VILLAGE OF Hinsdale
Est. 1873

MEETING AGENDA

MEETING OF THE ZONING BOARD OF APPEALS WEDNESDAY, September 20, 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
   b) Regular meeting of July 19, 2017

4. **APPROVAL OF FINAL DECISION** – None

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-07-17, 640 Mills Street

8. **PUBLIC HEARINGS**
   a) V-06-17, 19 Lansing Street

9. **OLD BUSINESS**
   a) Discussion and Approval of Proposed Rules for Written Submissions

10. **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.

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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.

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

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

7. PRE-HEARING AND AGENDA SETTING – None

8. PUBLIC HEARINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

hardship is not.
Member Moberly commented that he doesn't think the Board can answer future questions, this comment in response to the vacancy of the property. There were no additional questions from the Board, and no public comment.
Member Giltner moved to **close the public hearing for APP-01-17, 444 East Fourth Street/435 Woodside Avenue.** Member Moberly seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: Member Engel

Motion carried.

DELIBERATIONS

Member Podliska began by stating the property as of this hearing is not vacant, and that is what matters and what is before the Board. Due to the existing encroachment, neither of the properties is vacant; therefore, they do not have the right to proceed to move the house to one lot, and to sell and build on the other. He noted this conclusion does not have anything to do with any variance that might be granted.
Members Alesia and Giltner concurred. Member Giltner added future vacancy is not before this Board. Chairman Neiman agreed and added that granting the appeal requires the Board to determine that the property is a legal nonconforming lot of record under 12-206, but the definition, among other things, requires that the lot was vacant on June 18, 1988. Mr. Daniel has conceded tonight and in his June 15th letter that the exterior basement stairs encroach on the south property.
Chairman Neiman believes the concept of future vacancy defies logic, has no basis in the code, and as a result he does not believe the requirements to approve the appeal are present.
Member Moberly moved to **deny the appeal known as APP-01-17, 444 East Fourth Street/435 Woodside Avenue.** Member Podliska seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: Member Engel

Motion carried.

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

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

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

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

Chairman Neiman opened the public hearing and began with a general statement, his personal opinion, and invited other members of the Board to weigh in. He commented that many people move to Hinsdale because they like the 'feel' of the neighborhood. He tends to err on the side of preservation, particularly if the homes are of historic value, such as the one before the Board tonight. He noted the Board has read and digested many letters for and against the variance request. The question before the Board is whether the applicant has met the criteria in the code that will 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.

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

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

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

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

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

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

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

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

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

area requirements.

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

PUBLIC COMMENT

Mr. Harold Hooks, Jr., 125 Hillcrest, stated he is in favor of saving the Zook house.

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

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

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

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

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

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

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

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

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

Mr. Kevin Holmes, 425 Woodside, clarified he did not build the house on his lot, and the 8,000 square feet referenced earlier by the applicant, includes the finished basement and attic, so it's really only about 6,000 square feet. He stated he and his wife do not dispute the preservation of the Zook home. He said his is the property directly to the west of the proposed lot, which they purchased last May, and in December they were informed of this false dilemma regarding the Zook house. He referenced the ZBA standards for approval of a variation. He noted the code specifies the R1 and R2 districts as lower density residential areas, R3 and R4 districts allow for somewhat higher density and smaller lot sizes. In his opinion, the R1 district primary focus is to preserve lower density residential use and larger lot sizes, and further that the R1 district shall be deemed the most restrictive residential district. He believes the proposed 20,000 square foot lot is a misrepresentation, it would actually be 17,000 square feet, and would need to be rezoned to accommodate the Zook house.
Chairman Neiman asked Mr. McGinnis to comment on this remark. Mr. McGinnis stated there is excess property on the Fourth Street frontage, and it can be deeded over to the Woodside lot, which would allow the property to meet the rear yard requirements. Mr. Parker confirmed that is the plan, but Mr. Holmes thinks it is disingenuous. Discussion followed, and it was concluded the deeding of that property can be made a condition of the variance. Mr. McGinnis added that no permits would be issued unless the bulk regulations are met, but it could be a condition.
Mr. Holmes continued that to allow a 17,000 or 20,000 square foot lot in the R1

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

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

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

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

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

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

variance is granted, and questioned whether this is for love of the Zook house, or is the house a pawn to make money.
Chairman Neiman asked Mr. Parker, if as a condition of the variance, they would seek the historical status that would prevent the home being torn down. Mr. Parker said yes they would. Discussion followed regarding preservation and the protection of local landmarking.

Mr. Andrew Brickman, 439 E Sixth Street, noted part of his property is within 200 feet of the property in question. He provided his personal history regarding his parents' home in LaGrange and their subsequent move to Hinsdale which resulted in an appreciation of older homes. He noted his lot is a combination of two lots, and commented the Parker's may be on to something, maybe he should go to the Zoning Board, recondition the lot and cut his taxes. He thinks the aspect of the Zook house is a smokescreen; this is about dollars plain and simple. He thinks this is self-interest, and maybe the Parkers have fallen in love with something that's a little out of reach. He doesn't believe the Village should restructure the whole lot and the zoning just so the Parkers can get the house of their dreams. Discussion followed regarding the consequence of dividing the lot and the 'McMansions' that may result.
Member Giltner assured Mr. Brickman that this Board takes the feedback from neighbors very seriously. Mr. Brickman concluded by stating he believes there are other ways to save this house.

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

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

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

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

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

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

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: Member Engel

Motion carried.

D E L I B E R A T I O N

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

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

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

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

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

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: Member Engel

Motion carried.

9. NEW BUSINESS – None

10. OTHER BUSINESS

11. ADJOURNMENT

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

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: Member Engel

Motion carried.

Chairman Neiman declared the meeting adjourned at 10:54 p.m.

_____ Approved: _____
Christine M. Bruton
Village Clerk

VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
July 19, 2017

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, July 19, 2017 at 6:30 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, Kathryn Engel, John Podliska and Chairman Bob Neiman

Absent: None

Also Present: Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

a) **Regular meeting of June 21, 2017**

Due to the late distribution of the lengthy minutes from the June 21st meeting, the Board agreed to defer approval to their next meeting. It was confirmed that this would have no adverse effect on the applicant.

4. APPROVAL OF FINAL DECISION

a) **APP-01-17, 444 East Fourth Street/435 Woodside Avenue**

There were no changes to the draft final decision; Member Podliska moved to **approve the final decision for APP-01-17, 444 East Fourth Street/435 Woodside Avenue, as presented.** Member Alesia seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Alesia, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: Member Engel
ABSENT: None

Motion carried.

b) **V-04-17, 435 Woodside Avenue**

Member Podliska had several suggestions to the draft final decision, which Chairman Neiman reviewed for the Board. The Board concurred on each suggested change. Member Alesia moved to **approve the minutes of the regular meeting of May 17, 2017, as amended.** Member Giltner seconded the motion.

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

NAYS: None
ABSTAIN: Member Engel
ABSENT: None

Motion carried.

5. RECEIPT OF APPEARANCES – None

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

7. PRE-HEARING AND AGENDA SETTING

a) **V-06-17, 19 Lansing Street**

Ms. Susan Phillip, property owner, addressed the Board, stating she wants to rebuild her one-car garage and make it a little wider. She provided a more current plat of survey on the property to the Board. The request is for inches of relief.

Chairman Neiman confirmed Ms. Phillip needs a small variance from the lot line, but asked if it is possible to rebuild the garage facing the other direction, so the variance is not necessary. Ms. Phillip said yes, but the sunroom is 10' feet from garage, which was done to meet code requirements. If the garage was moved closer, they would have to move a grill with a gas line, and various other features in their yard. She wants to build the garage exactly where it is on the west and a few inches bigger on the east. Mr. McGinnis explained the fire separation regulations for structures closer than 10' feet to a principal structure, but confirmed there are no regulations between garages.

Chairman Neiman recapped stating the proposed garage could be a little closer to the sunroom without a variance, but this would create some inconvenience to the applicant.

Member Giltner confirmed the closest neighbor has provided a letter of support; Ms. Phillip added that she has spoken with the rest of her neighbors, and there was no objection.

Chairman Neiman set the public hearing for the next meeting of the Zoning Board of Appeals.

8. PUBLIC HEARINGS – None

9. NEW BUSINESS

a) **Discussion and Approval of Proposed Rules for Written Submissions**

Chairman Neiman introduced the item for discussion and stated he had asked for responses from the Board members regarding the draft rules in accordance with the Open Meetings Act. He said the input he received has been included in the document. He referenced a comment from Member Moberly regarding the 21 day requirement for a submittal of a brief, wherein Member Moberly suggested that 21 days might be too long, and could potentially delay a hearing until the following month. Discussion followed, and the Board agreed that 14 days would be adequate, and even a week in advance with page limitations would be doable. Member Podliska pointed out that the pre-hearing

process dovetails with this very well because if an applicant needs an extension of the page limit or something of that nature, it can be addressed at pre-hearing. Chairman Neiman reported that Village Attorney Michael Marrs had confirmed that the Zoning Board has the authority to adopt rules of procedure for themselves of this nature.

Chairman Neiman pointed out that these rules are not codified, and asked about distribution to applicants. Village Clerk Bruton explained that she and Mr. McGinnis had discussed this, and recommended that a new application for variation be developed to include this material, as well as other enhancements. She said she would draft a new application for Board review.

Member Connelly suggested the Board consider time limits for comment and rebuttal. Chairman Neiman agreed, but recalled that with the recent Amlings case, the Circuit Court had focused on the limited testimony. There was some contention there was not adequate time to call witnesses for a complete record in the specified time format. Discussion followed; it was suggested the ZBA could adopt a rule that distinguishes between testimony and arguments, and exceptions for evidentiary testimony. Discussion of acceptable time limits followed for attorney arguments, and the Board agreed as long as there is a mechanism to request more time when necessary, and all persons have advance notice of the time limits, this is a reasonable proposition.

Member Moberly commented that if the person presenting the case knows they have ten minutes to make their argument, it could result in the benefit of self-editing.

10. OTHER BUSINESS – None

11. ADJOURNMENT

With no further business before the Zoning Board of Appeals, Member Engel made a motion to **adjourn the meeting of the Zoning Board of Appeals of July 19, 2017.** Member Podliska seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Alesia, Engel, Podliska and Chairman Neiman
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

Chairman Neiman declared the meeting adjourned at 7:03 p.m.

