8 Another concern massive 9 construction. I don't know what picking up a 10 house and turning it around and moving it 11 entails. What sort of access will I have to the 12 street? Concerns of the precedent that it's 13 going to set for R-1 district.</p> <p>14 If it's passed how many other lots 15 are going to be subdivided or requested to be 16 subdivided and how does this affect our 17 community, especially R-1.</p> <p>18 But my largest concern with this 19 request is what I may have to teach and explain 20 to my children. As a mother, I try every day to 21 teach our core values: Respect, kindness and 22 honesty. Trying to teach ethics to have them</p>

<p style="text-align: center;">126</p> <p>1 make good choices, teaching them that every</p> <p>2 action has an affect not only on you but on</p> <p>3 others as well, trying to teach them not to be</p> <p>4 greedy or selfish, to think of others, to listen</p> <p>5 first, to respect the rules that are in place.</p> <p>6 Ethics are moral principles that</p> <p>7 govern a person's behavior. There are two</p> <p>8 aspects to ethics. First, the ability to</p> <p>9 discern right from wrong; second is the</p> <p>10 commitment to do what is good, right and proper.</p> <p>11 I know I'm losing some of you. Sorry.</p> <p>12 MR. MOBERLY: No. We are old.</p> <p>13 MS. HOLMES: So my 6-year old son is</p> <p>14 asking valid questions on a daily basis. So</p> <p>15 when he's faced with a decision, the questions</p> <p>16 we are trying to teach him to ask are is it</p> <p>17 right, is it fair and is it honest?</p> <p>18 I believe the most important job I</p> <p>19 have as a mother is to lay the foundation for my</p> <p>20 children to become good citizens. In today's</p> <p>21 world it's becoming harder and harder.</p> <p>22 Actually, I like to believe, as many other</p>	<p style="text-align: center;">128</p> <p>1 that was built almost 90 years ago and to my</p> <p>2 knowledge, as many others have said, the sale of</p> <p>3 the full lot has not been attempted. But</p> <p>4 there's a value in the R-1 district in</p> <p>5 preserving this area with big, beautiful lots</p> <p>6 and big, beautiful homes on them.</p> <p>7 One of my favorite stretches to</p> <p>8 walk down is Fourth Street. I walk every day to</p> <p>9 drop my children off at Covenant preschool.</p> <p>10 Those homes are set back off the sidewalk. They</p> <p>11 are massive, beautiful homes with massive yards.</p> <p>12 There is nothing more beautiful when driving</p> <p>13 around Hinsdale to see something similar to</p> <p>14 that. So when reviewing the request, I</p> <p>15 sincerely hope the board considers the</p> <p>16 geographic area of R-1, the ethical values and</p> <p>17 the overall impact this could have on the</p> <p>18 village of Hinsdale.</p> <p>19 I would ask the zoning board the</p> <p>20 same questions that I ask my son to make or</p> <p>21 think about when he's making a decision: Is it</p> <p>22 right, is it fair and is it honest? Thank you.</p>
<p style="text-align: center;">127</p> <p>1 people say, it takes a village.</p> <p>2 I will say this whole situation has</p> <p>3 been very difficult for me. Public speaking and</p> <p>4 selling to others is not a strong quality of</p> <p>5 mine, however, in order to be a good teacher to</p> <p>6 my children, I believe I must stand up for what</p> <p>7 I feel is right.</p> <p>8 So over the last few weeks I have</p> <p>9 gone out of my comfort zone, talked to people in</p> <p>10 the neighborhood in the R-1 area and asked their</p> <p>11 opinion. To my surprise, many people were</p> <p>12 unaware of the full request. Some were only</p> <p>13 given part of the information, misleading</p> <p>14 information regarding that they are saving a</p> <p>15 Zook home and not actually information on the</p> <p>16 lot size variance request.</p> <p>17 So when we are discussing there's</p> <p>18 no other remedy, I have looked beyond the</p> <p>19 ultimatum that's been presented before you and</p> <p>20 suggest that the zoning board deny the variance</p> <p>21 request. I can plead to the applicant, as many</p> <p>22 others have, to do other things to this home</p>	<p style="text-align: center;">129</p> <p>1 DR. HOENIG: Hi. My name is Jeanette</p> <p>2 Hoenig. I'm not an architectural major or a</p> <p>3 neighbor, I live 328 North Oak.</p> <p>4 I'm actually a physician and I'm</p> <p>5 just used to looking at everything black and</p> <p>6 white and looking at any disparities or things</p> <p>7 that are clearly conflicting. So I have been</p> <p>8 listening to the arguments today. I have never</p> <p>9 made bad faces at anybody. I'm not emotional</p> <p>10 about the access to the street or the lot.</p> <p>11 One thing I wanted to address is</p> <p>12 what I hear as some of the argument is that the</p> <p>13 concern is coming from the fact that there is</p> <p>14 selfish motivation. And I think it could be</p> <p>15 said for anybody protecting their home and their</p> <p>16 financial situation, but I don't think,</p> <p>17 obviously, you can base granting a variance on</p> <p>18 that.</p> <p>19 But what I do want to point out is</p> <p>20 the issue being raised about setting a</p> <p>21 precedent. If you decide to grant the variance,</p> <p>22 and I am in support of -- I live on 328 North</p>

<p style="text-align: right;">130</p> <p>1 Oak, it's an English cottage. It was built in 2 the '90s but it's made to look very old so we 3 kind of like that old house feel and I love 4 those people that are trying to save old homes. 5 I know that there were some 6 comments made about hey, maybe you can get your 7 friends to help you with some money and things 8 like that and that's tough. I think we would 9 love to have more money and be able to do more 10 things or be able to help our friends but there 11 can still be a genuine interest in saving a 12 home. 13 If you grant the variance and are 14 afraid that that sets a bad precedent, I think 15 as you have, Chairman, raised, you can set 16 certain stipulations that in this particular 17 case because they are applying for historic 18 status and it's a special kind of home, that 19 that is the reason this particular situation was 20 considered as an exception. 21 One thing that I find difficult in 22 listening to all the arguments and hearing</p>	<p style="text-align: right;">132</p> <p>1 district, and they built a pool house right up 2 against my lot line. I don't like it. I 3 greatly enjoyed looking at their beautiful 4 landscaping before they bought it. I don't have 5 that ability anymore. But I tell my husband we 6 didn't buy the view. If we wanted it, we needed 7 to buy it. 8 Unfortunately, the Holmes, you have 9 a lot that your ratio to your lot size of your 10 house is 1 to 3.6 and the Parkers will be 11 building or moving, if you allow them to, a 12 4,000 square foot house on a 20,000 square foot 13 lot, which is a ratio of 1 to 5. So the 14 Brickmans should be happy about that. They will 15 not be getting another huge house on a small lot 16 in their neighborhood. 17 I will keep it short. That was my 18 main gist of what I needed to say. I feel that 19 my house is definitely fine in my neighborhood. 20 It's one of the smaller homes on a smaller lot. 21 Everybody has been great to me. I think it 22 would be a true shame in all of this to lose a</p>
<p style="text-align: right;">131</p> <p>1 things about ethics and as a mother and 2 listening to right and wrong, I think, okay, 3 what would I think myself objectively? And to 4 hear somebody saying in opposing something when 5 they, themselves, have a larger house on a 6 similar size yard is a discrepancy to me. That 7 really comes out. 8 And I think that I just wanted to 9 point a few of these things out as somebody in 10 the crowd listening. Obviously I'm here in 11 support of the Parkers, but I just wanted to 12 address those few issues. Thank you. 13 MS. FERGUSON: Hi. My name is Jennifer 14 Ferguson. I live at 821 South Elm Street in one 15 of the R-1 district homes that is on a lot that 16 is not 30,000 square feet. 17 I don't feel that my home has 18 denigrated the neighborhood in any way. I don't 19 feel that my neighbors had a problem with that. 20 I, too, had an arboretum view when I moved into 21 my lot but it now belongs to the Kostelnys, 22 which is one of the largest lots in the R-1</p>	<p style="text-align: right;">133</p> <p>1 home that is in fact enhancing the character of 2 this district by not permitting building on a 3 lot that's similar in size to most of the R-1 4 district. Thank you. 5 MR. BOUSQUETTE: I would like to make 6 one closing comment. I do not believe there's 7 an individual in the village of Hinsdale who has 8 spent more time and more money trying to save 9 this house than me. I have spent months chasing 10 from committee to committee, forum to forum, 11 notes to notes. I have submitted all kinds of 12 documents. I vetted all kinds of neighbors. I 13 want to save this house too. I have spent tens 14 of thousands of dollars. 15 What people don't understand, the 16 filing fees to show up for this meeting were 17 \$1,800. That's before hiring a lawyer. That's 18 before anything else. So I have carry costs 19 every month. I'm spending a fortune trying to 20 save this house and I just need people to 21 understand that nobody has tried harder but 22 there's a reality out there, too.</p>

