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**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
June 21, 2017**

**1. CALL TO ORDER**

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, June 21, 2017 at 6:37 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

**2. ROLL CALL**

**Present:** Members Marc Connelly, Gary Moberly, Keith Giltner, Joseph Alesia, John Podliska and Chairman Bob Neiman

**Absent:** Member Kathryn Engel

**Also Present:** Village Attorney Michael Marrs, Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

**3. APPROVAL OF MINUTES**

a) **Regular meeting of May 17, 2017**

Corrections were made to the draft minutes; Member Giltner moved to **approve the minutes of the regular meeting of May 17, 2017, as amended.** Member Podliska seconded the motion.

**AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Member Engel

Motion carried.

**4. APPROVAL OF FINAL DECISION**

a) **V-05-17, 117 South Clay Street**

Corrections were made to the draft final decision; Member Moberly moved to **approve the Final Decision for V-05-17, 117 South Clay Street, as amended.** Member Connelly seconded the motion.

**AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Member Engel

Motion carried.

1 **5. RECEIPT OF APPEARANCES** – The court reporter administered the oath to  
2 all persons intending to testify at either of the public hearings  
3

4 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO**  
5 **MAKE PUBLIC COMMENT OF A GENERAL NATURE** – None  
6

7 **7. PRE-HEARING AND AGENDA SETTING** – None  
8

9 **8. PUBLIC HEARINGS**

10 Chairman Neiman announced the two public hearings for this evening and  
11 asked counsel to approach the podium. Mr. Mark Daniel from Daniel Law  
12 Office, representing the applicant, and Mr. Michael Marrs from Klein, Thorpe  
13 and Jenkins, representing the Village Manager, introduced themselves.

14 Chairman Neiman addressed the members of the Board stating that lengthy  
15 materials for the appeal, APP-01-17, were delivered on Friday last. He stated  
16 the Village Manager had written a memo that waived any requirements for  
17 prior publication, which he would like included in the record. He asked the  
18 Board members if they had had a chance to thoroughly read and digest the  
19 materials, or does anyone want more time. Members Connelly and Alesia  
20 stated they would like more time. Mr. Marrs, in response to Chairman  
21 Neiman's question, stated he does not need to respond in writing, and is  
22 prepared to proceed. Mr. Daniel stated he can sum up quickly, make a clear  
23 demonstration of the facts, and added that the ZBA has dealt with these types  
24 of cases twice this year already. Members Connelly and Alesia agreed that in  
25 fairness to the applicants and all the people present, the public hearing should  
26 move forward this evening.

27 Chairman Neiman stated the Board members have read the appeal and the  
28 application for variance, and the Village Manager suggested the appeal should  
29 be heard first, because if the Board granted the appeal, the variation wouldn't  
30 be necessary. However, if Board members think they are likely to grant the  
31 variance; he wondered if that would suffice for the applicants. The variation is  
32 the easier of the two cases. Discussion followed regarding the merits of  
33 Chairman Neiman's suggestion; ultimately it was agreed by all parties to hear  
34 both cases in the order presented.  
35

36 a) **APP-01-17, 444 East Fourth Street/435 Woodside Avenue** (*A transcript*  
37 *of this proceeding is included in the permanent record.*)

38 Chairman Neiman asked if Mr. Daniel had anything new to add in addition  
39 to the contents of his brief. Mr. Daniel said he has the 1929 code for the  
40 record and would like to provide background on that. He stated there is  
41 one key point and that is the question of whether the lot was vacant in 1988  
42 or became vacant thereafter, and if the structure that was there could not  
43 be rebuilt under Section 10-104C. Mr. Marrs agreed, but believes there is a  
44 second issue and that is because the house straddles the lot line, and  
45 therefore Section 10-105 never comes into play.

46 Mr. Daniel offered there is some uncertainty as to whether the house  
47 straddles the lot, because he believes the depth of lots 1, 2, 3 and 4 in the

1 re-subdivision of block 8 shrunk at least 2.2' feet on the west end, and the  
2 south lot gained 2' feet in depth when you compare the 1894 plat to the  
3 1966 survey.

4 Mr. Marrs stated this historical data has no bearing on his stipulation with  
5 the legal issue. There may have been surveying errors over the years, but  
6 the house currently sits on the lot line and encroaches in the south lot.