_____ Approved: _____
Christine M. Bruton
Village Clerk

VILLAGE OF Hinsdale
Est. 1873

MEMORANDUM

DATE: September 12, 2017

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

CC: Christine Bruton, Village Clerk

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

RE: **Zoning Variation – V-07-17; 640 Mills Street**

In this application for variation, the applicant requests relief from the Minimum Lot Area requirement set forth in section 3-110(C)(1) and the Minimum Lot Width requirement set forth in section 3-110(C)(3). The specific request is for 2,500 square feet of relief on Lot Area and 10' of relief on Lot Width. The intention of the applicant is to obtain the relief required in order to break out one of the underlying Lots of Record and construct a new single family home on Lot 20 (vacant lot south of the house).

It should be noted that due to the amount of relief being requested, this application, if approved, will need to move forward to the Board of Trustees as a recommendation.

This property is located in the R4 Residential Zoning District in the Village of Hinsdale and is located on the west side of Mills Street between Fuller and Minneola. The property has a frontage of approximately 120', a depth of approximately 125', and a total square footage of approximately 15,000. The maximum FAR is .24 plus 1,200 or 4,800 square feet, the maximum Building Coverage is 25% or 3,750 square feet, and the maximum Total Lot Coverage is 50% or 7,500 square feet.

cc: Kathleen Gargano, Village Manager
Zoning file V-07-17

Zoning Calendar No. V-07-17

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): Vida and Paul Chenier

ADDRESS OF SUBJECT PROPERTY: 640 Mills Street

TELEPHONE NUMBER(S): (of Applicant) [redacted]

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

Applicants are the property owner

DATE OF APPLICATION: September 11, 2017

SECTION I

Please complete the following:

1. Owner. Name, address, and **telephone number** of owner: Vida and Paul Chenier, 640 Mills Street, Hinsdale, IL 60521; [redacted] (Owners are the beneficiaries of a land trust with power of direction; See, Paragraphs 2 of Sec. I and 1 of Sec. II.)

2. Trustee Disclosure. In the case of a land trust the name, address, and telephone number of all trustees and beneficiaries of the trust: Trustee: State Bank of Countryside, 6734 Joliet Road, Countryside, IL 60525, Tel. #708-485-3100; Beneficiaries are Applicant

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.) 640 Mills Street, Hinsdale, IL 60521. (Please see Exhibit #1 for the legal description of Lots 20 and 21comprising the Subject Property; and, Exhibit #2 for the legal descriptions for Lot 21 currently developed with a single family residence completely within its boundaries, and for Lot 20 which is vacant.)

5. Consultants. Name and address of each professional consultant advising applicant with respect to this application:

   (a) Attorney: Norman V. Chimenti, Esq., 10 S. LaSalle St., Chicago, IL 60603

   (b) Engineer: _____

   (c) Architect: Dennis Parsons, 28 Springlake Ave., Hinsdale IL 60521

   (d) Consultant: Laura LaPlaca, 726 S. Elm St., Hinsdale, IL 60521

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:

   (d) N/A

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.** (To be furnished prior to the public hearing as Exhibit #3)

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. Please see Exhibit #4 (Certified survey for the Subject Property (Lots 20 & 21) and separate certified survey for developed Lot 21).

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. The Subject Property is located in the R-4 Single Family Residential District. Please see Exhibit #5 for additional information and graphic representations.

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. Please see Exhibit #6.

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. Please see Exhibit #7.

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

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. Please see Trust Agreement attached hereto as Exhibit #8.

2. Ordinance Provision. The specific provisions of the Zoning Ordinance from which a variation is sought: Sec. 3-110C.1. [requiring a minimum lot area of 10,000 sq. ft. in the R-4 District]; and, Sec. 3-110C.3.(a) [requiring a minimum lot width of 70 ft. in the R-4 District]. Applicant also requests that the Board recommend to the Plan Commission and to the Village Board of Trustees that application of the full requirements of the Village's Subdivision Regulations be relaxed in this instance, including but not limited to Sec. 11-1-12E. [requiring that subdivisions conform to all minimum lot area and dimension requirements of the Zoning Code] thereof, as more fully described in Section II.3., below.

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.)
Applicant seeks a 2,500 sq. ft. reduction of the minimum lot area requirement of 10,000 sq. ft. to 7,500 sq. ft., and a 5.0 ft. reduction of the minimum required lot width from 70 ft. to 65 ft. in order to permit the construction of a single family residence on currently vacant Parcel 20 of the Subject Property. Please see Exhibit #9 for additional information.

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.)

   The lot size and lot width variations sought by Applicant are the minimum variations that are necessary to enable them to construct a single family residence on vacant Lot 20 of the Subject Property. Applicant's request for a recommendation by this Board to relax the Subdivision Regulations is the minimum relief required to enable the Village and Applicant, at minimum reasonable time and expense of both, to divide the "single zoning lot" Subject Property into developed Lot 21 and legal nonconforming vacant Lot 20 to enable Applicant to construct a single family residence on Lot 20. No other variances or relief are being requested. The single family residence existing on Lot 21 complies with all requirements of the Zoning Code, as determined by licensed architect Dennis Parsons. (Please see Exhibit #10 attached hereto).

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

(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.

(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.

(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.

(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.

(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.

(f) Essential Character of the Area. The variation would not result in a use or development of the Subject Property that:

(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.)

_____
_____
_____
_____
_____
_____

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. N/A

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. N/A

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: Vida and Paul Chenier*

Signature of Owner: _____

_____

Name of Applicant: (Same as Owner)

Signature of Applicant: _____

_____

Date: September 11, 2017

(*As beneficiaries of Trust No. 09-3084 with power of direction)

Exhibit #1

To Vida and Paul Chenier
Application for Variation at
240 Mills Street

Legal Description for Lots 20 and 21

Lots 20 & 21 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

Exhibit #2

To Vida and Paul Chenier
Application for Variation at
240 Mills Street

Legal Description for Lot 20

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

Legal Description for Lot 21

Lot 21 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

Exhibit #3

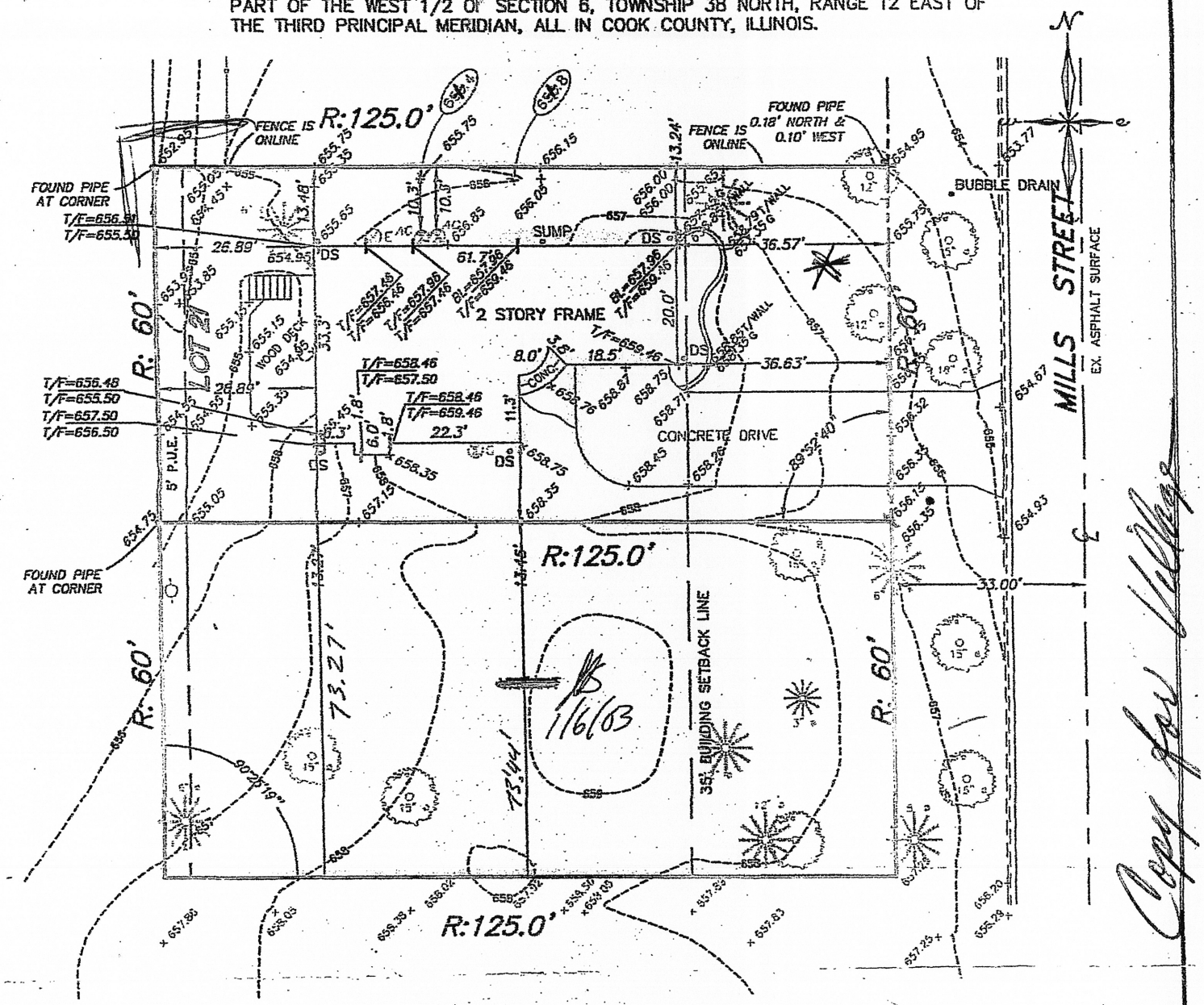
To Vida and Paul Chenier
Application for Variation at
240 Mills Street

[List of names and addresses of owners of properties within 250 lineal feet of the Subject Property and on the same frontage thereof to be furnished prior to the public hearing of this Application, along with the Certification of Proper Notice.]

FINAL AS-BUILT GRADING SURVEY

OF

LOTS 20 & 21 IN BLOCK 9 IN JEFFERSON GARDENS, BEING A SUBDIVISION OF A PART OF THE WEST 1/2 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.



LEGEND

▪ FOUND IRON ROD	(AC) AIR CONDITIONER
○ SET IRON PIPE	(G) GAS METER
PROPERTY LINE	(E) ELECTRIC METER
EXISTING RIGHT-OF-WAY LINE	B-BOX
CENTERLINE	REC. RECORD DIMENSION
EXISTING EASEMENT LINE	MEAS. MEASURED DIMENSION
BUILDING SETBACK LINE	A ARC DIMENSION
WOOD FENCE	R RADIUS
800 AS-BUILT CONTOUR LINE	CH. CHORD DIMENSION
PROPOSED CONTOUR LINE	CB CHORD BEARING
CONCRETE	P.U.E. PUBLIC UTILITY EASEMENT
BUILDING LIMITS	N NORTH
WOOD DECK	S SOUTH
	E EAST
	W WEST

NOTES :

1) COMPARE ALL POINTS PRIOR TO ANY CONSTRUCTION AND REPORT ANY DIFFERENCES AT ONCE.