1 At the end of the day, it's bad for
 2 my family to keep spending \$10,000 a month to
 3 try and save the Zook home when I have half the
 4 town fighting with me to try and not do it. At
 5 some point you look in the mirror and say, are
 6 you insane? And so I'm here but I'm -- call me
 7 Ebenezer Scrooge. I can't keep affording to
 8 lose money to try and save a house that
 9 everybody seems to want to save but just not in
 10 their backyard.

11 Thank you very much. Have a good
 12 evening. Thank you very much for your time. I
 13 appreciate it. I know it's frustrating for you.
 14 I know it's a little crazy but we waited months
 15 to come see you. We really have. Months. We
 16 have come every month for months and we really
 17 would like to place this forward. Honestly, you
 18 don't even get to make the decision. We still
 19 have many more meetings to go to if we are able
 20 to even save this house. So to suggest that I'm
 21 revving the bulldozers because I'm some mean,
 22 horrible guy who wants to destroy the house is

1 crazy. Thank you. Have a good evening.
 2 CHAIRMAN NEIMAN: Is there a motion to
 3 close the public hearing on --
 4 MR. GILTNER: So moved.
 5 MR. ALESIA: Second.
 6 CHAIRMAN NEIMAN: V-04-17?
 7 Roll call, please?
 8 MS. BRUTON: Member Connelly?
 9 MR. CONNELLY: Aye.
 10 MS. BRUTON: Member Moberly?
 11 MR. MOBERLY: Yes.
 12 MS. BRUTON: Member Giltner?
 13 MR. GILTNER: Yes.
 14 MS. BRUTON: Member Alesia?
 15 MR. ALESIA: Yes.
 16 MS. BRUTON: Member Podliska?
 17 MR. PODLISKA: Yes.
 18 MS. BRUTON: Chairman Neiman?
 19 CHAIRMAN NEIMAN: Yes.
 20 (WHICH, were all of the proceedings
 21 had, evidence offered or received
 22 in the above entitled cause.)

1 STATE OF ILLINOIS)
) ss:
 2 COUNTY OF DU PAGE)

3 I, KATHLEEN W. BONO, Certified
 4 Shorthand Reporter, Notary Public in and for the
 5 County DuPage, State of Illinois, do hereby
 6 certify that previous to the commencement of the
 7 examination and testimony of the various
 8 witnesses herein, they were duly sworn by me to
 9 testify the truth in relation to the matters
 10 pertaining hereto; that the testimony given by
 11 said witnesses was reduced to writing by means
 12 of shorthand and thereafter transcribed into
 13 typewritten form; and that the foregoing is a
 14 true, correct and complete transcript of my
 15 shorthand notes so taken aforesaid.

16 IN TESTIMONY WHEREOF I have
 17 hereunto set my hand and affixed my notarial
 18 seal this 27th day of June, A.D. 2017.

19

20

KATHLEEN W. BONO,
 C.S.R. No. 84-1423

21

22

\$	1990s [1] - 107:21	87:1, 131:16	58 [1] - 62:18	abhor [1] - 120:18
\$1,050,000 [1] - 30:9	2	30-day [1] - 15:6	59 [1] - 16:11	ability [6] - 56:11,
\$1,800 [1] - 133:17		30-foot [1] - 52:6		64:2, 74:5, 93:2,
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STATE OF ILLINOIS)
) ss:
 COUNTY OF DU PAGE)

DISCUSSIONS OF THE HINSDALE
 ZONING BOARD OF APPEALS

In the Matter of:)
)
)
 435 Woodside,)
 Case No. V-04-17.)

REPORT OF DISCUSSIONS had of the
 above-entitled matter before the Hinsdale Zoning
 Board of Appeals, at 19 East Chicago Avenue,
 Hinsdale, Illinois, on June 21, 2017, at the
 hour of 6:30 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;
 MR. MARC C. CONNELLY, Member;
 MR. KEITH GILTNER, Member;
 MR. JOHN F. PODLISKA, Member;
 MR. JOSEPH ALESIA, Member; and
 MR. GARY MOBERLY, Member.

* * * * *

<p style="text-align: center;">2</p> <p>1 ALSO PRESENT:</p> <p>2 MS. CHRISTINE BRUTON, Deputy Village</p> <p>3 Clerk;</p> <p>4 MR. ROBB MCGINNIS, Director of</p> <p>5 Community Development;</p> <p>6 MR. MICHAEL MARRS, Village Attorney.</p> <p>7 CHAIRMAN NEIMAN: Who wants to begin</p> <p>8 with the discussion?</p> <p>9 MR. MOBERLY: There's good and decent</p> <p>10 people on both sides of this and from somebody</p> <p>11 in the Monroe district, I can see this a little</p> <p>12 more clearer without as much emotion.</p> <p>13 Your people's motives are pure that</p> <p>14 want to maintain the 50,000 square foot lot.</p> <p>15 These people's motives are pure that want to</p> <p>16 save the Zook house. So just go have a beer</p> <p>17 with each other and chill out for a while.</p> <p>18 That's my general comment.</p> <p>19 I really believe there's good</p> <p>20 people in this village and I'd just like to see</p> <p>21 this room come together somehow. But I'll let</p> <p>22 somebody smarter than me start the discussion,</p>	<p style="text-align: center;">4</p> <p>1 house and the size of lot.</p> <p>2 I don't think this has been self-</p> <p>3 created by the applicant. This property has</p> <p>4 been in this condition for a long, long time.</p> <p>5 They didn't create this situation. The</p> <p>6 situation I mean is the small architecturally</p> <p>7 significant house and the very large size lot.</p> <p>8 It would deny these homeowners and</p> <p>9 these owners of this property the opportunity to</p> <p>10 preserve a unique home. That's, I think, what</p> <p>11 needs to be addressed here in terms of assuring</p> <p>12 that they are not denied a substantial right.</p> <p>13 This is not a special privilege</p> <p>14 because I'm looking at one of the handouts here</p> <p>15 and I'm looking at the properties just to the</p> <p>16 north on Fourth Street and looking at all of</p> <p>17 those small lots and it was included in the</p> <p>18 materials that even now that this house is going</p> <p>19 to be substantially smaller than others in the</p> <p>20 area and the lot itself is still going to be,</p> <p>21 the ratio as was pointed out by one of the</p> <p>22 speakers, 1 to 5 between the size of the house</p>
<p style="text-align: center;">3</p> <p>1 the legal discussion.</p> <p>2 CHAIRMAN NEIMAN: That's you, John.</p> <p>3 MR. PODLISKA: Looking at the criteria,</p> <p>4 first of all, with respect to unique physical</p> <p>5 condition, I think we have to look at the lot</p> <p>6 size and the house itself and the architectural</p> <p>7 significance of that house. That's the unique</p> <p>8 combination that we have to deal with here, and</p> <p>9 I think they meet the criteria showing a unique</p> <p>10 physical condition because we have both the</p> <p>11 architectural building that I think one thing</p> <p>12 that everybody is agreeable to here I think is</p> <p>13 that everybody is making the best effort we can</p> <p>14 to make sure that that house doesn't get torn</p> <p>15 down and it continues to exist.</p> <p>16 And unfortunately for that house,</p> <p>17 it's sitting on this large lot and, therefore,</p> <p>18 it puts an economic conflict in play with</p> <p>19 respect to how to deal with that problem and so</p> <p>20 I think criterion has been met as to unique</p> <p>21 physical condition because of the relationship</p> <p>22 between the nature of the house, the size of the</p>	<p style="text-align: center;">5</p> <p>1 and the size of the lot that it's going to be</p> <p>2 placed on.</p> <p>3 And certainly when it comes to a</p> <p>4 question of being in harmony with the</p> <p>5 neighborhood, once again, it's going to be the</p> <p>6 smallest house on the second largest lot. So I</p> <p>7 think it continues to be in harmony. Not only</p> <p>8 is it in harmony, it essentially -- the Zook</p> <p>9 house, in some sense, defines this neighborhood.</p> <p>10 And in that sense it meets the next</p> <p>11 criteria, promotes the essential character of</p> <p>12 the area. We had a lot of discussion about that</p> <p>13 there's no other means to achieve the end here,</p> <p>14 but we need to take a look at the complete</p> <p>15 wording of that requirement. It isn't just when</p> <p>16 we say there's no other remedy. That's not</p> <p>17 simply a challenge to say well, can we come up</p> <p>18 with some other way to deal with this. Because</p> <p>19 all of that has to be conditioned upon the last</p> <p>20 clause in that requirement.</p> <p>21 It has to be there aren't any other</p> <p>22 means sufficient to permit a reasonable use of a</p>