7 Mr. Daniel asked to provide a brief summary of his position for the Board.  
8 He distributed the 1929 information. His clients submit that lots 1 – 4 are  
9 one lot of record; lots 18 and 19 are one lot of record; historic lots of  
10 record. For the purposes of appeal, he wants to be clear they are asking  
11 for permission to relocate the Zook house, the home will be situated on lots  
12 18 and 19. Once the home is moved, the north lot will become vacant, and  
13 the vacancy occurs after 1988. At that point in time, an owner is entitled  
14 under 10-105 and 3-110 to relief on lot dimensions, and possibly building  
15 height. He described the contents of the 1929 and 1935 zoning  
16 ordinances. He described the changes in the surveys since those years  
17 and the possible impact to what is considered a zoning lot, and concludes  
18 that the lots in question are not in their entirety one zoning lot. If the home  
19 extends into the south lot, it only touches on about 13-24' square feet of the  
20 south lot. A proposal to relocate hinges on a three factor analysis. Is this  
21 an historic lot of record, a legal nonconforming lot of record? Does the  
22 relocation comply with 10-105A? Is the lot vacant? Mr. Daniel contends  
23 that this situation meets all three requirements, because the lot will be  
24 vacant after 1988.

25 Discussion followed regarding the vacancy requirement. Chairman Neiman  
26 acknowledged there are ambiguities in the code, but said it is the  
27 responsibility of the ZBA to interpret the code as best they can. He noted  
28 the standard for an appeal is found in 11-502(B) and states the appeal  
29 procedure is provided as a safeguard against arbitrary, ill-considered, or  
30 erroneous administrative decisions. It is intended to avoid the need for  
31 resort to legal action by establishing local procedures to review and correct  
32 administrative errors. It is not, however, intended as a means to subvert  
33 the clear purposes, meanings, or intents of the code or the rightful authority  
34 of the village manager to enforce the requirements of the code. Further,  
35 the reviewing body, the ZBA in this case, should give all proper deference  
36 to the spirit and intent embodied in the language of the code and to the  
37 reasonable interpretations of that language by those charged with the  
38 administration of the code.

39 Chairman Neiman asked, given the fact that Mr. Daniel concedes the  
40 cement stairs in the earth and attached to the house encroach on the south  
41 lot, why the Village Manager's decision is arbitrary and should be  
42 overturned.

43 Mr. Daniel said there are two reasons. First, there is a zoning lot failure  
44 demonstrated by the lot size changes in the plats of survey. Secondly, the  
45 Appellate Court and the Supreme Court have held that zoning ordinances  
46 are penal in nature, and to the extent that property is involved, the benefit  
47 of the doubt does to the property owner. He said the Village Manager is

1 not sworn to administer rules that do not appear in the ordinance, or a new  
2 definition of the word vacant or when a property becomes vacant. Further,  
3 the Hinsdale zoning code does not distinguish between an accessory  
4 structure and a building, and as such creates great prejudice to the  
5 individual property owner. There were no additional questions from the  
6 Board for Mr. Daniel.

7  
8 Mr. Marrs addressed the Board stating there is some common ground, but  
9 some fundamental differences on certain key aspects. The overreaching  
10 question is does Mr. Bousquette, under the Village code, have the right  
11 without a variation or any other further zoning relief to sell off half his  
12 property that he owns between Fourth and Woodside so there could be two  
13 houses there instead of one. He referenced the evidence that shows the  
14 existing house crosses the lot line between the north and south lots, and  
15 contends that it is more than just a stairway, it's a house. Staff has been  
16 consistent that if a house straddles a lot line, you don't get to divide that  
17 property as of right, you need a subdivision. Even if you accept these  
18 should be treated as two separate lots, the lot to the south doesn't meet the  
19 definition of legal nonconforming lot because it isn't vacant as defined in  
20 the zoning code. This property would require subdivision and a variation to  
21 build on the non-conforming lot. He explained the process by which staff  
22 looked at the code and that 10-104 deals with precode structures which  
23 protects homeowners and permits certain alterations or enlargements. You  
24 can voluntarily demolish a precode structure and rebuild it is so long as it  
25 remains in conformance with all applicable standards other than minimum  
26 lot area and lot dimension requirements. Section 10-105 goes with 10-104  
27 and the provisions work together to preserve the rights of owners while  
28 maintaining the existing density of the Village as it existed in 1988.  
29 However, you can't move from 10-104 to 10-105 just by demolishing your  
30 house if you have the ability to rebuild on the lot in conformance with all  
31 regulations other than minimum lot area and lot width.