2) ALL BUILDING DIMENSIONS SHOWN HEREON ARE MEASURED TO EXTERIOR FRAMED WALLS UNLESS OTHERWISE NOTED.

3) FOR BUILDING RESTRICTIONS AND EASEMENTS NOT SHOWN HEREON, REFER TO YOUR ABSTRACT, DEED, TITLE GUARANTEE POLICY, AND LOCAL ORDINANCES.

4) DO NOT SCALE ANY DIMENSIONS FROM THIS PLAT.

BENCHMARK:

ARROW BOLT LOCATED ON A FIRE HYDRANT AT THE NORTHWEST CORNER OF FULLER ROAD AND MILLS STREET. ELEVATION = 653.67 (PER VILLAGE OF HINSDALE)

STATE OF ILLINOIS } SS
COUNTY OF BOONE }

I, STEVEN J. LAUB, A ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE RECORD GRADING INFORMATION SHOWN HEREON WAS PREPARED AT AND UNDER MY DIRECTION AND IS AN ACCURATE REPRESENTATION THEREOF AS OF THE DATE OF THIS CERTIFICATION.

DATE: DECEMBER 23, 2002

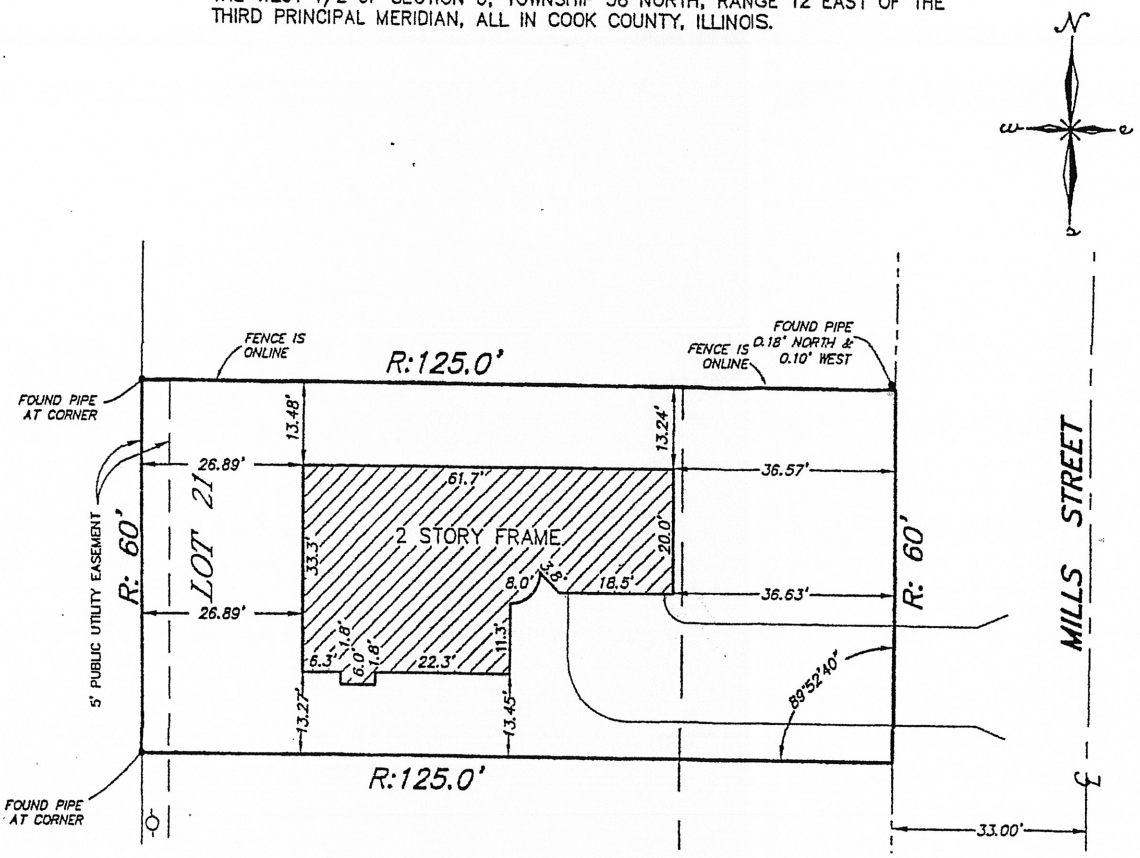
ILLINOIS LICENSED PROFESSIONAL LAND SURVEYOR

Copy for Village

PLAT OF SURVEY

OF

LOT 21 IN BLOCK 9 IN JEFFERSON GARDENS, BEING A SUBDIVISION OF A PART OF THE WEST 1/2 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.



Pin # 8-06-117-013-0000

LEGEND

•	FOUND IRON ROD	REC.	RECORD DIMENSION
o	SET IRON PIPE	MEAS.	MEASURED DIMENSION
	PROPERTY LINE	A	ARC DIMENSION
	EXISTING RIGHT-OF-WAY LINE	R	RADIUS
	CENTERLINE	CH.	CHORD DIMENSION
	EXISTING EASEMENT LINE	CB	CHORD BEARING
	BUILDING SETBACK LINE	P.U.E.	PUBLIC UTILITY EASEMENT
	ASPHALT PAVING	N	NORTH
	CONCRETE	S	SOUTH
	BUILDING LIMITS	E	EAST
	WOOD DECK	W	WEST

NOTES :

1) COMPARE ALL POINTS PRIOR TO ANY CONSTRUCTION AND REPORT ANY DIFFERENCES AT ONCE.
2) ALL BUILDING DIMENSIONS SHOWN HEREON ARE MEASURED TO EXTERIOR FRAMED WALLS UNLESS OTHERWISE NOTED.
3) FOR BUILDING RESTRICTIONS AND EASEMENTS NOT SHOWN HEREON, REFER TO YOUR ABSTRACT, DEED, TITLE GUARANTEE POLICY, AND LOCAL ORDINANCES.
4) DO NOT SCALE ANY DIMENSIONS FROM THIS PLAT.
5) ONLY PRINTS OF THIS SURVEY WITH AN EMBOSSED SEAL SHALL BE DESIGNATED OFFICIAL CERTIFIED COPIES.

STATE OF ILLINOIS } SS
COUNTY OF BOONE }

THIS IS TO CERTIFY THAT I, STEVEN J. LAUB, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, HAVE SURVEYED THE PROPERTY DESCRIBED IN THE CAPTION TO THE PLAT HEREON DRAWN, AND THE SAID PLAT IS A TRUE AND CORRECT REPRESENTATION THEREOF.
THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE CORRECTED TO A TEMPERATURE OF 68 DEGREES FAHRENHEIT.

DATE : DECEMBER 18, 2001

STEVEN J. LAUB
ILLINOIS LICENSED PROFESSIONAL LAND SURVEYOR NO. 35-3160
DIGITAL SURVEY & DESIGN, LTD. #048-000160
MY CURRENT LICENSE EXPIRES NOV. 30, 2002

PREPARED FOR:
JOHN BERNARD
3 S. 637 BEHRS CIRCLE DRIVE
WARRENVILLE, IL 60555
(630) 269-8300

REVISIONS		
NO.	DATE	DESCRIPTION

DIGITAL SURVEY & DESIGN, LTD.
REG. #048-000160
9761 Squire Lane Phone: 815-547-1130
Belvidere, Il 61008 Fax: 815-547-0430

PLAT OF SURVEY
LOT 21, JEFFERSON GARDENS

Project No: 99032

FILE NAME: 99032-21	DRAWN BY: SJL	CHECKED BY:	FIELD WORK: 6-18-99	SHEET NO.
JOB DIRECTORY: 1999	PROJ. MAN.:	SCALE: 1" = 20'	DRAFTING DATE:	1 of 1

To Vida and Paul Chenier
Application for Variation at
240 Mills Street

The location of the Subject Property is marked in the attached Official Zoning Map of the Village (2012) and in the attached Jefferson Gardens Plat of W ½ NW ¼ Sec. 6-38-12 dated August 17, 1929. Lot 21 of the Subject Property is presently developed with a single family residence. Separately platted Lot 20 of the Subject Property is presently vacant and undeveloped.* Vehicular access to the Subject Property is via Mills Street. All uses of the Subject Property conform to those that are permitted in the R-4 District. All privately owned properties within 250 ft. of the Applicant's residence are located in the R-4 District, and Applicant believes that the uses of those properties conform to the permitted uses of the R-4 District. East of the Subject Property and across Mills Street is Illinois Tollroad I-294.

*The attached 2012 Official Zoning Map of the Village portrays Lot 21 and 20 separately, as they have been platted for the last 88 years. However, the Village's Map erroneously shows the northerly lot (Lot 21) as vacant and without an address. In fact, the current residence occupies Lot 21 with the street address of 240. It is the southerly lot (Lot 20) that is currently vacant and without a street address. As stated in Exhibit #9 to this Application, the Village Attorney makes the same error.