1 property. And I think that by once we look at
2 the complexity of that requirement, we can see
3 that these other proposed solutions do not meet
4 that part of it. They are not sufficient to
5 permit a reasonable use of the property because
6 there's a suggestion, for instance, well, just
7 if you want to preserve the house, preserve the
8 house, and deal with it as it is on the property
9 of that magnitude. But that's not a reasonable
10 way to deal with this property.

11 This property, as we have heard
12 people say, it could be sold tomorrow. If we
13 are looking at what's reasonable here, it isn't
14 what's aesthetically pleasing to all of us. It
15 would be what would be reasonable to do with
16 this property would be to sell the entire piece
17 of it, and I guess there's some controversy
18 between how you would maximize the return on
19 this property.

20 There's a suggestion that dividing
21 it up is an effort to make money. But it seems
22 to me that the way you would really maximize

1 this, if that was the issue, you would sell the
2 entire piece of property as it now exists and it
3 would fetch a much higher price because of the
4 size of the structure that could be put on that
5 property. So I think we have met here -- the
6 applicant had met here the last criteria.

7 Now, I think too, though, that we
8 should put limits on this and that were
9 mentioned during the discussion, that the
10 applicant -- it should be a condition of what we
11 approve if we approve this variance, a
12 recommendation that this variance be approved,
13 that the applicant be compelled by our
14 recommendation to seek landmark status for this
15 Zook house. And that there be additional land
16 acquired so that that 1 to 5 ratio that we have
17 been discussing for 20,000 square foot property
18 is in fact what we end up with.

19 MR. CONNELLY: I couldn't say it better
20 than that. I grew up in a Zook house at 405
21 East Seventh Street, and I just want to commend
22 the Parkers for what they are doing. I think

1 it's great.

2 MR. MOBERLY: Concur.

3 MR. GILTNER: I would agree with John.
4 I think the hardship centers on this
5 preservation and we wouldn't approve this
6 variance if there wasn't a Zook house involved
7 in this.

8 I listened to the comments about
9 precedence and I don't see a risk in that.

10 First, this hasn't come up before ever, right?
11 I mean, that's what we are hearing. This is the
12 first time it's come up. So that gives you some
13 indication that there's not a lot of properties
14 where this can actually be done and just because
15 we make a decision to allow this for
16 preservation purposes, does not in any way
17 indicate how we would rule on something in the
18 future. So I just wanted to make that point.

19 And I do agree there should be the
20 conditions that you mentioned with the landmark
21 status as a part of this.

22 MR. ALESIA: John's eloquence, as

1 usual, with those two conditions, I would agree.

2 CHAIRMAN NEIMAN: I think that we had
3 discussed a third condition, the Zook house
4 actually would have to be moved. After it's
5 moved, you would apply for landmark status and
6 that some additional land would be deeded over
7 to keep the land ratio.

8 Are the owners in agreement with
9 all of those criteria?

10 MR. PARKER: Yes. Just so you know,
11 the latter one is already in the contract.

12 MR. MOBERLY: What happens if the house
13 falls down during the move? How is that
14 contemplated once we grant the variance?

15 CHAIRMAN NEIMAN: I think it has to
16 assume that the house can and will be
17 successfully moved, survive the move.
18 Otherwise, everybody will be ringing their
19 hands, and the neighbors in opposition will have
20 at least one, maybe two gargantuan homes
21 destroying their views, and all we can do is
22 cross our fingers but it's a fair point. No one