32 Mr. Marrs explained the Village's position on zoning lots, and added that  
33 nothing in Mr. Daniel's submittal or remarks creates a reasonable inference  
34 that the house was always intended to exist wholly on the north lot and for  
35 the south lot to be left vacant for future development. In fact, the most  
36 recent survey supplied by the owner to staff shows a house that sits  
37 approximately in the middle of these two large tracts between two streets  
38 as though it was meant to occupy the entire property.

39 Chairman Neiman asked Mr. Marrs if he agrees that ZBA decisions have no  
40 precedential value. Mr. Marrs stated that with respect to variations that is  
41 true because each variation is taken on its facts, but that appeals can have  
42 some precedential value.

43 The attorneys discussed potentially precedential cases on Phillippa and  
44 Mills and their relevance to this matter; Mr. Daniel argued that variances  
45 have precedential value because those decisions constitute the history of  
46 the ZBA. Further, he believes that previous acceptance by the Board  
47 regarding two legal nonconforming lots of record is precedential; but

1 hardship is not.

2 Member Moberly commented that he doesn't think the Board can answer  
3 future questions, this comment in response to the vacancy of the property.  
4 There were no additional questions from the Board, and no public  
5 comment.

6 Member Giltner moved to **close the public hearing for APP-01-17, 444**  
7 **East Fourth Street/435 Woodside Avenue.** Member Moberly seconded  
8 the motion.

9  
10 **AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman  
11 Neiman

12 **NAYS:** None

13 **ABSTAIN:** None

14 **ABSENT:** Member Engel

15  
16 Motion carried.

17  
18  
19 **DELIBERATIONS**  
20

21 Member Podliska began by stating the property as of this hearing is not vacant,  
22 and that is what matters and what is before the Board. Due to the existing  
23 encroachment, neither of the properties is vacant; therefore, they do not have the  
24 right to proceed to move the house to one lot, and to sell and build on the other.  
25 He noted this conclusion does not have anything to do with any variance that  
26 might be granted.

27 Members Alesia and Giltner concurred. Member Giltner added future vacancy is  
28 not before this Board. Chairman Neiman agreed and added that granting the  
29 appeal requires the Board to determine that the property is a legal nonconforming  
30 lot of record under 12-206, but the definition, among other things, requires that  
31 the lot was vacant on June 18, 1988. Mr. Daniel has conceded tonight and in his  
32 June 15<sup>th</sup> letter that the exterior basement stairs encroach on the south property.  
33 Chairman Neiman believes the concept of future vacancy defies logic, has no  
34 basis in the code, and as a result he does not believe the requirements to  
35 approve the appeal are present.

36 Member Moberly moved to **deny the appeal known as APP-01-17, 444 East**  
37 **Fourth Street/435 Woodside Avenue.** Member Podliska seconded the motion.

38  
39 **AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman  
40 Neiman

41 **NAYS:** None

42 **ABSTAIN:** None

43 **ABSENT:** Member Engel

44  
45 Motion carried.

46  
47 Mr. Daniel stated he had prepared a final decision according to the code, so the

1 Board can make the final decision tonight. It recites the facts, and he thought this  
2 would be a convenience for the Board. Staff confirmed that final decisions are  
3 prepared by the Village. Chairman Neiman denied Mr. Daniel's request.

4  
5 *The Zoning Board took a brief recess and reconvened at 8:29 p.m.*

6  
7 a) **V-04-17, 435 Woodside Avenue** (A transcript of this proceeding is  
8 included in the permanent record.)

9 Chairman Neiman opened the public hearing and began with a general  
10 statement, his personal opinion, and invited other members of the Board to  
11 weigh in. He commented that many people move to Hinsdale because they  
12 like the 'feel' of the neighborhood. He tends to err on the side of  
13 preservation, particularly if the homes are of historic value, such as the one  
14 before the Board tonight. He noted the Board has read and digested many  
15 letters for and against the variance request. The question before the Board  
16 is whether the applicant has met the criteria in the code that will allow them  
17 to move the Zook house from the north lot to the south lot and then build a  
18 new home on the north lot.

19 Mr. Daniel introduced Mr. Kris Parker who is the tenant in the Zook house  
20 located at 444 East Fourth Street, and one of the contract purchasers of the  
21 Woodside lot previously described as Lots 18 and 19 in the Block 8 re-  
22 subdivision.

23 Mr. Parker addressed the Board and thanked those friends and neighbors  
24 who are present tonight in support. He distributed additional letters to the  
25 Board from other persons who are in support of the variance and the  
26 relocation of the Zook house. His family has lived in the Zook house since  
27 December 2016, and it is more than an historic property, it is their home.  
28 He provided the Board with his personal history which created a love of old  
29 homes, and described how his family came to live in this home.