Exhibit #5 – Page 2
Vida and Paul Chenier Application

SDALE

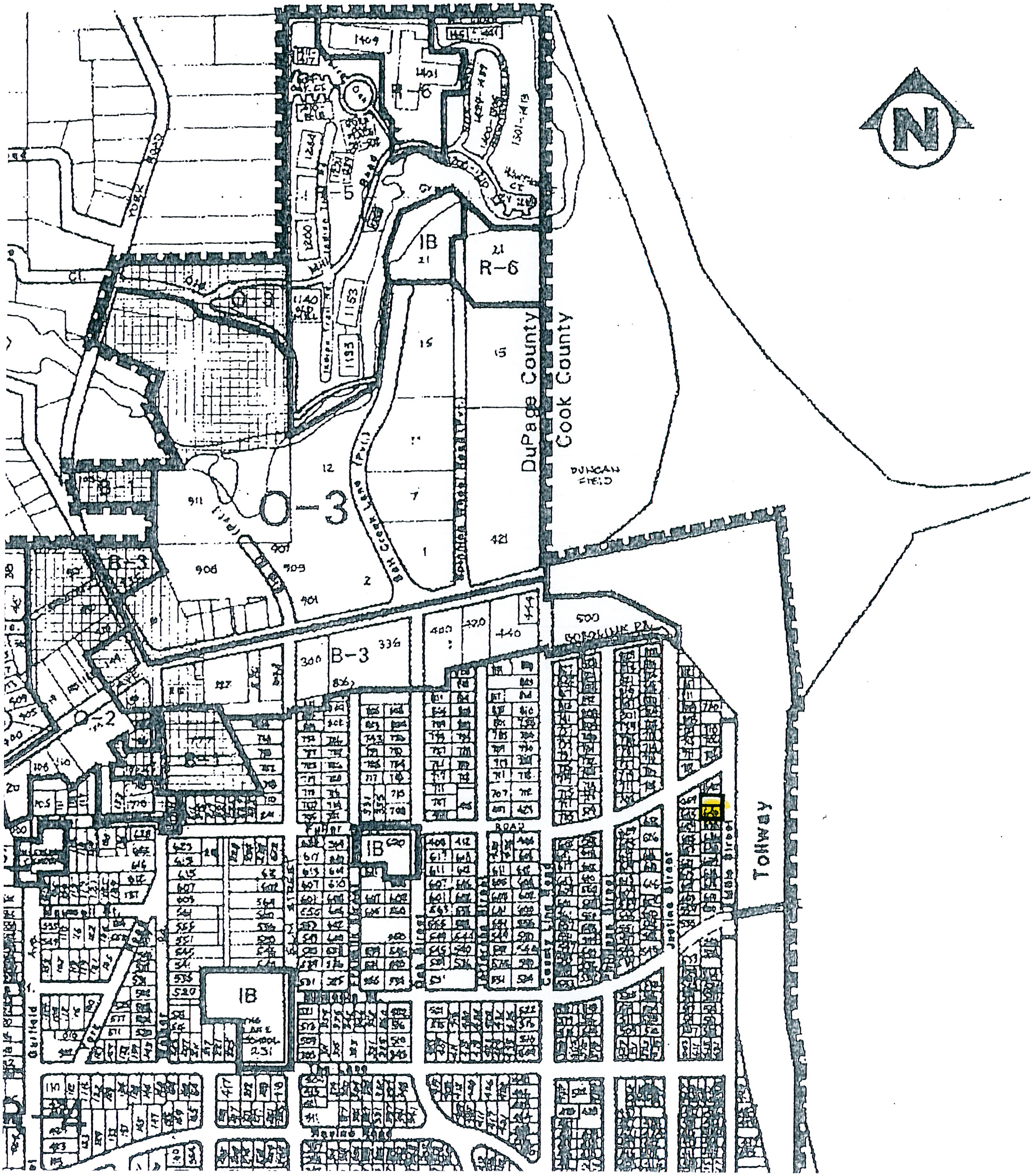


Exhibit #5 – Page 3
Vida and Paul Chenier Application

38-12-6C
18-6

W ½ NW ¼ SEC 6-38-12
LYONS

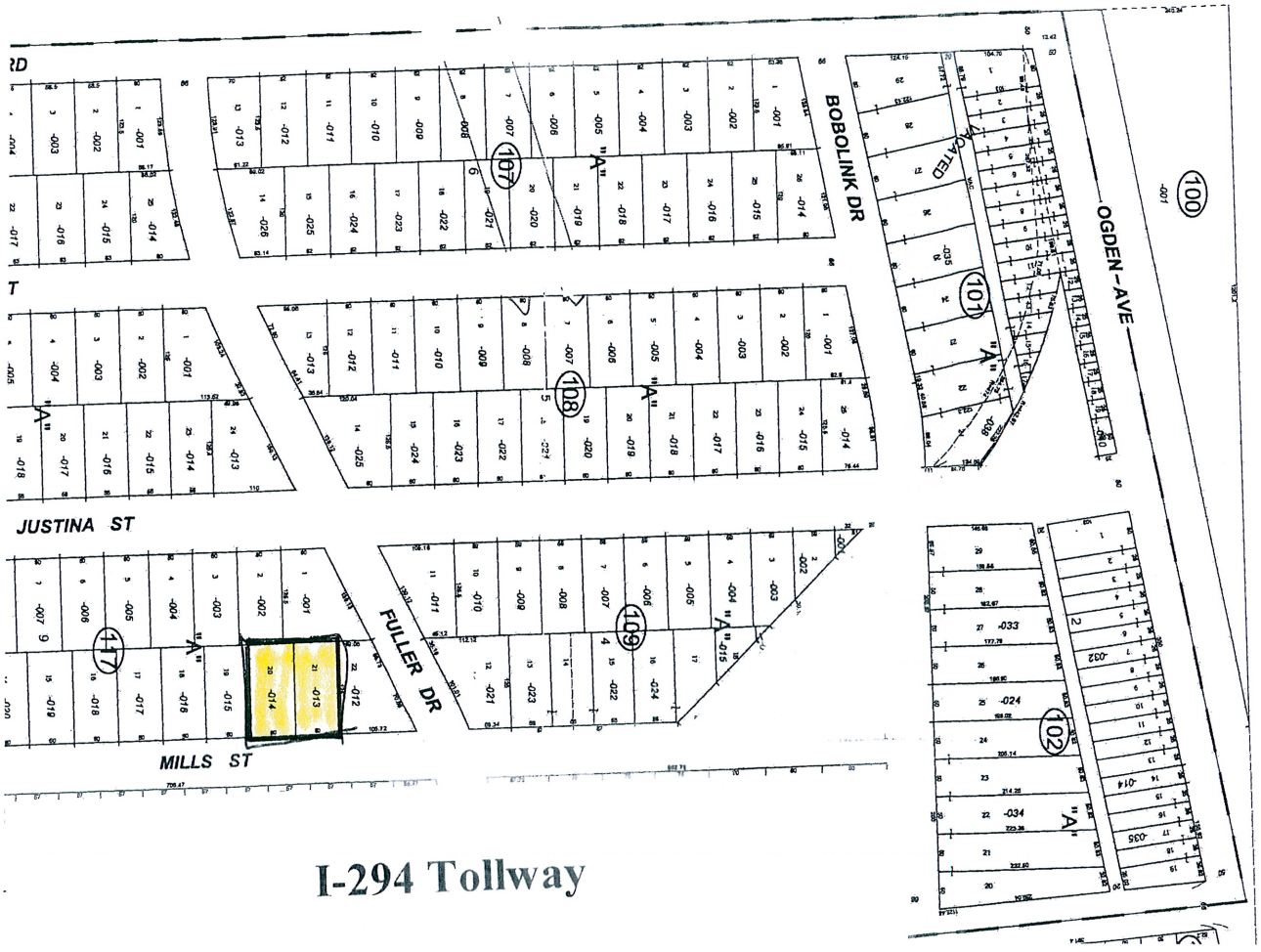


Exhibit #6

To Vida and Paul Chenier
Application for Variation at
640 Mills Street

The approval of the Zoning Board of Appeals being sought by Applicant conforms to the Village Official Comprehensive Plan and the Official Map. As stated in Section I, Paragraph 9 of this Application, the Subject Property is located in the R-4 District and its uses and development conform to those permitted in that District. In addition, the approval being sought furthers the objectives of the Village's Plan and Zoning Code by continuing the appropriate use of an individual parcel of land in the Village, by maintaining single family homes and accessory structures as the principal land use in the Village, by complying with the bulk and density limitations of the Zoning Code to preserve the existing scale of development in the Village, by reducing an existing nonconforming use, by preserving natural resources and aesthetic amenities, by promoting safety and convenient access to property, and by enhancing the general welfare of the Village.

Exhibit #7

To Vida and Paul Chenier
Application for Variation at
240 Mills Street

Applicant seeks to subdivide the Subject Property in compliance with the Village's interpretation of the Zoning Code to enable the construction of a single family residence on previously platted and currently vacant Lot 20 of the Subject Property. In order to do so, Applicant seeks the Board's variation of the Code's required area and width of Lot 20 to conform to the identical dimensions of the lots adjacent to and surrounding the Subject Property, including Lot 21. Applicant believes that the specific standards for granting the variations sought in the Application are met, as detailed in Exhibit #11 (Section II, Paragraph 5) of this Application. The Board has authority to grant the relief sought by Applicant. Applicant proposes to demonstrate to the Board that each of the standards articulated as conditions for approval are satisfied by the facts underlying this Application. To that end, Applicant has conferred with legal counsel, engaged the services of a professional architect who also is a resident of the Village, and has met or will meet with abutting neighbors to describe the Zoning Code relief being sought from the Board and to obtain their support of this Application.

This Trust Agreement

dated this 22nd day of April, 2009, and known as Trust Number 09-3084, is to certify that State Bank of Countryside an Illinois banking corporation, under the laws of the United States of America, and duly authorized to accept and execute trusts within the State of Illinois as Trustee hereunder, is about to be named as a Grantee in a deed of conveyance to the following described real estate in Cook County, Illinois:

LOTS 20 AND 21 IN BLOCK 9 IN JEFFERSON GARDENS, A SUBDIVISION IN THE WEST ½ OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 17, 1929 AS DOCUMENT 10457275, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS: 640 MILLS STREET, HINSDALE, IL 60521
PIN: 18-06-117-013 AND 18-06-117-014-0000

otherwise known as No

Improvements:

and that when it has taken the title thereto, or to any other real estate deeded to it as Trustee hereunder, it will hold it for the uses and purposes and upon the trusts herein set forth. The following named persons shall be entitled to the earnings, avails and proceeds of said real estate according to the respective interests herein set forth:

PAUL CHENIER AND VIDA CHENIER, HUSBAND AND WIFE, NOT AT JOINT TENANTS, NOT AS TENANTS IN COMMON, BUT AS TENANTS BY THE ENTIRETY, WITH RIGHT OF SURVIVORSHIP. IN THE EVENT OF THE DEATH OF THE SURVIVOR, HIS OR HER INTEREST NOT HAVING BEEN ASSIGNED NOR IN ANY OTHER MANNER DIVESTED, THEN THE BENEFICIAL INTEREST SHALL VEST IN: ANGELIQUE BALUCH, RICARDO OLIVAN, ELIZABETH CHENIER, AND NICHOLAS CHENIER, IN EQUAL SHARES, PER STIRPES.

