



## MEETING AGENDA

**REGULAR MEETING OF THE  
ZONING BOARD OF APPEALS  
WEDNESDAY, APRIL 18, 2018  
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 February 22, 2018
  - b) Regular meeting of March 21, 2018
- 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-04-18, 550 West Ogden Avenue
  - b) V-05-18, 842 West Seventh Street
- 8. PUBLIC HEARINGS**
  - a) APP-03-17, 504 South Oak Street & 422 South Oak Street
- 9. NEW BUSINESS**
- 10. OLD BUSINESS**
- 11. ADJOURNMENT**

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

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VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
MARCH 21, 2018

**1. CALL TO ORDER**

Vice-Chairman Keith Giltner called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, March 21, 2018 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois. He announced that ZBA member Marc Connelly has stepped down from the Board and, on behalf of the ZBA and the Village, thanked him for his service.

**2. ROLL CALL**

**Present:** Members Gary Moberly, Joseph Alesia, John Podliska and Vice-Chairman Keith Giltner

**Absent:** Member Kathryn Engel and Chairman Bob Neiman

**Also Present:** Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton, Court Reporter Kathy Bono

**3. APPROVAL OF MINUTES – None**

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

**5. RECEIPT OF APPEARANCES – The Court Reporter administered the oath to all those intending to speak during 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**

**a) V-03-18, 842 West Seventh Street**

*(Item taken out of order)*

Vice-Chair Giltner introduced the item and explained the applicant has withdrawn their original application, and will resubmit with a reduction in side yard setback relief, and the addition in the building coverage. The applicant has asked that the Board waive the pre-hearing. He added that the Board generally discourages this practice; Mr. McGinnis added that pre-hearing is not a code requirement, but a long-term practice.

The Board agreed to waive the pre-hearing for this matter.

**b) V-01-18, 415 South Vine Street** *(A transcript of the following proceedings is on file with the Village Clerk.)*

Vice-Chair Giltner opened the public hearing and asked the applicant to restate their request and make comments on the standards for approval. He

1 also reminded the applicant that they have a right to postpone their hearing  
2 because there are only four Zoning Board members present.

3 Mr. Patrick Plunkett, architect, addressed the Board and elected not to  
4 postpone the hearing. He addressed the unique physical condition of the lot  
5 as a result of the deeper lots than this one on the block. In fact, this lot is  
6 half the depth of the others. The zoning code requires using the average of  
7 the block, but they want to maintain the existing front yard setback. It is  
8 currently 24.5' feet, they are requesting a .5" inch variance to 25' feet.  
9 Granting this variance will maintain the current character of the neighborhood.  
10 This issue is not self-created, and they believe this property to be a perfect  
11 example of why variances are able to be granted.

12 Mr. Chang, homeowner, commented that the hardship is compelling. If the  
13 new house were built in accordance with the front yard setback requirement,  
14 the rear yard setback would be in violation because of the location of the  
15 garage. They would not be able to build. He explained that he currently rents  
16 this property, but has gotten no feedback from neighbors.

17 **Mr. Kyle Chudom of 416 S. Grant** addressed the Board and explained his  
18 home backs up to the subject property. He said there are major drainage  
19 issues in their backyards, and he doesn't know if this will impact the existing  
20 problem. Mr. Chang explained he will put in a French drain or something like  
21 that so as not affect the neighbors. Mr. Plunkett added it would help with this  
22 problem to keep the house forward on the lot, and maintain the current  
23 drainage, with more footage at the rear of the lot.

24 The Board had no additional questions. Member Moberly moved **to close the**  
25 **public hearing for V-01-18, 415 South Vine Street.** Member Alesia  
26 seconded the motion.

27  
28 **AYES:** Members Moberly, Alesia, Podliska and Vice-Chair Giltner

29 **NAYS:** None

30 **ABSTAIN:** None

31 **ABSENT:** Members Engel and Chairman Neiman

32  
33 Motion carried.