30 With respect to lot size, he commented that he can appreciate large lot  
31 sizes are central to the character of the town, but he believes the proposed  
32 lot is in keeping with the others in the area. He noted that 91% of the  
33 persons who signed the petition to preserve the lot size of 444 East Fourth  
34 Street have a lot that is smaller than the 30,000 square foot requirement.  
35 Further, 59% of those people have a lot that is smaller than the one they  
36 are proposing. He is troubled by this 'intellectual dishonesty'. He hopes  
37 this attitude will not result in the loss of this historic Zook home. He is  
38 convinced that it would be difficult if not impossible to find someone to take  
39 on a 50,000 square foot lot with a 4,000 square foot home that is in  
40 desperate need of a new foundation and will need to be elevated to  
41 accommodate those repairs or relocated on a new foundation elsewhere on  
42 the property. He said it is also important to note that Mr. Bousquette  
43 regularly gets offers to buy the property as one lot, tear down the Zook and  
44 build much larger house on the lot, more than three times the size of the  
45 Zook. He thinks it is unrealistic to expect Mr. Bousquette to continue to  
46 carry this property at his personal expense.

47 Mr. Parker gave a brief history of the property and the former owners, and

1 assured the Board that he and his wife intend to continue this legacy.  
2 He believes there is a letter of the law and a spirit of the law. The south lot  
3 fails to conform to a standard that only 8% of homes in the R1 district  
4 actually meet. The lot they want to buy is actually the second largest on  
5 Woodside, and only 800' square feet short of being the largest. He  
6 believes an argument could be made that they are actually rightsizing these  
7 lots in order to better match the neighborhood. They would also seek  
8 landmark status for this property. He remarked the house has stood for  
9 almost 90 years without an addition, and his project assures it would never  
10 need one, and would sit atop a new and finished basement. He believes  
11 this is a win for everyone; it beautifies Woodside by clearing up an ugly  
12 collection of trees and growth, the Zook house fits perfectly with the  
13 character of Woodside and complements the stone homes that would be on  
14 either side, access to Woodside will be decreased by one driveway, and the  
15 drainage situation would improve.  
16 In closing, he asked the Board to please allow them to use the south lot  
17 and save the Zook house.  
18 Mr. Daniel confirmed there is water infiltration through the foundation into  
19 the basement of the house.  
20 Mr. Marrs reminded the Board that although he doesn't doubt the sincerity  
21 of the Parkers, because the house is not currently landmarked there is  
22 nothing to stop it from being demolished, even if the variance is granted.  
23 Chairman Neiman confirmed that as a condition of granting the variance,  
24 the house cannot be torn down. Mr. Parker stated he would be willing to  
25 sign a document attesting to their commitment to seek landmark status.  
26 Mr. Matthew Bousquette, applicant and property owner, addressed the  
27 Board and said he is here tonight as the last attempt to save the Zook  
28 house at 444 East Fourth Street by repositioning it on Woodside. In his  
29 opinion there are two buildable lots, one on Woodside and one on Fourth  
30 Street. He provided background on the situation to the Board. In 2008 he  
31 purchased a lot at 445 East Woodside, which is immediately adjacent to the  
32 proposed lot for the Zook house. This was an empty lot at the time of  
33 purchase, as the seller had torn down the existing house prior to his  
34 purchase. It remains a vacant lot to this day. He also purchased 448 East  
35 Fourth Street, which backs up to the 445 East Woodside property. During  
36 the years 2004 to 2017, while his lot on Woodside remained vacant, every  
37 single home on the Woodside block was either demolished and rebuilt or  
38 expanded to the maximum floor area ratio (FAR). While he was renovating  
39 the house on 448 East Fourth Street, his family moved from rental to rental  
40 five times in five years until they purchased 444 East Fourth Street, the  
41 Zook home, which is next to the property they were renovating. The  
42 intention was to provide a permanent place for their family to live during the  
43 completion of the renovation. The renovation was completed in November  
44 2015 and his family moved home and put the Zook house up for rent. In  
45 May 2016 he attended a Historic Preservation Commission workshop and  
46 asked the consultant Ms. Susan Benjamin about the possibility of  
47 repositioning the Zook home.

1 In June 2016, he presented to the Village Board the idea of moving the  
2 Zook, and they seemed receptive. In the fall of that year he found a buyer,  
3 the Parkers, who were willing to move the house and restore it.

4 Mr. Bousquette then proceeded to address what he termed as  
5 misinformation from those persons who oppose the approval of the  
6 variance he is requesting.