<p style="text-align: center;">10</p> <p>1 can predict that and that's beyond our control.</p> <p>2 I don't have anything to add. I</p> <p>3 suggest that perhaps someone can make a motion</p> <p>4 to recommend to the board of trustees that we</p> <p>5 grant this variance with the three criteria:</p> <p>6 That the Zook house be moved; that the owners</p> <p>7 apply for landmark status after it's moved and</p> <p>8 that the additional land be deeded over to the</p> <p>9 -- what will become the Parkers' lot to maintain</p> <p>10 the ratio that was discussed earlier.</p> <p>11 MR. PODLISKA: Because it's a</p> <p>12 recommendation, they are going to be looking to</p> <p>13 our reasons, so we could include for the reasons</p> <p>14 stated and the conditions stated.</p> <p>15 CHAIRMAN NEIMAN: Yes. And what I</p> <p>16 recommend, Chris, rather than my trying to</p> <p>17 repeat all of the reasons as John stated them</p> <p>18 why we believe that the criteria have been met,</p> <p>19 you can type up a recommendation incorporating</p> <p>20 those and the remarks of the other board members</p> <p>21 so that the board of trustees has the</p> <p>22 substantive reasons why we came to this decision</p>	<p style="text-align: center;">12</p> <p>1 MR. McGINNIS: I have not calculated</p> <p>2 FAR or building coverage or lot coverage. All</p> <p>3 we looked at at this point are the -- unless</p> <p>4 Dennis has already done a cursory review on it.</p> <p>5 The only thing we looked at were setbacks.</p> <p>6 MR. PARSONS: We have it on that one</p> <p>7 exhibit.</p> <p>8 MR. McGINNIS: So if this ends up</p> <p>9 getting approved, we can incorporate that</p> <p>10 number, that FAR number, into your</p> <p>11 recommendation.</p> <p>12 CHAIRMAN NEIMAN: That would be</p> <p>13 perfect. Thank you for resolving that.</p> <p>14 Is there a motion to recommend</p> <p>15 approval of the variance to the board of</p> <p>16 trustees with the three provisions previously</p> <p>17 stated?</p> <p>18 MR. PODLISKA: And for the reasons</p> <p>19 previously stated.</p> <p>20 CHAIRMAN NEIMAN: That too.</p> <p>21 MR. PODLISKA: So moved.</p> <p>22 MR. CONNELLY: Second.</p>
<p style="text-align: center;">11</p> <p>1 that would, I hesitate to say, shorten the</p> <p>2 evening, but it would shorten it.</p> <p>3 MR. McGINNIS: We will have a</p> <p>4 transcript of the deliberations.</p> <p>5 MR. GILTNER: The deeding of the</p> <p>6 additional land was that for frontage or was</p> <p>7 that for a ratio?</p> <p>8 MR. McGINNIS: No, it's for a required</p> <p>9 rear yard. In order to make their 50-foot</p> <p>10 required rear yard in the R-1, they have to have</p> <p>11 the excess property deeded over from the 444</p> <p>12 East Fourth property.</p> <p>13 MR. BOUSQUETTE: Robb, it's in the</p> <p>14 original submittal that you guys have so</p> <p>15 everybody has what would be the final lot size.</p> <p>16 The proposed plat is included in the</p> <p>17 information.</p> <p>18 MR. McGINNIS: It wasn't so much a</p> <p>19 ratio as it was making sure that those required</p> <p>20 yard minimums are met.</p> <p>21 CHAIRMAN NEIMAN: Okay. So with</p> <p>22 that --</p>	<p style="text-align: center;">13</p> <p>1 CHAIRMAN NEIMAN: Roll call, please?</p> <p>2 MS. BRUTON: Member Connelly?</p> <p>3 MR. CONNELLY: Aye.</p> <p>4 MS. BRUTON: Member Moberly?</p> <p>5 MR. MOBERLY: Yes.</p> <p>6 MS. BRUTON: Member Giltner?</p> <p>7 MR. GILTNER: Yes.</p> <p>8 MS. BRUTON: Member Alesia?</p> <p>9 MR. ALESIA: Yes.</p> <p>10 MS. BRUTON: Member Podliska?</p> <p>11 MR. PODLISKA: Yes.</p> <p>12 MS. BRUTON: Chairman Neiman?</p> <p>13 CHAIRMAN NEIMAN: Yes.</p> <p>14 I'd like to thank everyone for</p> <p>15 their input. This was not an easy evening for</p> <p>16 any of us and all I can do is hope that everyone</p> <p>17 understands each other's views and tries harder</p> <p>18 than you have to not ascribe bad action, bad</p> <p>19 motivations to each other. It would be very</p> <p>20 easy for us to sit here and say yes, both sides</p> <p>21 could be accused of being mercenary here.</p> <p>22 It's also easy for us to sit here</p>

<div>14</div> <div>1 and say both sides have entirely pure motives</div> <div>2 and are trying to do the right thing for</div> <div>3 themselves and their children. But merely</div> <div>4 because you disagree with the other side,</div> <div>5 doesn't mean they are evil people.</div> <div>6 I recommend that the community take</div> <div>7 that to heart. I recommend Congress take it to</div> <div>8 heart. I have nothing else to say.</div> <div>9 MR. GILTNER: Motion to adjourn.</div> <div>10 MR. CONNELLY: Second.</div> <div>11 CHAIRMAN NEIMAN: Roll call, please?</div> <div>12 MS. BRUTON: Member Connelly?</div> <div>13 MR. CONNELLY: Aye.</div> <div>14 MS. BRUTON: Member Moberly?</div> <div>15 MR. MOBERLY: Yes.</div> <div>16 MS. BRUTON: Member Giltner?</div> <div>17 MR. GILTNER: Yes.</div> <div>18 MS. BRUTON: Member Alesia?</div> <div>19 MR. ALESIA: Yes.</div> <div>20 MS. BRUTON: Member Podliska?</div> <div>21 MR. PODLISKA: Yes.</div> <div>22 MS. BRUTON: Chairman Neiman?</div>	<div>16</div> <div>1 STATE OF ILLINOIS)</div> <div>2) ss:</div> <div>2 COUNTY OF DU PAGE)</div> <div>3 I, KATHLEEN W. BONO, Certified</div> <div>4 Shorthand Reporter, Notary Public in and for the</div> <div>5 County DuPage, State of Illinois, do hereby</div> <div>6 certify that previous to the commencement of the</div> <div>7 examination and testimony of the various</div> <div>8 witnesses herein, they were duly sworn by me to</div> <div>9 testify the truth in relation to the matters</div> <div>10 pertaining hereto; that the testimony given by</div> <div>11 said witnesses was reduced to writing by means</div> <div>12 of shorthand and thereafter transcribed into</div> <div>13 typewritten form; and that the foregoing is a</div> <div>14 true, correct and complete transcript of my</div> <div>15 shorthand notes so taken aforesaid.</div> <div>16 IN TESTIMONY WHEREOF I have</div> <div>17 hereunto set my hand and affixed my notarial</div> <div>18 seal this 28th day of June, A.D. 2017.</div> <div>19</div> <div>20 KATHLEEN W. BONO,</div> <div>21 C.S.R. No. 84-1423</div> <div>22</div>
<div>15</div> <div>1 CHAIRMAN NEIMAN: Yes.</div> <div>2 (WHICH, were all of the</div> <div>3 discussions had in the</div> <div>4 above entitled cause.)</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div>	

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7a

MEMORANDUM

TO: Chairman Neiman and Members of the Zoning Board of Appeals

FROM: Robert McGinnis MCP
Director of Community Development/Building Commissioner

DATE: July 10, 2017

RE: Zoning Variation – V-06-17; 19 Lansing Street

In this application for variation, the applicant requests relief from the minimum side yard setback requirements set forth in section 10-105 (A)(3)(b) for the construction of a detached one-car garage. The applicant is requesting a 1.5' reduction in the required interior side yard from 7' to 5.5'.

This property is located in the R-4 Residential District in the Village of Hinsdale and is located on the north side of Lansing between Lincoln & Washington. The property has a frontage of approximately 60', a depth of approximately 210', and a total square footage of approximately 12,600. The maximum FAR is approximately 4,224 square feet, the maximum allowable building coverage is 25% or approximately 3,150 square feet, and the maximum allowable lot coverage is 50% or approximately 6,300 square feet.

cc: Kathleen A. Gargano, Village Manager
Zoning file V-06-17

Zoning Calendar No. V-06-17

VILLAGE OF HINSDALE
APPLICATION FOR VARIATION

COMPLETE APPLICATION CONSISTS OF TEN (10) COPIES
(All materials to be collated)

FILING FEES: RESIDENTIAL VARIATION \$850.00

NAME OF APPLICANT(S): Susan B. Phillip

ADDRESS OF SUBJECT PROPERTY: 19 Lansing Street

TELEPHONE NUMBER(S): H) 630-920-1283 c) 630-452-6628

If Applicant is not property owner, Applicant's relationship to property owner.

DATE OF APPLICATION: 7/5/2017



SECTION I

Please complete the following:

1. Owner. Name, address, and **telephone number** of owner: Susan B. Phillip
19 Lansing Street H) 630-920-1283 C) 630-452-6628
2. Trustee Disclosure. In the case of a land trust the name, address, and **telephone number** of all trustees and beneficiaries of the trust: N/A
3. Applicant. Name, address, and **telephone number** of applicant, if different from owner, and applicant's interest in the subject property: N/A
4. Subject Property. Address and legal description of the subject property: (Use separate sheet for legal description if necessary.) 19 Lansing Street, Hinsdale
Property Index Number: 09-01-123-011
See attached Property Tax Invoice and
plot of survey.
5. Consultants. Name and address of each professional consultant advising applicant with respect to this application:
 - a. Attorney: Mark A. Phillip 1819 Ashland Chicago, IL 60608
 - b. Engineer: Through Blue Sky Garage Builders: Robert P. Schlaf, P.E.
 - c. 335 Ventura Club Dr. Roselle, IL 60172
 - d. _____

6. Village Personnel. Name and address of any officer or employee of the Village with an interest in the Owner, the Applicant, or the Subject Property, and the nature and extent of that interest:

a. N/A

b. _____

7. Neighboring Owners. Submit with this application a list showing the name and address of each owner of (1) property within 250 lineal feet in all directions from the subject property; and (2) property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property or on a frontage directly opposite any such frontage or on a frontage immediately adjoining or across an alley from any such frontage.