IT IS UNDERSTOOD AND AGREED between the parties hereto, and by any person or persons who may become entitled to any interest under this trust, that the interest of any beneficiary hereunder shall consist solely of a power of direction to deal with the title to said real estate and to manage and control said real estate as hereinafter provided, and the right to receive the proceeds from rentals and from mortgages, sales or other disposition of said real estate, and that such right in the avails of said real estate shall be deemed to be personal property, and may be assigned and transferred as such; that in case of the death of any beneficiary hereunder during the existence of this trust, his or her right and interest hereunder shall, except as herein otherwise specifically provided, pass to his or her executor or administrator, and not to his or her heirs at law; and that no beneficiary now has, and that no beneficiary hereunder at any time shall have any right, title or interest in or to any portion of said real estate as such, either legal or equitable, but only an interest in the earnings, avails and proceeds as aforesaid. Nothing herein contained shall be construed as imposing any obligation on the Trustee, to file any income, profit or other tax reports or schedules, it being expressly understood that the beneficiaries hereunder from time to time will individually make all such reports and pay any and all taxes growing out of their interest under this Trust Agreement. The death of any beneficiary hereunder shall not terminate the trust nor in any manner affect the powers of the Trustee hereunder. No assignment of any beneficial interest hereunder shall be binding on the Trustee until the original or a duplicate copy of the assignment, in such form as the Trustee may approve, is lodged with the Trustee and its acceptance indicated thereon, and the reasonable fees of the Trustee for the acceptance thereof paid; and every assignment of any beneficial interest hereunder, the original or duplicate of which shall not have been lodged with the trustee, shall be void as to all subsequent assignees or purchasers without notice.

In case said Trustee shall be required in its discretion to make any advances of money on account of this trust or shall be made a party to any litigation on account of holding title to said real estate or in connection with this trust, on in case Trustee shall be compelled to pay any sum of money on account of this trust, whether on account of breach of contract, injury to person or property, fines or penalties under any law, judgments or decrees, or otherwise, or in case the Trustee shall deem it necessary on account of this trust, to consult or retain counsel and shall thereby incur attorneys' fees, or in the event the Trustee shall deem it necessary to place certain insurance for its protection hereunder, the beneficiaries hereunder do hereby jointly and severally agree as follows: (1) that they will on demand pay to the said Trustee, with interest thereon at the highest lawful rate per annum, all such disbursements or advances or payments made by said Trustee, together with its expenses, including reasonable attorneys' fees; (2) that the said Trustee shall not be required to convey or otherwise deal with said property at any time held hereunder until all of said disbursements, payments, advances and expenses made or incurred by said Trustee shall have been fully paid, together with interest thereon as aforesaid, and (3) that in case of non-payment within ten (10) days after demand said Trustee may sell all or any part of said real estate at public or private sale on such terms as it may see fit, and retain from the proceeds of said sale a sufficient sum to reimburse itself for all such disbursements, payments, advances and interest thereon and expenses, including the expenses of such sale and attorneys' fees, rendering the overplus, if any, to the beneficiaries who are entitled thereto. However, nothing herein contained shall be construed as requiring the Trustee to advance or pay out any money on account of this trust or to prosecute or defend any legal proceeding involving this trust or any property or interest thereunder. The sole duty of the Trustee with reference to any such legal proceeding shall be to give timely notice thereof to the beneficiaries hereunder after the Trustee is served with process therein and to permit such legal proceeding to be brought or defended in its name, provided that it shall be indemnified in respect thereto in a manner satisfactory to it.

Notwithstanding anything hereinbefore contained, the Trustee, at any time and without notice of any kind, may resign as to all or part of the trust property if the trust property or any part thereof is used, or the use thereof is authorized or contemplated, for any purpose which in the opinion of the Trustee, may subject the Trustee, within its sole determination, to embarrassment, insecurity, liability, hazard or litigation. Such resignation as to all or part of the trust property shall be fully effected by the conveyance of the trust property, or the part thereof as to which the Trustee desires to resign the trust hereunder, by the Trustee to the beneficiaries in accordance with their respective interests hereunder. The Trustee notwithstanding any resignation hereunder, shall continue to have a first lien on the trust property, for its costs, expenses, and attorneys' fees and for its reasonable compensation.

This Trust Agreement shall not be placed on record in the Recorder's Office or filed in the office of the Registrar of Titles of the County in which the real estate is situated, or elsewhere, and the recording of the name shall not be considered as notice of the rights of any person hereunder, derogatory to the title or powers of said Trustee.

Any corporate successor to the trust business of any corporate trustee named herein or acting hereunder shall become trustee in place of its predecessor, without the necessity of any conveyance or transfer.

The Trustee may at any time resign by sending a notice of its intention so to do by registered or certified mail to each of the then beneficiaries hereunder at his or her address last known to the Trustee. Such resignation shall become effective ten days after the mailing of such notices by the Trustee. In the event of such resignation, a successor or successors may be appointed by the person or persons then entitled hereunder to direct the Trustee in the disposition of the trust property, and the Trustee shall thereupon convey the trust property to such successor or successors in trust. In the event that no successor in trust is named as above provided within ten days after the mailing of such notices by the Trustee, then the Trustee may convey the trust property to the beneficiaries in accordance with their respective interests hereunder and record its trustee's deed or the Trustee may, at its option, file a bill for appropriate relief in any court of competent jurisdiction. The Trustee, notwithstanding such resignation, shall continue to have a first lien on the trust property for its costs, expenses and attorneys' fees and for its reasonable compensation.

Every successor Trustee or Trustees appointed hereunder shall become fully vested with all the estate, properties, rights, powers, trusts, duties and obligations of its, his or their predecessor.

It is understood and agreed by the parties hereto and by any person who may hereafter become a party hereto, or a beneficiary hereunder that said State Bank of Countryside will (subject to the rights of the Trustee as aforesaid) deal with said property or proceeds therefrom only when authorized to do so in writing and that it will (notwithstanding any change in the beneficiary or beneficiaries hereunder, unless otherwise directed in writing by the beneficiaries) on the written direction of

Paul Chenier and Vida Chenier

or such other person or persons as shall be from time to time named in writing by the beneficiary or beneficiaries at the time, make deeds or mortgages or trust deeds (including the waiver of the right of redemption from sale under an order or decree of foreclosure), or otherwise deal with the title to said real estate, or proceeds therefrom, provided, however that the Trustee shall not be required to enter into any personal obligation or liability in dealing with said real estate or to make itself liable for any damages, costs, expenses, fines or penalties, or to deal with the title so long as any money is due to it hereunder. Otherwise the Trustee shall not be required to inquire into the propriety of any such direction.

The beneficiary or beneficiaries hereunder shall in his, her or their own right have the full management of said property and control of the selling, renting and handling thereof, and any beneficiary or his or her agent shall collect and handle the rents, earnings, avails and proceeds thereof, and said Trustee shall have no duty in respect to the management or control of said property or in respect to the payment of taxes or assessments, or in respect to insurance, litigation or otherwise, except on written direction as hereinabove provided, and after the payment to it of all monies necessary to carry out said instructions. No beneficiary hereunder shall have any authority to contract for or in the name of the Trustee or to bind the Trustee personally. If any property remains in this trust twenty years from this date it shall be sold at public sale by the Trustee on reasonable notice in writing, sent by registered or certified mail to each of the then beneficiaries at his or her address last known to the Trustee, and the proceeds of the sale shall be divided among those who are entitled thereto.

At any time and from time to time additional property may be conveyed to the Trustee, and such property and the proceeds thereof shall be held, dealt with and disposed of under the terms of this agreement in the same manner as the property above specifically described. The terms and conditions of the deed by which the property above described, or any deed or deeds by which other property may be conveyed to the Trustee hereunder shall constitute and be construed as part of this agreement.

State Bank of Countryside shall receive for its services in accepting this trust and in taking title hereunder the sum of $ 100.00 ; also the sum of $ 50.00 per year or a sum in conformance with its fee schedules for holding title after the 22nd day of April 2010 so long as any property remains in this trust; also its regular schedule of fees for making deeds, mortgages, other instruments as may be required hereunder, from time to time, and it shall receive reasonable compensation for any special services which may be rendered by it hereunder, or for taking and holding any other property which may hereafter be deeded to it hereunder, which fees, charges or other compensation, the beneficiaries hereunder jointly and severally agree to pay and it is hereby understood and agreed that all such fees and compensations shall constitute a first lien on the real estate and property held hereunder.

May the name of any beneficiary be disclosed to the public? no

Inquiries, bills, legal notices and process shall be mailed to Paul & Vida Chenier

Address 640 Mills St., Hinsdale, IL 60521 Phone (630)667-1090

STATE BANK OF COUNTRYSIDE

ATTEST: _____ By: _____

And on said day the said beneficiaries have signed this Declaration of Trust and Trust Agreement in order to signify their assent to the terms hereof.

Paul Chenier (SEAL) Address 640 Mills St. Hinsdale, IL 60521
Social Security Number _____ Phone (630) 667-1090

Vida Chenier (SEAL) Address _____
Social Security Number _____ Phone _____

_____ (SEAL) Address _____
Social Security Number _____ Phone _____

_____ (SEAL) Address _____
Social Security Number _____ Phone _____

_____ (SEAL) Address _____
Social Security Number _____ Phone _____

Signatures of persons having Power of Direction only:

_____ (SEAL) Address _____
Social Security Number _____ Phone _____

_____ (SEAL) Address _____
Social Security Number _____ Phone _____

TRUST NO. 01-5084

Trust Agreement

AND

DECLARATION OF TRUST

STATE BANK OF COUNTRYSIDE

TRUSTEE

STATE BANK OF COUNTRYSIDE
6734 Joliet Road, Countryside, Illinois 60525
708/485-3100

TRUST DEPARTMENT

To Vida and Paul Chenier
Application for Variation at
240 Mills Street

Applicant purchased the Subject Property in 2002. At the time of purchase, Lot 21 was developed with a single family residence, which was and is in full conformance with R-4 zoning standards, and in which home Applicant resides. On that date, Lot 20 was and continues to be undeveloped and vacant. However, a previous single family residence straddled the shared Lot 21 and Lot 20 lot line. The then common owner of Lots 20 and 21, which lots were platted in 1929, demolished the previous residence in approximately the year 2000 or 2001, and constructed the current home located entirely on Lot 21.

Applicant purchased the Subject Property and the residence on Lot 21 in anticipation of constructing a residence on Lot 20 that would be occupied by Applicant's adult child and his family, who would serve as care givers to Applicant Vida Chenier, who suffers from health issues.