7 The first matter is that somehow, the addition of the Zook house on  
8 Woodside would adversely increase the density of the street, when in fact  
9 up until the time he purchased the Woodside property; a house had existed  
10 on the property. The second assertion is that placing the Zook house on  
11 Woodside would destroy or negatively impact the essential character of the  
12 neighborhood. However, he has learned from several real estate agents  
13 that the placement of a 4,000 square foot house on a 20,000 square foot lot  
14 would actually enhance the values on the street. He conceded that in  
15 terms of aesthetics, everyone is entitled to their own opinion. He described  
16 the tear down and rebuild at 425 Woodside, which he believes forever  
17 altered the neighborhood in terms of vegetation and size of home. The  
18 third matter is that repositioning the Zook house would increase traffic on  
19 the relatively narrow Woodside Road. He currently owns a driveway on  
20 Woodside that is shared by 444 and 448; the driveway on 445 was removed  
21 when the house was demolished. The Zook house should not increase the  
22 number of cars because the home already has access to Woodside from its  
23 garage. The fourth general issue is that green space and views will be  
24 ruined. He referenced again the destruction of trees in the process of the  
25 construction of many larger homes on smaller lots in the area, and  
26 questioned why he should be responsible for now providing green views for  
27 these people. The fifth issue is that he lacks an understanding of what to  
28 do with his own property, and a laundry list of directives have been  
29 provided by his neighbors. He is thrilled to have a buyer who is willing to  
30 preserve the Zook house, but if it cannot be moved, simple economics  
31 dictate it will be torn down and the property will have a new house built on  
32 it. Mr. McGinnis confirmed that this is a reasonable and legal option. The  
33 sixth assertion is that granting this variance will be precedent setting and  
34 the entire Robbins district will be torn down as builders reap profits. Mr.  
35 Bousquette suggested this is not true because decisions of the ZBA with  
36 respect to variances are stand-alone based upon unique circumstances.  
37 Additionally, there aren't that many lots that would meet the requirements  
38 to divide. The seventh issue is that he never properly marketed his  
39 property to find the buyer who would keep the home in its current location,  
40 renovate it, move his driveway to Fourth Street and close the other  
41 driveway, and keep all the other greenery. He described the current home  
42 sale inventory and sales history in Hinsdale at this time.

43 Mr. Dennis Parsons, architect, addressed the Board, and explained that the  
44 Zook house in the proposed location would meet all setback requirements,  
45 FAR restrictions, and the building coverage requirement. He described the  
46 massive undertaking of physically relocating the structure. Mr. McGinnis  
47 confirmed that based on preliminary review, the home also conforms to lot



1 area requirements.  
2

3 Mr. Daniel proceeded to address the eight approving criteria, and clarified  
4 that no variation shall be granted unless the applicant shall establish that  
5 carrying out the strict letter of the code would create a particular hardship.  
6 To that end he referenced the personal background of the Parkers, the  
7 need for a new foundation on the house, the significant testimony regarding  
8 lagging home sales in Hinsdale, and the practical difficulty of historic  
9 preservation in Hinsdale. The unique physical condition is the fantastic  
10 home worth preserving, but additionally historic information suggests two  
11 homes were contemplated for Lots 18 and 19. It is unique in light of its  
12 surroundings. This situation is not self-created. These owners didn't play a  
13 role in the platting of the block, or the redevelopment of 425 Woodside, or  
14 the fact that 94% of the lots in the R1 are nonconforming and the  
15 encroachment of the house into the south lot is de minimus. With respect  
16 to denied substantial rights, he said only 8% of the owners of property in  
17 the R1 district meet the bulk requirement the applicant is trying to get a  
18 variation from. They are trying to proceed with the second largest lot on  
19 the block and what could be the smallest home on the block. Mr. Daniel  
20 added this is not a special privilege, as it has been granted to others, it is in  
21 harmony with the surrounding community, and it is compliant to code and  
22 plan purposes. There is no increase in danger of flood or fire. The lots  
23 have been separately assigned pin numbers, and all other remedies have  
24 been exhausted. He believes they are seeking the minimum variation and  
25 concluded that the merits are met for approval of this variation.  
26

### 27 PUBLIC COMMENT

28  
29 **Mr. Harold Hooks, Jr., 125 Hillcrest**, stated he is in favor of saving the Zook  
30 house.  
31

32 **Ms. Alexis Braden, 436 East First Street**, said contrary to the opinion of some  
33 people, there are smaller lots in the R1 District, less than 30,000 square feet.  
34 She cited the recent demolition of two other historic homes in this district and  
35 pointed out that 100' feet to save a Zook home is negligible.  
36