## 34 35 DELIBERATION

36  
37 Member Podliska began deliberations stating he is persuaded by the  
38 presentation, especially with respect to the diagrams included in the packet,  
39 which illustrate the disparity between the setback of this lot and the others on  
40 the block. The measurements included show what they are asking for is the  
41 same as the current setback. This is a unique situation and he is in favor of  
42 approving the request. Member Alesia agreed because this is only a 5" inch  
43 request from the existing setback. Member Moberly concurred.

44 Member Moberly moved **to approve the variation request know as V-01-18,**  
45 **415 South Vine Street.** Member Alesia seconded the motion.  
46  
47

1  
2 **AYES:** Members Moberly, Alesia, Podliska and Vice-Chair Giltner

3 **NAYS:** None

4 **ABSTAIN:** None

5 **ABSENT:** Members Engel and Chairman Neiman

6  
7 Motion carried.

- 8  
9 c) **V-02-18, Monument Sign on Landscaped Median of Salt Creek Lane** (A  
10 *transcript of the following proceedings is on file with the Village Clerk.*)

11 Attorney Peter Coules, on behalf of the applicant, addressed the Board. He  
12 explained that this request was before the ZBA in 2015, when the item was  
13 approved with conditions. All the conditions have been met, and all IDOT  
14 setbacks are met. He explained it took a long time to get this done. The Plan  
15 Commission asked for many changes, and IDOT took a long time to respond.  
16 Although the sign is not in the IDOT right-of-way, they would like it built as a  
17 break-away sign, and the Village agreed. With respect to site lines, the sign  
18 will not impact walkers or drivers. The final condition was sign content. He  
19 commented that this was a 'hornet's nest' because everyone in the area  
20 wanted to be on the sign. Subsequently, there were three meetings with the  
21 Plan Commission that resulted in changes, but finally a 6' foot sign was  
22 unanimously approved. . He explained the sign includes two names and two  
23 'blanks' for the future.

24 Mr. Coules pointed out that the reason this is before the ZBA again is  
25 because of timing. If the sign could have been installed within a year we  
26 wouldn't be here.

27 Member Podliska moved to close the public hearing for **V-02-18,**  
28 **Monument Sign on Landscaped Median of Salt Creek Lane.** Member  
29 Alesia seconded the motion.

30  
31 **AYES:** Members Moberly, Alesia, Podliska and Vice-Chair Giltner

32 **NAYS:** None

33 **ABSTAIN:** None

34 **ABSENT:** Members Engel and Chairman Neiman

35  
36 Motion carried.

37  
38 **DELIBERATION**

39  
40 Member Moberly began discussion stating he was ok with the request in  
41 2015, and is still ok. The signs look nice and comply with all conditions of  
42 approval. The Board agreed.

43 Member Moberly moved to approve the variation request known as **V-02-**  
44 **18, Monument Sign on Landscaped Median of Salt Creek Lane.** Member  
45 Podliska seconded the motion.

46  
47 **AYES:** Members Moberly, Alesia, Podliska and Vice-Chair Giltner

1       **NAYS:** None

2       **ABSTAIN:** None

3       **ABSENT:** Members Engel and Chairman Neiman

4  
5       Motion carried.

6  
7       **9. NEW BUSINESS – None**

8  
9       **10. OLD BUSINESS**

10       With respect to the Oak Street Appeal, Vice-Chair Giltner asked about the  
11       Freedom of Information materials discussed at the February meeting. Village  
12       Clerk Bruton explained that the same materials were either provided to or made  
13       available to both parties. Mr. McGinnis mentioned the concern as to whether or  
14       not the form in question is as identified.

15  
16       **11. ADJOURNMENT**

17       With no further business before the Zoning Board of Appeals, Vice-Chairman  
18       Giltner asked for a motion to adjourn. Member Podliska moved to **adjourn the**  
19       **meeting of the Zoning Board of Appeals of March 21, 2018.** Member Alesia  
20       seconded the motion. Voice vote taken, all in favor, motion carried.

21  
22       Vice-Chairman Giltner declared the meeting adjourned at 7:03 p.m.