Notwithstanding the separate platting of Lots 20 and 21, the Village regards them as a single lot for zoning purposes under its interpretation of the Zoning Code. It is therefore the Village's position that in order for Applicant to construct a single family dwelling on vacant Lot 20 (PIN 18-06-117-014; the "Vacant Adjacent PIN"), Lot 20 must be "subdivided" from the declared "single Zoning lot" comprising the Subject Property that is composed of both vacant Lot 20 and developed Lot 21 (PIN 18-06-117-13; the "Residence PIN"). Subdividing the Subject Property – or returning each Lot to their original platted state – and enabling the construction of a residence on vacant Lot 20 in turn requires the grant of the variances sought in this Application. [Please see Village Attorney Memorandum dated April 26, 2017 attached to this Exhibit #9. Applicant is herewith pursuing "Option 2" articulated in page 4 of that Memorandum. However, as previously noted, the Village Attorney erroneously mixes up Lots 20 and 21 in his Memorandum. It is Lot 21 (PIN 8-06-117-013) that contains Applicant's residence. Lot 20 (PIN 8-06-117-013), south of Lot 21, is the vacant lot.]

Compliance with the requirements of the Village's Subdivision Regulations is an arduous process and Applicant respectfully asserts that such regulations were not intended to apply to the circumstances of this Application. The Applicant requests that if the variations sought herein are approved by the Zoning Board of Appeals and by the Village Board of Trustees, such approval include a recommendation to the Village Board of Trustees and the Enforcing Officer that upon division from Lot 21, (a) Lot 20 (the "Vacant Adjacent PIN") be regarded as a legal nonconforming lot of record which may be developed in accordance with Village codes; and, (b) only a final survey of Lot 20 be required for submission to the Enforcing Officer for review and recordation without being heard by the Plan Commission.

KTJ
KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

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Chicago, Illinois 60606-2903
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www.ktjlaw.com

MEMORANDUM

To: Robb McGinnis, Director of Community Development (via email only)
From: Michael A. Marrs
Date: April 26, 2017
Re: Zoning Opinion – 640 Mills Street - Ability to Build a Second Residence

---

You have informed me that the Property Owner of 640 Mills Street (the "Owner") has recently renewed her inquiry as to her ability to build an additional residence on her property. In response, the Village has asked me to offer my opinion on her request and to provide guidance on the options the Owner has under the Village Code regarding use of her property.

BACKGROUND: As background, the property at 640 Mills Street (the "Property") has two PINS. There is currently a home located entirely on one of the PINS (18-06-117-014; the "Residence PIN"), while the other PIN is adjacent and vacant (18-06-117-013; the "Adjacent PIN"). In a letter dated September 15, 2011, the Owner requested that the Village declare the Adjacent PIN to be a buildable lot separate and apart from the Residence PIN. In a letter dated February 20, 2012, you, as Director of Community Development/Building Commissioner, gave the opinion that while the Owner owned two underlying lots of record (the Residence PIN and Adjacent PIN), the two PINS together constituted a single Zoning Lot for Village zoning purposes, as there had at one time been a home and garage straddling both lots, and it was thus subject to the bulk requirements in Section 3-110 of the Hinsdale Zoning Code, meaning it could only be subdivided and the Adjacent PIN build on if it had dimensions of at least 70' x 125' and square footage in excess of 10,000 square feet. It does not have such dimensions or square footage.

The Owner subsequently sought the opinion of the then-Village Manager who, in a letter dated April 26, 2013 (the "2013 Village Manager Decision"), agreed with your opinion.

In 2015, the Owner sought to appeal the 2013 Village Manager Decision to the ZBA.[1] The ZBA was without jurisdiction to hear that appeal as it was made more than 45 days following the action/decision being appealed as required by § 502 of the Hinsdale Zoning Code. In July 2015, at the direction of the Village, I wrote a letter to the Owner explaining why the appeal could not move forward and setting forth possible zoning relief options that would allow her to accomplish her goal of building a second residence. To my understanding, staff did not hear again from the Owner on these issues until recently.

---

[1] It is worth noting that the previous owner of the Property had appealed a 2001 staff decision on the exact same issue to the ZBA. The ZBA upheld the staff decision, at which point the previous owner filed a federal lawsuit alleging an equal protection violation. The Village was awarded summary judgment in that case.

RELEVANT CODE PROVISIONS: The following Zoning Code provisions are relevant to this Opinion.

Section 3-110 (Bulk, Space, and Yard Requirements) of the Zoning Code sets forth bulk, space and yard requirements for all four (4) of the single-family residential zoning districts in the Village. Section 3-110, in its "exceptions and explanatory notes" section, refers readers to Section 10-105 of the Zoning Code for lot requirements with respect to "legal, nonconforming lots of record."

Section 10-104 (Precode Structures) generally allows precode structures to be maintained, altered, enlarged, rebuilt, restored and repaired so long as they remain otherwise lawful, allows maintenance, repair, alteration and enlargement of such structures so long as no new nonconformities are created, allows vertical extensions of precode structures in required front or rear yards, and allows, under certain circumstances, horizontal and vertical extensions in required side yards, etc.

Similarly, Section 10-105 (Legal Nonconforming Lots of Record) sets forth an alternative set of lot standards applicable to legal, nonconforming lots within the Village. The standards are an alternative to those set forth in Section 3-110, and relate to maximum elevation, front, back and side yard requirements, total lot area, and lot width and depth. Not all nonconforming lots of record are legal nonconforming lots of record, however, as defined by the Zoning Code.

The terms "Nonconforming Lot of Record" and "Legal, Nonconforming Lot of Record" are defined in Section 12-206 of the Zoning Code, as follows:

> ***Nonconforming Lot Of Record:*** A lot of record that does not comply with the lot requirements for any use permitted in the district in which it is located.
>
> ***Nonconforming Lot Of Record, Legal:*** 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.

Finally, Section 12-201.C. of the Zoning Code provides the following general prohibition:

> 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 that would create any parcel of land that could not be developed in compliance with this code shall be prohibited.

ANALYSIS: Sections 10-104 (Precode Structures) and 10-105 (Legal Nonconforming Lots of Record) of the Zoning Code are acknowledgments that many structures and lots within the Village predate current zoning requirements, resulting in structures and lots that are not in conformity with the current Zoning Code.

Where a lot includes all or a portion of a precode primary structure, the provisions of Section 10-104 allow the continued viable use of those lots. Where a nonconforming lot is of sufficient size under 10-105, was vacant in 1988, or became vacant thereafter under circumstances which somehow prevented the rebuilding of the previous precode structure, it is a LEGAL nonconforming lot and is eligible for development under Section 10-105. A lot may be subject to *either Section 10-104, or Section 10-105.* Based on the vacancy requirement in the definition of a legal, nonconforming lot, where a nonconforming lot contains all or a portion of a precode structure, the lot is governed by the precode structure provisions in 10-104, rather than the legal, nonconforming lot of record provisions in 10-105.

Collectively, Sections 10-104 and 10-105 demonstrate an intent to essentially maintain the density of the Village as it existed in 1988. If a precode structure exists on a lot, you can generally continue to utilize the lot for that single-family residential purpose, regardless of its size, under Section 10-104. If you have a lot that appears to have been platted for development, but has never been developed, you can do so under Section 10-105, if certain minimum lot area and dimension and other standards are met. Consistent with the overall scheme of maintaining existing density, the demolition, destruction, or other disposition of a precode structure on a lot made up of multiple lots of record and historically used as a single zoning lot would not cause a property to move from 10-104 to 10-105, except in circumstances where, for whatever reason, 10-104 would prevent the precode structure from being rebuilt. Instead, the owner retains the right to rebuild a single dwelling on the zoning lot. Similarly consistent with the overall scheme created by the Zoning Code is the Village's position that once a lot or collection of lots of record are used as a single zoning lot, they may not thereafter be divided and broken out as multiple lots as of right.

File records at the Village indicate that there was once a precode structure on the Property that spanned the two nonconforming lots. In such a case, both the Residence PIN and the Adjacent PIN constitute a single zoning lot that is subject to the provisions of Section 10-104 of the Zoning Code regarding precode structures. Once demolished, the Owner (or previous owner) had the right pursuant to Section 10-104 to rebuild a single residential structure on the Property. Because the Adjacent PIN on which the Owner now seeks to build an additional residence was either occupied in 1988, or became vacant after 1988 by demolition of a precode structure that was eligible to be rebuilt (and <u>was</u> rebuilt, on the Residence PIN), the Adjacent PIN does not qualify as a legal, nonconforming lot that is eligible for a separate residence.

OPTIONS: In light of the above, two options available to the Owner under the Zoning Code are as follows:

1. Since two years have passed since the previous decision of the Village Manager that the Adjacent PIN was not eligible for a separate residence, the Owner could formally seek a new decision from the Current Village Manager on her right to rebuild on the Adjacent PIN. In the event the Owner disagrees with the decision the Manager reaches, she would then have 45 days to appeal that decision to the ZBA. Note that while a successive application filed more than two years after the final denial of a previous application is allowed under the Zoning Code, an applicant is required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. See §11-302. If the ZBA ultimately overruled the Staff opinion on the Owner's ability to separately build on the Adjacent PIN, she would have the right to build a residence on the Adjacent PIN; or

2. The Owner could instead seek to subdivide the existing single Zoning Lot and seek a variation from the Section 3-110 requirements that a lot in the R-4 Residential Zoning District have a minimum size of 10,000 square feet and dimensions of at least 70' x 125'. If the variations were granted, and the subdivision approved, a residence could be built on the Adjacent PIN.

cc: Kathleen Gargano, Village Manager (via email)
Lance Malina (via email)

Exhibit #10
Vida and Paul Chenier Application

PARSONS
ARCHITECTS, LLC

August 16, 2017

Paul & Vida Chenier
640 Mills
Hinsdale, Ill.

Here are your numbers:

Lot area: 60X125 = 7500 SF
FAR Allowed 2975 sf (7500x.25+ 100)
Actual FAR 2050 sf

Building Coverage allowed = 1875 sf (7500 x .25)
Actual Coverage 1727 sf

Side yards code = 18' total , 7' minimum
Actual side yards = 26.7' total, 13.22' minimum

Rear yard code = 25'
Rear yard actual = 26.9'

Front yard = block average = 36.57
Front yard actual = 36.57'

Impervious area = 50% = 3750 sf
Impervious actual = 39% = 2960 sf

This structure conforms in every criteria.