37 **Ms. Sara Barclay, 606 East Third Street**, noted her home is just a few blocks  
38 away from the property in question, and is in support of the relocation of this  
39 home. She said this home contributes to the historic nature of the district, and  
40 noted that this town touts its historic character. A new build would not enhance  
41 the historic nature of Hinsdale. This is an opportunity to establish precedent that  
42 Hinsdale values preservation and to demonstrate local government will support  
43 preservation efforts.  
44

45 **Mr. Champ Davis, 24 W Ogden Avenue**, is a trustee on the Board of the  
46 Hinsdale Historical Society, and stated the proposed relocation is a wonderful  
47 plan and a wonderful preservation effort. He suggested that any opposition to

1 this house or this project is the NIMBY, 'not in my backyard' approach and as  
2 such is not objective, but rather personal and conflicted.

3  
4 **Mr. Kevin Boyle, 329 S. County Line Road**, stated he and his wife have  
5 restored two historic homes in Hinsdale, including one that had a Zook addition.  
6 He urged the Board to grant the variance and preserve the history of Hinsdale.

7  
8 **Mr. Jeff Bagul, 505 The Lane**, spoke to the appeal of historic Hinsdale, and said  
9 there are very few Zook homes still left. This is an opportunity to save one of  
10 these homes. The lot fits the neighborhood, the house fits the lot. He asked the  
11 Board to grant the variance.

12  
13 **Mr. Michael Malinowski, 635 East Sixth Street**, said he applauds and supports  
14 the Parkers in the preservation of this home, and attested to the appeal of the  
15 historic mix of property in Hinsdale.

16  
17 **Ms. Deepa Kuchipdu, 212 Eastern, Clarendon Hills**, stated she is the Parkers'  
18 residential real estate attorney handling this transaction, and wanted the Board to  
19 know they have a contract that is in full force and effect, binding, valid and all the  
20 contingencies have been met, save the granting of this variance.

21  
22 **Mr. John Coffey, 316 E. First Street**, said he agrees with the previous speakers,  
23 and hopes the Board will grant this variance.

24  
25 **Mr. Kevin Holmes, 425 Woodside**, clarified he did not build the house on his lot,  
26 and the 8,000 square feet referenced earlier by the applicant, includes the  
27 finished basement and attic, so it's really only about 6,000 square feet. He stated  
28 he and his wife do not dispute the preservation of the Zook home. He said his is  
29 the property directly to the west of the proposed lot, which they purchased last  
30 May, and in December they were informed of this false dilemma regarding the  
31 Zook house. He referenced the ZBA standards for approval of a variation. He  
32 noted the code specifies the R1 and R2 districts as lower density residential  
33 areas, R3 and R4 districts allow for somewhat higher density and smaller lot  
34 sizes. In his opinion, the R1 district primary focus is to preserve lower density  
35 residential use and larger lot sizes, and further that the R1 district shall be  
36 deemed the most restrictive residential district. He believes the proposed 20,000  
37 square foot lot is a misrepresentation, it would actually be 17,000 square feet,  
38 and would need to be rezoned to accommodate the Zook house.

39 Chairman Neiman asked Mr. McGinnis to comment on this remark. Mr. McGinnis  
40 stated there is excess property on the Fourth Street frontage, and it can be  
41 deeded over to the Woodside lot, which would allow the property to meet the rear  
42 yard requirements. Mr. Parker confirmed that is the plan, but Mr. Holmes thinks it  
43 is disingenuous. Discussion followed, and it was concluded the deeding of that  
44 property can be made a condition of the variance. Mr. McGinnis added that no  
45 permits would be issued unless the bulk regulations are met, but it could be a  
46 condition.

47 Mr. Holmes continued that to allow a 17,000 or 20,000 square foot lot in the R1

1 district is a terrible precedent. Member Moberly asked Mr. Holmes what the  
2 square footage of his lot is. Mr. Holmes replied that it is 21,000 square feet, but  
3 doesn't believe there should be any additional smaller lots in this district.  
4 Discussion followed regarding lot size.

5 With respect to the other approving criteria, Mr. Holmes does not believe there is  
6 a unique physical condition, because the existing house and the existing lot is not  
7 unique to the neighborhood; this is entirely self-created because Mr. Bousquette  
8 has only owned the home for four years; regarding denial of substantial rights, to  
9 approve would give the applicant a right not previously enjoyed by anyone in the  
10 R1 district; special privilege, this wouldn't be an issue if it wasn't a Zook home;  
11 coding and planning purpose, the code says the R1 should be low density, large  
12 lots.