23  
24  
25       \_\_\_\_\_  
26       Christine M. Bruton  
27       Village Clerk  
28

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



VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE SPECIAL MEETING  
FEBRUARY 22, 2017

1. CALL TO ORDER

Chairman Bob Neiman called the specially scheduled meeting of the Zoning Board of Appeals to order on Thursday, February 22, 2018 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

**Present:** Members Gary Moberly, Keith Giltner, Kathryn Engel, John Podliska and Chairman Bob Neiman

**Absent:** Members Marc Connelly and Joseph Alesia

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

3. APPROVAL OF MINUTES

a) Regular meeting of December 20, 2017

Following corrections to the draft minutes, Member Engel moved to **approve the draft minutes of December 20, 2017, as amended.** Member Moberly seconded the motion.

**AYES:** Members Moberly, Giltner, and Engel and Chairman Neiman

**NAYS:** None

**ABSTAIN:** Member Podliska

**ABSENT:** Members Connelly and Alesia

Motion carried.

4. APPROVAL OF FINAL DECISION

a) V-09-17, 15 East Fifth Street

There were no changes or corrections to the draft final decision. Member Moberly moved to **approve the draft final decision for V-09-17, 15 East Fifth Street.** Member Giltner seconded the motion.

**AYES:** Members Moberly, Giltner, and Engel Chairman Neiman

**NAYS:** None

**ABSTAIN:** Member Podliska

**ABSENT:** Members Connelly and Alesia

Motion carried.

5. RECEIPT OF APPEARANCES - The court reporter administered the oath to those intending to speak.

**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-01-18, 415 South Vine Street**

Mr. Howard Chang, applicant and homeowner, and Mr. Patrick Plunkett, architect, addressed the Board. Mr. Plunkett stated they are asking for relief from the required front yard setback due to the depth of the lot in comparison with the majority of lots on the street. The hardship is with the lot in that if you correspond with average front yard setback, with a detached garage, it would be difficult to get in the garage if it is located behind the house. He referenced the attachments in the packet which illustrate the location of the other properties on the block. The code says the average setback is 36.4'feet; there request is to maintain the existing setback of approximately 25' feet. Mr. Chang added the house would have the same footprint as the existing home; if the new home was set 36' feet back, it would be so far back they could not meet the 10' foot requirement between house and garage. The patio would be over rear setback. They believe the approving criteria is met to approve this variance, and noted the majority of the block has twice the depth of the subject lot.

The Board had no additional questions. Chairman Neiman reminded them to be prepared to address each of the seven criteria for approval, and noted neighbor support would be helpful.

The public hearing was set for the next meeting of the Zoning Board of Appeals.

**b) V-02-18, Monument Sign on Landscaped Median of Salt Creek Lane**

Mr. Peter Coules, attorney representing the applicant, addressed the Board. He stated that in 2015 his client was before the Board requesting eight 8' x 6' foot signs which were approved. He described the signs and noted they received unanimous approval from the Plan Commission. However, it is now one year since the previous approval, so they have to come back. Mr. Coules confirmed that all three conditions previously set by the ZBA have been met. The public hearing was set for the next meeting of the Zoning Board of Appeals.

**c) V-03-18, 842 West Seventh Street**

Mr. John Behrendt with Roberts Design addressed the Board on behalf of the architect and the owners. His client is requesting a reduction of the required corner side yard setback, located at the southeast corner of Seventh and Jackson. Applying the prescribed zoning regulations, they would be left with a width of 24' to design the house. The hardship lies in the challenges of a 24' wide home. It is their intention to build a fully code compliant home, should the variance be granted.

Member Podliska asked Mr. Behrendt to address something in between what

1 they are asking for and what the code requires. Mr. Behrendt believes it  
2 would still be difficult.

3 The public hearing was set for the next meeting of the Zoning Board of  
4 Appeals.

5  
6 **8. PUBLIC HEARINGS**

7 **a) APP-03-17, 504 S. Oak Street & 422 S. Oak Street**

8 Chairman Neiman opened the public hearing for APP-03-17, 504 S. Oak  
9 Street & 422 S. Oak Street.

10 *Due to the complex nature of the proceedings, the transcript of the public*  
11 *hearing is included as part of these minutes. (Exhibit A)*

12  
13 The public hearing will be reopened at a date to be agreed upon by all  
14 parties.