Dennis Parsons - Architect

PARSONSARCHITECTS.COM
28 SPRINGLAKE AVENUE, HINSDALE, ILLINOIS 60521 ▪ PHONE: 630.567.8135

To Vida and Paul Chenier
Application for Variation at
640 Mills Street

Standards for Variation

(a). Unique Physical Condition. The Subject Property (I.e., Lots 20 and 21) is certainly exceptional compared to other zoning lots subject to the provisions of the Zoning Code applicable to R-4 District properties in Applicant's section of the Village. The variation is being sought because the Village has taken the position that notwithstanding their platting as separate lots, Lots 20 & 21 are considered a "single Zoning lot" under the provisions of the Zoning Code due to the fact that at one time, prior to the Applicants' ownership, there was a home that straddled the two platted Lots. Unlike other zoning lots in the vicinity of the Subject Property, Lots 20 and 21 comprising the Subject Property have two separate PINS (18-06-117-014 and 18-06-117-013, respectively), inasmuch as they were platted as separate zoning lots in 1929. Contributing to the unique physical nature of the "single Zoning lot" Subject Property are the facts that Applicant's residence is located wholly on one of the PINS (18-06-117-013) and conforms to all zoning requirements for a structure on that single lot (please refer to Architect Parson's analysis, Exhibit #10), and the other half of the Subject Property is an adjacent PIN that is vacant. Applicant is not aware of any other "single Zoning lot" in their neighborhood possessing the characteristic that an otherwise legal nonconforming buildable vacant lot cannot be developed by operation of the Zoning Code. The resolution of this anomaly sought by Applicant is that which is suggested by the Village Attorney as "Option 2."

The physical conditions described above and elsewhere in this Application are peculiar to and inherent in the Subject Property. The inability to construct a home on vacant Lot 20 amounts to more than mere inconvenience to the Applicant/owner and does not arise from their personal situation. These circumstances would affect any owner of the Subject Property or of Lot 20, alone. [Note: Village Codes and other governmental laws and regulations would not appear to prevent the sale of patted Lot 20 to a third party as a separate lot. The effect that would have under the Zoning Code for purposes of the buildability of Lot 20 in the Village's view fortunately is beyond the scope of this Application.]

(b). Not Self-Created. None of the foregoing unique physical conditions of the Subject Property were created by action or inaction of Applicant/owner. They existed at the time Applicant purchased the Subject Property in 2002. They were not created by government action without compensation, other than the enactment of the Code at a time when a residence straddled the common lot line of Lots 20 and 21. That residence was demolished by a prior owner. As stated above, the Applicant's home is wholly situated on one PIN (Lot 21) and was so when they purchased the Subject Property. The determination that this is a "single Zoning lot" relates to a condition created by a previous owner over 20 years ago and was a condition not created by the Applicant.

(c). Denied Substantial Rights. Applicant is asking that a variation be granted so that they might subdivide these lots into two lots that are substantially, if not identically, the same as every lot in their neighborhood. Applicant seeks the opportunity to construct a new residence on Lot 20 as a legal nonconforming lot in the same manner as all other residents have been able to do in Applicant's R-4 area of the Village. To deny Applicant that opportunity is to deny them a right enjoyed by many others in the community. Moreover, Lots 20 & 21 taken together as a "single Zoning lot" make up the largest lot by double of any other lot in the vicinity of the Subject Property. The Applicant is asking only for a "subdivision" that returns the "single Zoning lot" Subject Property to the state that has existed since 1929 of two buildable lots of record that are each the size of all of the other buildable, and developed, lots of record in the neighborhood. (Please refer to Jefferson Gardens Plat of W ½ NW ¼ Sec 6-38-12 dated August 17, 1929, attached as part of Exhibit #5.)

(d). Not Merely Special Privilege. Applicant is not asking to enjoy a special right or privilege not enjoyed by owners of lots subject to the same provisions of the Zoning Code. In fact, similar relief has been sought and afforded by the ZBA in at least one other instance. The request is simply to allow the Applicant to create two buildable lots that in every way comport to the neighborhood in which they are located. Applicant merely seeks approval to utilize their property in the same manner as other residents of the Village, and to construct single family residences that are consistent with the objectives of the Plan and Code. Applicant is not pursuing rights not available to other residents or seeking to personally profit from the relief from a strict application of the Village's interpretation of the Zoning Code requested in this Application. Also contributing to the hardship or difficulty caused by the Village's "single Zoning lot" interpretations of the Code is Applicant Vida Chenier's health condition referred to previously. Of course alternatives exist, but Mr. Paul Chenier's work requires frequent extended travel, and Applicant's inability to construct a residence on Lot 20 to provide living accommodations for family members who could offer immediate health care assistance to Mrs. Chenier on an emergency basis creates unique hardship or difficulty in this instance.

(e). Code and Plan Purposes. As detailed elsewhere in this Application, it is respectfully submitted that Code and Plan purposes are best served by the Board's approval of the variances sought by Applicant and the Village's approval of a division of the Subject Property of Lots 20 and 21 as two separate buildable legal nonconforming lots in the R-4 District. Applicant asserts that a denial of the approval sought in the Application may well be adverse to certain of the stated objectives of the Plan and Code. For example, one of the purposes of the Zoning Code is to create and maintain neighborhoods with consistent lot and structure requirements. The variation requested by the Applicant would result in the creation of two buildable lots, and the potential development of the vacant lot, which would be in complete harmony with the general and specific purposes for which the Code and Section 3-110 were enacted.

(f). Essential Character of the Area. The variation, if granted, would allow for the "subdivision" of the declared "single Zoning lot" and the creation of two zoning lots both of which would be in harmony with the surrounding neighborhood. The division of the property will increase property tax revenue for the Village, School Districts and other taxing/levying bodies. The "division" of the property as well as any development of the vacant lot have adequate utility support, would not increase traffic or congestion in the neighborhood and would in no way endanger public health or safety. In short, grant of the requested variance would have none of the consequences enumerated in subparagraphs (1) through (6) of this subsection.

(g). No Other Remedy. To repeat, the Village has taken the position that a condition created by a previous owner of the Subject Property over 20 years ago has resulted in Lots 20 & 21 being considered a "single Zoning lot" under the Code, that a "subdivision" is required, and that such a "subdivision" of the Subject Property may only be allowed if both lots met the conditions set forth in Code Section 3-110. Therefore, in order to subdivide the Property to allow the Applicant to create two lots that are better suited to their neighborhood, and to afford them the same rights as are afforded to other residents of the Village, there is no other remedy available to the Applicant except relief from the lot area and lot width requirements of the Code. Absent this relief, and due to the Village's reading of the Code, the Applicant (as well as any future owners of the property) would be left with a lot adjacent to their home that must remain forever vacant and entirely out of character with the neighborhood.

For all of the reasons stated above and elsewhere in this Application, only by the grant of the requested variation would Applicant be permitted a reasonable use of the entire Subject Property without adverse consequences to Applicant and potential adverse consequences to the Village and to Applicant's neighbors.

8a

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): [redacted]

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

DATE OF APPLICATION: 7/5/2017

RECEIVED
JUL - 6 2017
BY: CB

SECTION I

Please complete the following:

1. Owner. Name, address, and **telephone number** of owner: Susan B. Phillip
19 Lansing Street [redacted] 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 plat 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 BlueSky 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 A 3 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 applicant, 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

• BOUNDARY • TOPOGRAPHICAL • SUBDIVISIONS • ALTA/ACSM • CONDOMINIUMS • SITE PLANS • CONSTRUCTION • FEMA CERTIFICATES •

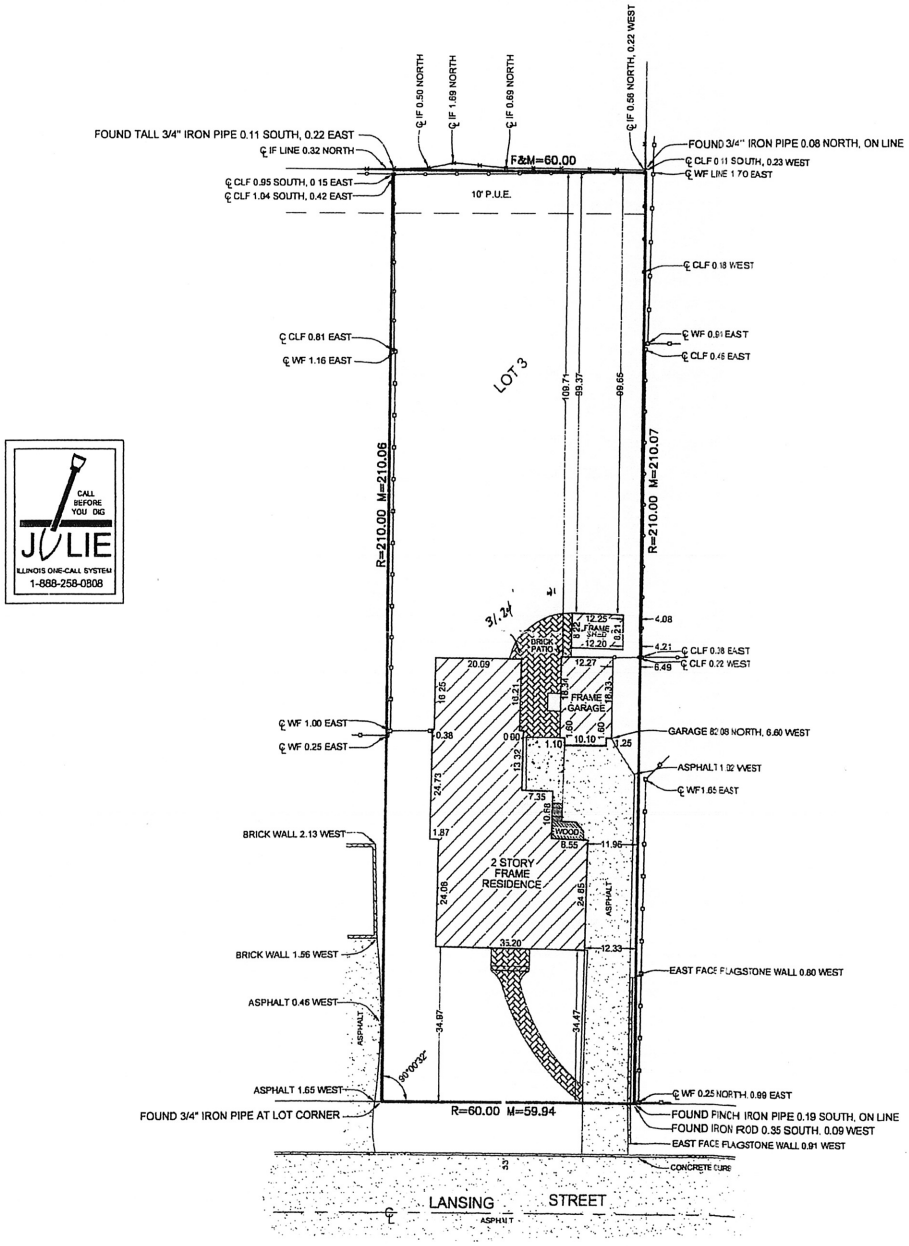
SCHOMIG LAND SURVEYORS, LTD.