See attached

After the Village has prepared the legal notice, the applicant/agent must mail by certified mail, "return receipt requested" to each property owner/ occupant. The applicant/agent must then fill out, sign, and notarize the "Certification of Proper Notice" form, returning that form and all certified mail receipts to the Village.

8. Survey. Submit with this application a recent survey, certified by a registered land surveyor, showing existing lot lines and dimensions, as well as all easements, all public and private rights-of-way, and all streets across and adjacent to the Subject Property.
9. Existing Zoning. Submit with this application a description or graphic representation of the existing zoning classification, use, and development of the Subject Property, and the adjacent area for at least 250 feet in all directions from the Subject Property.

See attached.

10. Conformity. Submit with this application a statement concerning the conformity or lack of conformity of the approval being requested to the Village Official Comprehensive Plan and the Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, the statement should set forth the reasons justifying the approval despite such lack of conformity.

See attached.

11. Zoning Standards. Submit with this application a statement specifically addressing the manner in which it is proposed to satisfy each standard that the Zoning Ordinance establishes as a condition of, or in connection with, the approval being sought.

See attached

12. Successive Application. In the case of any application being filed less than two years after the denial of an application seeking essentially the same relief, submit with this application a statement as required by Sections 11-501 and 11-601 of the Hinsdale Zoning Code.

N/A

SECTION II

When applying for a variation from the provisions of the Zoning Ordinance, you must provide the data and information required above, and in addition, the following:

1. Title. Evidence of title or other interest you have in the Subject Project, date of acquisition of such interest, and the specific nature of such interest. *See attached*
2. Ordinance Provision. The specific provisions of the Zoning Ordinance from which a variation is sought:

10-105 A3 b - minimum side yard

3. Variation Sought. The precise variation being sought, the purpose therefor, and the specific feature or features of the proposed use, construction, or development that require a variation: (Attach separate sheet if additional space is needed.)

See attached

4. Minimum Variation. A statement of the minimum variation of the provisions of the Zoning Ordinance that would be necessary to permit the proposed use, construction, or development: (Attach separate sheet if additional space is needed.)

See attached

5. Standards for Variation. A statement of the characteristics of Subject Property that prevent compliance with the provisions of the Zoning Ordinance and the specific facts you believe support the grant of the required variation. In addition to your general explanation, you must specifically address the following requirements for the grant of a variation:

- (a) Unique Physical Condition. The Subject Property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure of sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the Subject Property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current lot owner. *See attached.*
- (b) Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner, or of the owner's predecessors in title and known to the owner prior to acquisition of the Subject Property, and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.
See attached
- (c) Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the Subject Property of substantial rights commonly enjoyed by owners of other lots subject to the same provision. *See attached*
- (d) Not Merely Special Privilege. The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.
See attached
- (e) Code and Plan Purposes. The variation would not result in a use or development of the Subject Property that would not be in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.
See attached
- (f) Essential Character of the Area. The variation would not result in a use or development of the Subject Property that:
See attached
- (1) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use development, or value of property of improvements permitted in the vicinity; or
 - (2) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or
 - (3) Would substantially increase congestion in the public streets due to traffic or parking; or

- (4) Would unduly increase the danger of flood or fire; or
- (5) Would unduly tax public utilities and facilities in the area; or
- (6) Would endanger the public health or safety.
- (g) No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the Subject Project.
(Attach separate sheet if additional space is needed.)

see attached

SECTION III

In addition to the data and information required pursuant to any application as herein set forth, every Applicant shall submit such other and additional data, information, or documentation as the Village Manager or any Board of Commission before which its application is pending may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

1. A copy of preliminary architectural and/or surveyor plans showing the floor plans, exterior elevations, and site plan needs to be submitted with each copy of the zoning petitions for the improvements.
2. The architect or land surveyor needs to provide zoning information concerning the existing zoning; for example, building coverage, distance to property lines, and floor area ratio calculations and data on the plans or supplemental documents for the proposed improvements.

SECTION IV

1. Application Fee and Escrow. Every application must be accompanied by a non-refundable application fee of \$250.00 plus an additional \$600.00 initial escrow amount. The applicant must also pay the costs of the court reporter's transcription fees and legal notices for the variation request. A separate invoice will be sent if these expenses are not covered by the escrow that was paid with the original application fees.
2. Additional Escrow Requests. Should the Village Manager at any time determine that the escrow account established in connection with any application is, or is likely to become, insufficient to pay the actual costs of processing such application, the Village Manager shall inform the Applicant of that fact and demand an additional deposit in an amount deemed by him to be sufficient to cover foreseeable additional costs. Unless and until such additional amount is deposited by the Applicant, the Village Manager may direct that processing of the application shall be suspended or terminated.
3. Establishment of Lien. The owner of the Subject Property, and if different, the Applicant, are jointly and severally liable for the payment of the application fee. By signing the application, the owner has agreed to pay said fee, and to consent to the filing and foreclosure of a lien against the Subject Property for the fee plus costs of collection, if the account is not settled within 30 days after the mailing of a demand for payment.

SECTION V

The owner states that he/she consents to the filing of this application and that all information contained herein is true and correct to the best of his/her knowledge.

Name of Owner:

Susan B. Phillip

Signature of Owner:

Susan B. Phillip

Name of Applicant:

Susan B. Phillip

Signature of Applicant:

Susan B. Phillip

Date:

7/5/2017



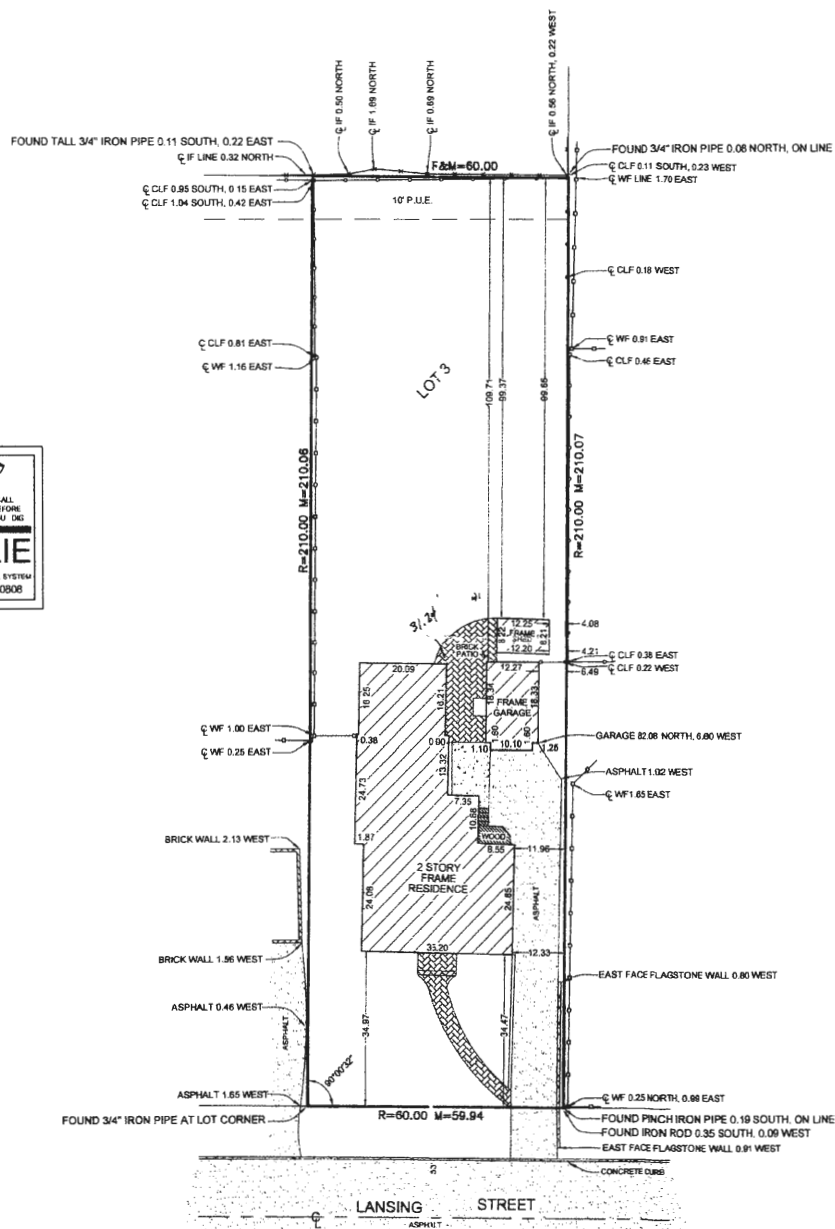
SCHOMIG LAND SURVEYORS, LTD.