13 Chairman Neiman commented that with respect to special privilege that the  
14 alleged hardship or difficulty is not merely in the ability to make more money from  
15 the use of the subject property. It is his understanding that if the Zook house was  
16 torn down, the owner could make more money selling the lot than what is  
17 proposed. Mr. Holmes disagrees, and further it has never been marketed as  
18 such.

19 Mr. Holmes stated regarding the essential character of the area, this would add to  
20 the congestion of Woodside, and the biggest failure is the no other remedy  
21 criteria. The applicant has made no attempt to market the property, someone  
22 might come in and buy the house and renovate it, nor has there been an attempt  
23 to landmark the home. That might affect the profit, but the Board should be  
24 thinking about what is right for the neighbors, the district and the situation. He  
25 asked the Board to adhere to the code and listen to the neighbors who are  
26 directly affected and deny this variance request. He referenced previous Zoning  
27 Board decisions which he believes support his position. Further, this process has  
28 been a nightmare for his family and a difficult and emotional situation. He asked  
29 that the Zook home supporters encourage the applicant to make an honest  
30 attempt to sell the home at its current location. If the Zook home gets torn down  
31 then the owner is to blame.

32 Member Moberly cautioned those present of the outcome of a developer purchase  
33 of this home and property in terms of size of home and lot use. Mr. Holmes said  
34 that is not a reason to approve the variation; the applicant could allocate 10,000  
35 square feet of his lot and approach him to buy it.

36  
37 **Ms. Donna Brickman, 439 E. Sixth Street**, addressed the Board regarding the  
38 petition before them, which was started to speak out against splitting the lot. She  
39 referenced a map that is included that illustrates where the people who signed the  
40 petition live relative to the lot, and noted that specifically all nine residents on  
41 Woodside have opposed splitting the lot, and their opinion counts. Nobody  
42 moving to southeast Hinsdale wants a lot of big houses on a small street. She  
43 lives in a 1937 Zook house, and the previous owner spent over a million dollars  
44 on it. She wants proof that the Zook in question has been properly listed in the  
45 MLS and marketed. She noted other Zook homes that have been renovated. She  
46 wants the Zook house saved, but if it's moved to the proposed site there may not  
47 be any room to renovate it. She referenced the owners' potential profit if the

1 variance is granted, and questioned whether this is for love of the Zook house, or  
2 is the house a pawn to make money.

3 Chairman Neiman asked Mr. Parker, if as a condition of the variance, they would  
4 seek the historical status that would prevent the home being torn down. Mr.  
5 Parker said yes they would. Discussion followed regarding preservation and the  
6 protection of local landmarking.  
7

8 **Mr. Andrew Brickman, 439 E Sixth Street**, noted part of his property is within  
9 200 feet of the property in question. He provided his personal history regarding  
10 his parents' home in LaGrange and their subsequent move to Hinsdale which  
11 resulted in an appreciation of older homes. He noted his lot is a combination of  
12 two lots, and commented the Parker's may be on to something, maybe he should  
13 go to the Zoning Board, recondition the lot and cut his taxes. He thinks the  
14 aspect of the Zook house is a smokescreen; this is about dollars plain and simple.  
15 He thinks this is self-interest, and maybe the Parkers have fallen in love with  
16 something that's a little out of reach. He doesn't believe the Village should  
17 restructure the whole lot and the zoning just so the Parkers can get the house of  
18 their dreams. Discussion followed regarding the consequence of dividing the lot  
19 and the 'McMansions' that may result.

20 Member Giltner assured Mr. Brickman that this Board takes the feedback from  
21 neighbors very seriously. Mr. Brickman concluded by stating he believes there  
22 are other ways to save this house.  
23

24 **Ms. Joy Holmes, 425 Woodside**, expressed her concerns regarding subdividing  
25 the lot in terms of the R1 standards, effect on Woodside, flooding and the impact  
26 of massive construction. Will she have access to the street and how many other  
27 R1 lots might be subdivided as a result of this variance? She recommended the  
28 Board consider this matter with the same ethical standards she is teaching her  
29 children; respect, kindness and honesty. Further, this situation has been very  
30 difficult for her, but to be a good teacher to her children, she must stand up for  
31 what she feels is right. She asked the Board when considering the no other  
32 remedy standard, to look beyond the ultimatum. She asked them to consider the  
33 geographic area of R1, the ethical values, and the overall impact on the Village of  
34 Hinsdale.  
35