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.



CALL BEFORE YOU DIG
JULIE
ILLINOIS ONE-CALL SYSTEM
1-888-258-0808

THE COSTUMER 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 OFFICAL DOCUMENTS. FIELD WORK WAS COMPLETED PER SURVEY DATE LISTED BELOW.

SURVEY DATE: OCTOBER 5TH, 2016.

BUILDING LOCATED: OCTOBER 5TH, 2016.

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

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

LEGEND

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

SCHOMIG LAND SURVEYORS DESIGN FIRM PROFESSIONAL CORPORATION
909 E. 31st STR. LaGRANGE PARK, IL. 60526
RUSSELL W. SCHOMIG
035-002446
PROFESSIONAL LAND SURVEYOR
STATE OF ILLINOIS

LICENSE EXPIRATION
11-30-2018

STATE OF ILLINOIS } ss.
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	10,209.50	TOTALS	5.2907	10,262.38

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

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

* S OF A FACTOR 1.0629

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.

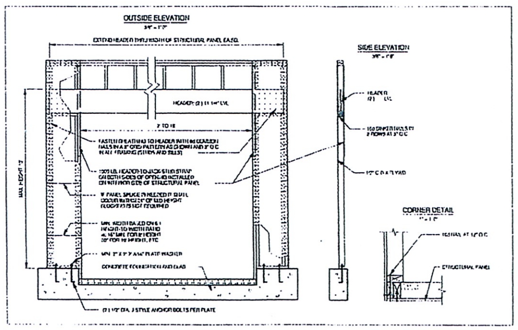
5(f) 3: The variance requested will not substantially increase congestion in the public streets due to traffic or parking.

5(f) 4: The variance requested will not unduly increase the danger of flood or fire.

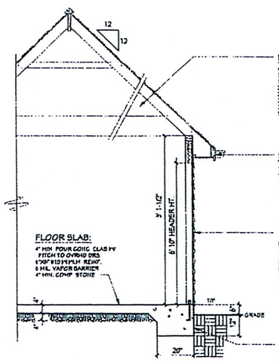
5(f) 5: The variance requested will not unduly tax public utilities and facilities in the area.

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



ROOF:
ASPHALT SHINGLES
15# FELT PAPER
1/2" CDX PLYWOOD ROOF SHEATHING
2x8 RIDGE BOARD, OR FULL DEPTH OF RR PLUMB CUT
2x6 ROOF RAFTERS AT 16" OC
2x4 COLLAR TIES 32" OC
2x6 CEILING CROSS TIES 32" OC
SHINGLED RIDGE VENT
(MIN 1/300 ATTIC AREA EXHAUST REQ'D)

SOFFIT AND FASCIA:
ALUMINUM GUTTERS AND DOWNSPOUTS
ALUMINUM WRAPPED
1x FASCIA BOARD
12" ALUMINUM SOFFIT
W/ SCREENED EAVE VENTS
(MIN 1/300 ATTIC AREA INTAKE REQ'D)

FRAME WALL CONSTRUCTION:
LAP SIDING AS SELECTED
TYVEK HOUSE WRAP OR EQUAL
1/2" OSB SHEATHING BUILDING ENVELOPE
2x4 STUD FRAME WALL AT 16" OC
SINGLE 2x4 SILL PLATE TREATED TYP.
TRIPPLE 2x4 TOP PLATE, LAP CORNERS
1/2" x 10" ANCHOR BOLTS 4' O.C. MAXIMUM
12" MAX 6" MIN FROM CORNERS AND SPLICES

FOUNDATION:
4" POURED SLAB WITH THICKENED
PERIMITER FOOTING TYP. 6BAG MIX
#10 WWF, REINFORCING TYP
MIN 3,000 PSF BEARING SOIL

GARAGE SECTION
SCALE: 3/8" = 1'0"

BUILDING DEPARTMENT NOTE:

- THIS DRAWING HAS BEEN PREPARED FOR USE ON THE PROJECT NOTED AND REPRODUCTION IN PART OR WHOLE IS PROHIBITED UNLESS AUTHORIZED IN WRITING BY S.G. ARCHITECTS, INC.
- OWNER/CONTRACTOR ASSUME ALL LIABILITY IN CONJUNCTION WITH THE USE OF THESE DOCUMENTS AND THE INFORMATION CONTAINED HEREON
- S.G. ARCHITECTS, INC. IS NOT RESPONSIBLE FOR METHODS OF CONSTRUCTION OR INADVERTENT ERRORS OR OMISSIONS
- THIS DRAWING IS VALID FOR PERMIT ONLY WHEN SEAL IS AFFIXED AND IS INTENDED FOR CONSTRUCTION OF ONE BUILDING ONLY

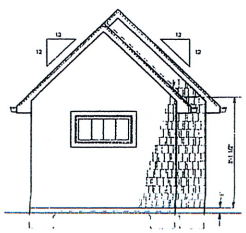
GENERAL NOTE:

- SUBSTITUTION FROM LUMBER GRADES DESIGNATED HEREON MUST BE APPROVED BY THE ARCHITECT PRIOR TO CONSTRUCTION
- ARCHITECT FEES INCURRED DUE TO FAILURE TO COMPLY WILL BE THE RESPONSIBILITY OF APPROPRIATE CONTRACTOR

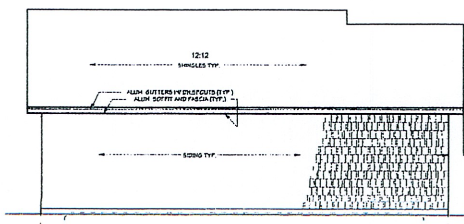
LOT COVERAGE AREA:	
HOUSE =	1809.16
DETACHED GARAGE=	320.00
TOTAL =	2129.16
	2004.16

LOT COVERAGE TABULATION

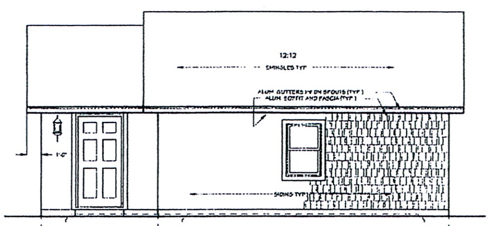
APPROX. LOT AREA = 12,600.00
25.00% +125 ALLOWABLE = 3,275.00
ACTUAL COVERAGE = 2,129.16



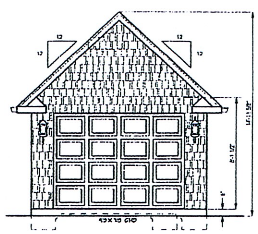
NORTH SIDE ELEVATION
SCALE: 1/4" = 1'0"



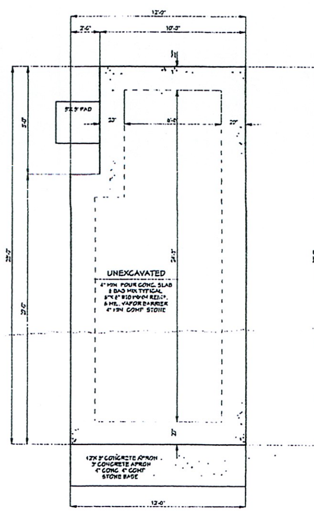
EAST SIDE ELEVATION
SCALE: 1/4" = 1'0"



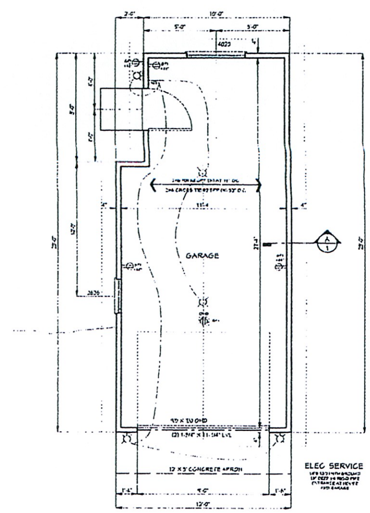
WEST SIDE ELEVATION
SCALE: 1/4" = 1'0"



SOUTH ELEVATION
SCALE: 1/4" = 1'0"



GARAGE FOUNDATION PLAN
SCALE: 1/4" = 1'0"



GARAGE PLAN
SCALE: 1/4" = 1'0"

S.G. Architects, Inc.
ARCHITECTS-PLANNERS

1401 BRANDING, SUITE 270
DOWNERS GROVE, IL 60515
PH 630.963.2279
FAX 630.963.2237

BUILDING DEPARTMENT NOTE

LICENSED ARCHITECT
STEPHEN L. GAYLIK
001-016162
STATE OF ILLINOIS

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3-14-17

garage for
PHILIP

18 LANSING ST.
HINSDALE, IL 60521

BLUE SKY BUILDERS
424 OGDEN AVE.
DOWNERS GROVE, IL., 60515
PH 630.852.0350

NO.	DATE	ISSUES AND REVISIONS	BY
	3-14-17	ISSUE FOR PERMIT	SLG

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

- ELEVATIONS
- FOUNDATION PLAN
- FLOOR PLAN
- SECTION
- DETAILS

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 Lasing 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 that 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,

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

New York Life Insurance Company
51 Madison Avenue

9a

PROPOSED RULES FOR WRITTEN SUBMISSIONS AND ORAL ARGUMENT TO THE HINSDALE ZONING BOARD OF APPEALS

The Hinsdale Zoning Board of Appeals will consider adopting the following proposed rules governing written submissions and oral argument to the ZBA at its August 16, 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. The party that filed the appeal or the variance request need not retain counsel to represent them, but they may do so if they wish.

2. If any party wishes to submit a separate legal brief or letter detailing the reasons why the ZBA should grant such appeal or variance request, 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 14 days before the ZBA meeting when the ZBA will hold the hearing the appeal or variance application.

3. Within seven 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.

11. At the hearing on any such appeal or variance request, the party that filed the appeal or the variance request has a maximum of 15 minutes to present their initial arguments

regarding why the ZBA should grant such appeal or variance request; the Village may then have a maximum of 15 minutes to respond; and the party that filed the appeal or variance request may then have five minutes to reply. These time limits may be extended by a maximum of five minutes per side in the ZBA's discretion. These time limits apply only to oral argument by a party to the ZBA regarding whether the facts support a conclusion that the ZBA should grant the appeal or variance request under the applicable zoning standards, but not to any witness testimony that any party may wish to present.

12. Any non-party to any such appeal or variance request who wishes to address the ZBA at the hearing on any such appeal or variance request may have a maximum of five minutes to address the ZBA regarding whether the ZBA should grant the appeal or variance request.