PLAT OF SURVEY

909 EAST 31ST STREET
LA GRANGE PARK, ILLINOIS 60526
SCHOMIG-SURVEY@SBCGLOBAL.NET
WWW.LAND-SURVEY-NOW.COM
PHONE: 708-352-1452
FAX: 708-352-1454

LOT 3 IN HANSON-PEARSALL RESUBDIVISION OF LOTS 10, 11, 12 AND 13 IN BLOCK 2 IN LANSING'S ADDITION TO THE TOWN OF HINSDALE, IN THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID RESUBDIVISION RECORDED AUGUST 13, 1965 AS DOCUMENT R65-30446, IN DU PAGE COUNTY, ILLINOIS.

COMMON ADDRESS: 19 LANSING STREET, HINSDALE.



THE CUSTOMER LISTED BELOW PROVIDED THE LEGAL DESCRIPTION SHOWN HEREON. WE DO NOT GUARANTEE THAT THIS IS THE CORRECT LEGAL DESCRIPTION FOR THE TRANSACTION INTENDED.

IMPORTANT: COMPARE THE LEGAL DESCRIPTION TO DEED OR TITLE POLICY AND REPORT ANY DISCREPANCY FOR CLARIFICATION OR CORRECTION IMMEDIATELY, UNLESS OTHERWISE NOTED. THIS PLAT DOES NOT SHOW BUILDING LINES OR OTHER RESTRICTIONS ESTABLISHED BY LOCAL ORDINANCES.

DO NOT SCALE DIMENSIONS FROM THIS PLAT. THE LOCATION OF SOME FEATURES MAY BE EXAGGERATED FOR CLARITY. NO EXTRAPOLATIONS MAY BE MADE FROM THE INFORMATION SHOWN WITH OUT THE WRITTEN PERMISSION OF SCHOMIG LAND SURVEYORS, LTD. ONLY PLATS WITH AN EMBOSSED SEAL ARE OFFICIAL DOCUMENTS. FIELD WORK WAS COMPLETED PER SURVEY DATE LISTED BELOW. © COPYRIGHT, ALL RIGHTS RESERVED.

SURVEY DATE: OCTOBER 5TH, 2016.

BUILDING LOCATED: OCTOBER 5TH, 2016.

ORDERED BY: SIAN B. PHILLIP FILE: 981233.CRD

PLAT NUMBER: 162764 & H23-42 SCALE: 1" = 20'

LEGEND
M. = MEASURED DIMENSION
R. = RECORDED DIMENSION
B.L. = BUILDING LINES
P.U.E. = PUBLIC UTILITY EASEMENT
D.E. = DRAINAGE EASEMENT
C. = CENTER LINE
C.L.F. = CHAIN LINK FENCE
W.F. = WOOD FENCE
V.F. = VINYL FENCE
I.F. = IRON FENCE

STATE OF ILLINOIS }
COUNTY OF COOK }

LOT AREA: 12,587 Sq. Ft.

WE, SCHOMIG LAND SURVEYORS, LTD., AS AN ILLINOIS PROFESSIONAL DESIGN FIRM, LAND SURVEYOR CORPORATION, DO HEREBY CERTIFY THAT WE HAVE SURVEYED THE PROPERTY DESCRIBED IN THE LEGAL DESCRIPTION AFFIXED TO THIS PLAT.

ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS OF A FOOT. DIMENSIONS SHOWN ON BUILDINGS ARE TO THE OUTSIDE OF BUILDINGS. THE BASIS OF BEARINGS, IF SHOWN AND UNLESS OTHERWISE NOTED, ARE ASSUMED, AND SHOWN TO INDICATE ANGULAR RELATIONSHIP OF LOT LINES.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

BY: *Russell W. Schomig*
PROFESSIONAL ILLINOIS LAND SURVEYOR LICENSE # 035-002446



Rate 2015	Tax 2015	Taxing District	Rate 2016	Tax 2016
** COUNTY **				
.1185	215.83	COUNTY OF DU PAGE	.1110	215.30
.0256	46.62	PENSION FUND	.0241	46.74
.0400	72.85	COUNTY HEALTH DEPT	.0364	70.60
.0130	23.67	PENSION FUND	.0133	25.79
.1508	274.66	FOREST PRESERVE DIST	.1417	274.85
.0114	20.76	PENSION FUND	.0097	18.81
.0188	34.24	DU PAGE AIRPORT AUTH	.0176	34.13
** LOCAL **				
NO LEVY		DU PAGE WATER COMM	NO LEVY	
.0346	63.02	DOWNERS GROVE TWP	.0329	63.81
.0022	4.00	PENSION FUND	.0021	4.07
.0532	96.89	DOWNERS GR TWP RD	.0508	98.53
.0018	3.27	PENSION FUND	.0016	3.10
.2961	539.31	VLG OF HINSDALE	.2720	527.59
.0936	170.48	PENSION FUND	.0993	192.61
.1601	291.60	VLG HINSDALE LIBRARY	.1464	283.97
.0128	23.31	PENSION FUND	.0133	25.79
NO LEVY		FLAGG CRK WATER REC	NO LEVY	
** EDUCATION **				
2.6620	4,848.56	GRADE SCHL DIST 181	2.5132	4,874.85
.0730	132.96	PENSION FUND	.0696	135.00
1.5057	2,742.48	HIGH SCHOOL DIST 86	1.4298	2,773.38
.0535	97.44	PENSION FUND	.0433	83.98
.2786	507.55	COLLEGE DU PAGE 502	.2626	509.48
5.6053	<u>10,209.50</u>	TOTALS	5.2907	<u>10,262.38</u>

Mailed to:
PHILLIP, SUSAN B
19 W LANSING ST
HINSDALE IL 60521

Property Location:

19 LANSING ST
HINSDALE, 60521

Township Assessor:

DOWNERS GROVE
630-719-6630

Tax Code:

9059

Property Index Number:

09-01-123-011

Unpaid Taxes Due: NO

TIF Frozen Value	
Fair Cash Value	600,000
Land Value	91,920
+ Building Value	108,050
= Assessed Value	199,970 *
x State Multiplier	1.0000
= Equalized Value	199,970
- Residential Exemption	6,000
- Senior Exemption	
- Senior Freeze	
- Disabled Veteran	
- Disability Exemption	
- Returning Veteran Exemption	
- Home Improvement Exemption	
- Housing Abatement	
= Net Taxable Value	193,970
x Tax Rate	5.2907
= Total Tax Due	10,262.38

* S OF A FACTOR 1.0629

CHANGE OF NAME/ADDRESS:
COUNTY CLERK 630-407-5540



2016 DuPage County Real Estate Tax Bill
Gwen Henry, CPA, County Collector
421 N. County Farm Road
Wheaton, IL 60187

Office Hours - 8:00 am-4:30 pm, Mon-Fri
Telephone - (630) 407-5900

2015 \$188,140 Assessed Value 2016 \$199,970

117213

List of Property Owners within 250 Linear Feet of 19 Lansing Street:

Evan and Jennanne Dougherty (*adjacent to 19 Lansing Street property line*)
11 Lansing Street

Barbara Erickson
18 Lansing Street

David and Christine Pequet
20 Lansing Street

Eric and Margaret Umsted (*adjacent to 19 Lansing Street property line*)
21 Lansing Street

Michael Tharp
529 N. Lincoln Street

David and Patricia Weber
543 N. Lincoln Street

Brian Sweeney
551 N. Lincoln Street

Aldo and Maria Naris (*adjacent to 19 Lansing Street property line*)
20 Center Street

Timothy and Beth O'Day (*adjacent to 19 Lansing Street property line*)
560 N. Washington Street

Mark and Karen Koten (*adjacent to 19 Lansing Street property line*)
550 N. Washington Street

Robert and Mary Brown
544 N. Washington Street

Section 1

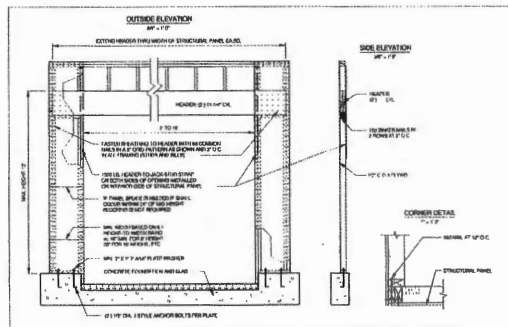
- 9: Zoning for this parcel, and the adjacent parcels within a 250-foot radius, is currently zoned R-4.
- 10: The Property currently is legal non-conforming as it predates the code. This variance seeks to rebuild the garage 18 inches (18") over the side yard line (the current garage is already six inches (6") over the side yard line), so as to create a more aesthetically pleasing view of the house and garage from the street.
- 11: See responses in Section 2.

Section 2:

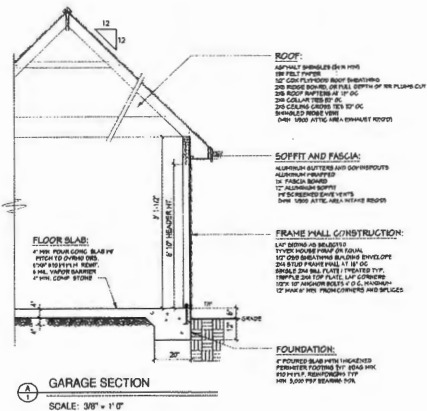
- 3: I am seeking relief from the provision 10-105A3b, minimum side yard line. My current garage is six inches (6") over the required minimum side yard line, as the structure predates the aforementioned provision. I am requesting to rebuild the garage 18 inches (18") over the required minimum side yard line.
- 4. The minimum variation of the provision that is necessary for the garage is six inches (6"), which would allow for building a new garage on the same footprint as the current garage.
- 5(a): The ancillary structure in question is a detached garage built in 1928 and has an Eastern wall that is affixed six inches (6") over the required minimum side yard line. The garage's presence on the property pre-dates the enactment of the modern zoning ordinance for the Town of Hinsdale and, as a result, is nonconforming with the current side yard requirements for ancillary structure located in property zoned R-4. The garage is currently unusable as a garage and the northern side of the garage is sinking into the ground. Additionally, the garage in its current state is small and unable to accommodate a standard-sized sport utility vehicle (SUV). Finally, conformity with the letter of the code would require extensive revisions and repairs to the area surrounding the garage in order to keep some semblance of pleasing aesthetics when viewed from the street.
- 5(b): As stated above, this garage was built in 1928 and was built prior to the enactment of the present zoning code. Therefore, the non-conformity of the garage was not self-created.
- 5(c): By applying for this variance, I am seeking to ensure that the garage on my property is large enough to comfortably accommodate one standard-sized SUV without ruining the visual aesthetics of the remaining property. Many houses in Hinsdale currently have garages that are large enough to accommodate at least one standard-sized SUV.
- 5(d): The requested variance is not merely special privilege for the owner of this property not available to other owners of R-4 zoned lots. Rather, this variance is sought to build a safe and aesthetically pleasing detached garage with the capacity to shelter a standard-sized SUV.
- 5(e): The purpose of the code is to ensure that all residents of Hinsdale have the ability to enjoy their property without encroachments from the owners of adjacent lots. Additionally, the code includes such setbacks and side yards to create aesthetically pleasing improvements. The granting of this variance would in no way be contrary to

the purpose of the code and would most likely enhance the neighborhood by providing a safe garage that will look better from the street.

- 5(f) 1: The variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use development, or value of property of improvements permitted in the vicinity.
- 5(f) 2: The variance requested will not materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
- 5(f) 3: The variance requested will not substantially increase congestion in the public streets due to traffic or parking.
- 5(f) 4: The variance requested will not unduly increase the danger of flood or fire.
- 5(f) 5: The variance requested will not unduly tax public utilities and facilities in the area.
- 5(f) 6: The variance requested will not endanger the public health or safety.
- 5(g): The current garage was built in 1928 and is in need of replacement. I wish to keep the garage in the same location, but expand it slightly towards the East side yard lot line to accommodate a modern SUV-sized vehicle. I am prevented from expanding the garage to the West (towards the house) by a cement slab that was a part of the property when I purchased it (*see attached photos*). My lot is unique in that the neighboring lot to the East has a garage of the same setback from the street as mine (*see photos*), but it is in the back 20 percent of its property and is two feet from the shared property line. Thus, I believe this request is in line with the current aesthetics of the street.

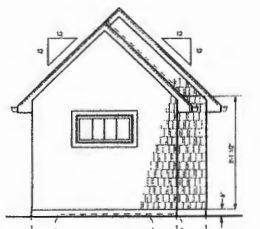


STRUCTURAL WALL PANEL



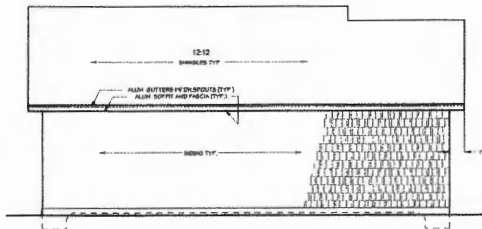
Garage Section

SCALE: 3/8" = 1'-0"



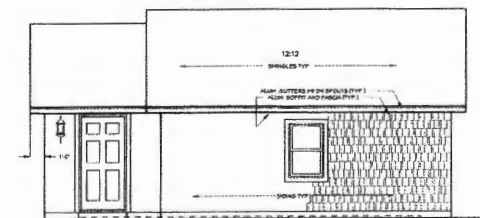
NORTH SIDE ELEVATION

SCALE: 1/4" = 1'-0"



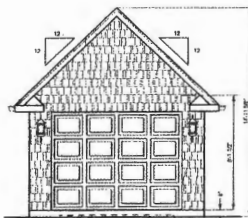
EAST SIDE ELEVATION

SCALE: 1/4" = 1'-0"