36 **Dr. Jeanette Hoenig, 328 N Oak Street**, remarked that with respect to setting  
37 precedence, there are certain stipulations that can be set for this particular  
38 situation and property. She added it is a discrepancy for someone to oppose this  
39 variation when they have a larger house on a similar sized lot. She is in support  
40 of the Parker's request.  
41

42 **Ms. Jennifer Ferguson, 821 S. Elm**, stated that hers is a home in this district  
43 that is not on a 30,000 square foot lot, and believes it would be a shame to lose a  
44 home that enhances the character of the district by not permitting building on a lot  
45 that is similar in size to most of the R1 district.  
46

47 Mr. Bousquette added that he has spent a great deal of money and time to save

1 the Zook house, but cannot continue to do so. That is just a reality. He thanked  
2 the Board for their time.

3  
4 Member Giltner moved **to close the public hearing for V-04-17, 435 Woodside**  
5 **Avenue.** Member Alesia seconded the motion.

6  
7 **AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman  
8 Neiman

9 **NAYS:** None

10 **ABSTAIN:** None

11 **ABSENT:** Member Engel

12  
13 Motion carried.

14  
15 **DELIBERATION**

16  
17 Member Podliska began discussion by reviewing the approving criteria. With  
18 respect to unique physical condition, the lot size and the architectural significance  
19 of the house are the unique combination before the Board. Everyone agrees that  
20 the house should continue to exist, and unfortunately it is on a large lot, which  
21 puts economic conflict in play. This has not been self-created by the applicant;  
22 the property has been in this condition for a long, long time. To deny the variance  
23 would deny these homeowners an opportunity to save a unique home that would  
24 be denial of a substantial right. This is not special privilege because there are  
25 other smaller lots in the area, and this home will be substantially smaller than  
26 other homes on smaller lots. There is no question of being in harmony with the  
27 neighborhood, in fact this home, in a sense, defines the neighborhood and as  
28 such promotes the essential character of the area. There are not any other  
29 means sufficient to permit a reasonable use of the property. He also  
30 recommended the Board put limits on an approval as were mentioned during the  
31 hearing; that the applicant be compelled to seek landmark status, that there be  
32 additional land acquired so that a 1 to 5 ratio is met on a 20,000' square foot  
33 property.

34 Member Giltner added that the hardship centers on this preservation, and we  
35 wouldn't approve this variation if there wasn't a Zook house involved. He also  
36 made the point that with respect to precedence, this is the first time this issue has  
37 come up, and that is an indication that there are not a lot of properties where this  
38 can be done for preservation purposes. He also agrees with the landmark status  
39 condition.

40 Chairman Neiman noted a third condition was discussed, and that was that the  
41 Zook house actually be moved. After it's moved, application could be made for  
42 landmark status and some additional deeded land to keep the ratio. Mr. Parker  
43 confirmed they are in agreement, and in fact the deeding of the land is already in  
44 the contract. Mr. McGinnis clarified that with respect to final lot size, it was not so  
45 much a ratio as it was making sure that those required yard minimums are met;  
46 and the calculated FAR number can be included in the recommendation.

47 Member Podliska moved to **approve a recommendation to the Village Board of**

1 **Trustees to approve variation known as V-04-17, 435 Woodside Avenue for**  
2 **the reasons stated, and providing the following conditions are met; that the**  
3 **Zook house be moved, that following relocation, the Zook house be**  
4 **landmarked, and that the appropriate amount of land be deeded over to**  
5 **satisfy all setback requirements. Member Connelly seconded the motion.**  
6

7 **AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman  
8 Neiman

9 **NAYS:** None

10 **ABSTAIN:** None

11 **ABSENT:** Member Engel

12  
13 Motion carried.

14  
15 **9. NEW BUSINESS – None**

16  
17 **10. OTHER BUSINESS**

18  
19 **11. ADJOURNMENT**

20 With no further business before the Zoning Board of Appeals, Member Moberly  
21 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**  
22 **June 21, 2017.** Member Connelly seconded the motion.  
23

24 **AYES:** Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman  
25 Neiman

26 **NAYS:** None

27 **ABSTAIN:** None

28 **ABSENT:** Member Engel

29  
30 Motion carried.

31  
32 Chairman Neiman declared the meeting adjourned at 10:54 p.m.  
33  
34

35 \_\_\_\_\_  
36 Christine M. Bruton  
37 Village Clerk  
38  
39

Approved: \_\_\_\_\_