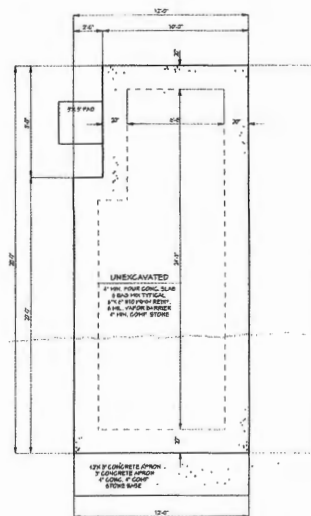
WEST SIDE ELEVATION

SCALE: 1/4" = 1'-0"



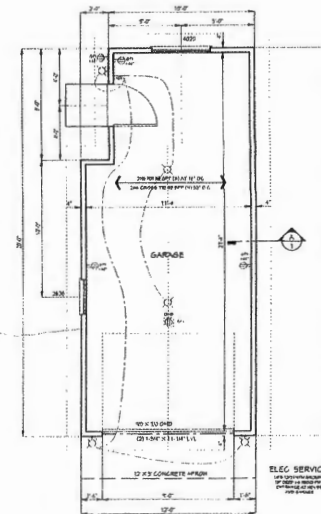
SOUTH ELEVATION

SCALE: 1/4" = 1'-0"



GARAGE FOUNDATION PLAN

SCALE: 1/4" = 1'-0"



GARAGE PLAN

SCALE: 1/4" = 1'-0"

BUILDING DEPARTMENT NOTE:
THIS DRAWING HAS BEEN PREPARED FOR USE ON THE PROJECT NOTED AND NOTED HEREON BY THE ARCHITECT. THE ARCHITECT'S RESPONSIBILITY IS TO THE BUILDING DEPARTMENT AND NOT TO THE CLIENT. THE ARCHITECT'S RESPONSIBILITY IS TO THE BUILDING DEPARTMENT AND NOT TO THE CLIENT. THE ARCHITECT'S RESPONSIBILITY IS TO THE BUILDING DEPARTMENT AND NOT TO THE CLIENT.

LOT COVERAGE AREA:	
HOUSE	1800.10
DETACHED GARAGE	300.00
TOTAL	2100.10

LOT COVERAGE TABULATION	
APPROX. LOT AREA	12,800.00
25.00% ALLOWABLE	3,200.00
ACTUAL COVERAGE	2,100.10



S.G. Architects, Inc.
ARCHITECTS-PLANNERS

1401 BROADWAY, SUITE 270
DOWNSIDE GROVE, IL 60515
PH. 630.852.0202



garage for
PHILIP
19 LANSING ST.
HINSDALE, IL 60521

BLUE SKY BUILDERS
424 CORDER AVE.
DOWNSIDE GROVE, IL 60515
PH. 630.852.0202

NO.	DATE	REVISION	BY
1	03-11-17	REVISION FOR PERMITS	SLG

JOB NO.	17031
DATE	03-11-17
DRAWN BY	SLG
SCALE	AS NOTED
SHEET NO.	1
ELEVATION	FOUNDATION PLAN
DATE	03-11-17
BY	SLG
OF	1



Street view of 19 Lansing Street home and garage, and garage and home at 11 Lansing Street.



View of 19 Lansing Street garage.



View of 19 Lansing Street garage and adjacent cement slab that prevents expansion of garage to the West.



View of Western side of garage and Eastern side of sunroom at 19 Lansing Street.



**View from sunroom of back of house,
cement slab, edge of garage and driveway
at 19 Lansing Street.**



**View of side yard between 19 Lansing
Street and 11 Lansing Street properties.
19 Lansing Street garage is currently 6 1/2
feet from the lot line and 11 Lansing Street
garage is 2 feet from the lot line.**



View of the existing garage East side that is 6 inches over the minimum required side yard line, per ordinance 10-105A3b.



View of requested 18 inch variance to provision 10-105A3b for new garage to be built at 19 Lansing Street.



View of 19 Lansing Street garage with line on ground showing the requested variance of expanding the garage an additional 12 inches to the East.



New York Life Insurance Company
2001 Butterfield Rd. Suite 800
Downers Grove, IL 60515
Bus. 630 795-5149
Fax 630-964-2761
E-Mail: doughertyj@ft.newyorklife.com

Jennanne Dougherty J.D.
Senior Associate Agency Standards

June 29, 2017

To Whom It May Concern:

I live at 11 Lansing Street, directly to the East of 19 Lansing Street.
I understand Susan Phillip, owner of 19 Lansing Street, is applying for a variance to provision 10-105A3b regarding minimum side yard for the construction of a new garage. Our garages are adjacent to one another and have the same setback from the street.

It is my understanding that a variance of 18 inches is being requested so that the East wall of the new garage would be five and a half feet from the property line rather than the required seven feet. As my garage is two feet from the shared property line, I have absolutely no objection to this request for a neighboring garage to be five and a half feet from our shared property line.

If relief to said provision is granted, no hardship to me or my property will be incurred.

I encourage the zoning board of appeals to approve this modest request.

Sincerely,

Two handwritten signatures in black ink. The first signature is "Evan Dougherty" and the second is "Jennanne Dougherty".

Evan and Jennanne Dougherty, J.D.
Homeowners of 11 Lansing St.

**PROPOSED RULES FOR WRITTEN SUBMISSIONS
TO THE HINSDALE ZONING BOARD OF APPEALS**

The Hinsdale Zoning Board of Appeals will consider adopting the following proposed rules governing written submissions to the ZBA at its July 19, 2017 meeting:

1. No party is required to submit legal briefs or letters to the ZBA in support of any zoning appeal or variance request. The only documents that any appellant or zoning variance applicant must submit are the appeal forms and/or variance request forms and accompanying materials already required under the Hinsdale Zoning Code.

2. If, however, any party wishes to submit a separate legal brief or letter in support of their zoning appeal or variance application, then each such party shall deliver to the Zoning Board of Appeals at Hinsdale Village Hall ten (10) signed copies of such briefs or letters at least 21 days before the ZBA meeting when the ZBA will hear the appeal or variance application.

3. Within ten days thereafter, the Village of Hinsdale may, but is not required, to file a brief or letter in response to any brief or letter that any other party has filed. Any such letter or brief that the Village may file in response shall conform to all of the requirements established in these rules.

4. Any brief or letter submitted in support of or in response to any such letter or brief must be on 8-1/2 by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. The type face must be 14 point type or larger. A one inch margin is required at the top, bottom, and each side of each page. Each page must have a page number at the bottom.

5. No such briefs or letters shall exceed 12 pages unless the ZBA grants a party's request for an extension of that page limit. Footnotes are discouraged.

6. If any such letter or brief cites to any legal authority, then the letter or brief must contain an index indicating each page number of the letter or brief which cites to that legal authority.

7. If any such brief or letter refers to any other documents, then all such documents must be attached as exhibits. Every such exhibit attached to the brief or letter must be identified with an exhibit number, and must be preceded by a numbered tab corresponding with the exhibit number that protrudes on the right hand side of such brief or letter. All such exhibits must be legible.

8. Any such brief or letter containing less than 20 pages of text and exhibits combined must be firmly stapled in the upper left hand corner of the brief or letter. Briefs or letters that contain more than 20 pages of combined text and exhibits must be spiral bound on the left hand side in a manner that does not interfere with the legibility of any such text or exhibits.

9. If any such brief or letter cites any code section, ordinance, statute, or court decision, then such legal authority must be attached in its entirety as an exhibit to the brief or letter, and the exhibit number must be included in the index required under paragraph 6.

10. The ZBA will not consider briefs or letters that do not meet all of these requirements.