15  
16 Member Giltner moved to **close the public hearing on APP-03-17, 504 S.**  
17 **Oak Street & 422 S. Oak Street, to be reopened at a future date.** Member  
18 Podliska seconded the motion.

19  
20 **AYES:** Members Moberly, Giltner, Engel, Podliska and Chairman Neiman

21 **NAYS:** None

22 **ABSTAIN:** Member

23 **ABSENT:** Members Connelly and Alesia

24  
25 Motion carried.

26  
27 **9. NEW BUSINESS – None**

28  
29 **10. OLD BUSINESS – None**

30  
31 **11. ADJOURNMENT**

32 With no further business before the Zoning Board of Appeals, Member Moberly  
33 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**  
34 **February 22, 2017.** Member Giltner seconded the motion. Voice vote taken, all  
35 in favor, motion carried.

36  
37 Chairman Neiman declared the meeting adjourned at 8:35 p.m.

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41 \_\_\_\_\_  
42 Christine M. Bruton  
Village Clerk

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



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

BEFORE THE HINSDALE ZONING BOARD OF APPEALS

In the Matter of:                     )  
   )  
   )  
 422 and 504 South Oak                )  
 Street, Case No. APP-03-17.)

REPORT OF PROCEEDINGS had of the  
 above-entitled matter before the Hinsdale Zoning  
 Board of Appeals, at 19 East Chicago Avenue,  
 Hinsdale, Illinois, on February 22, 2018, at the  
 hour of 6:30 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;  
 MR. GARY MOBERLY, Member;  
 MR. KEITH GILTNER, Member;  
 MR. JOHN F. PODLISKA, Member; and  
 MS. KATHRYN ENGEL, Member.

\* \* \* \* \*

<p>2</p> <p>1 ALSO PRESENT:</p> <p>2 MS. CHRISTINE BRUTON, Deputy Village Clerk;</p> <p>3 MR. ROBB MCGINNIS, Director of Community Development;</p> <p>4</p> <p>5 MR. MICHAEL MARRS, Village Attorney;</p> <p>6 MR. ROBERT O'DONNELL, Attorney for Mr. &amp; Mrs. Dugan;</p> <p>7</p> <p>8 MS. NANCY DUGAN, Appellant;</p> <p>9 MS. SUSAN OVERBY, Attorney for Bayit Builders and Avra Properties.</p> <hr/> <p>10</p> <p>11 (WHEREUPON, the oath was</p> <p>12 administered en masse.)</p> <p>13 CHAIRMAN NEIMAN: Public Hearing Appeal</p> <p>14 No. 03-17, 504 South Oak Street and 422 South</p> <p>15 Oak Street. Why don't both sets of attorneys</p> <p>16 step up initially. There's a couple preliminary</p> <p>17 matters that we should go over.</p> <p>18 First, I'd like to compliment both</p> <p>19 sets of attorneys for concise and to the point</p> <p>20 briefs. I found them enlightening and I went</p> <p>21 back and forth personally on who's going to</p> <p>22 prevail. I'm also interested in hearing the</p>	<p>4</p> <p>1 CHAIRMAN NEIMAN: Oh, sorry. It was</p> <p>2 all on one side. Forgive me.</p> <p>3 It's within our discretion whether</p> <p>4 to consider those late submissions. I think this</p> <p>5 is our first contested hearing under our new rules</p> <p>6 and I think it would be risky personally to start</p> <p>7 taking ourselves too seriously and say, oh, you</p> <p>8 missed the deadline, heaven forbid, but I'm open</p> <p>9 to suggestion from other board members.</p> <p>10 MR. MOBERLY: Well, I have already read</p> <p>11 it so I can't unread it. I was in my office</p> <p>12 when it came over the wire yesterday. I don't</p> <p>13 view that the realtors are -- really, as</p> <p>14 wonderful as realtors are, that it carries as</p> <p>15 much weight as much of the other information</p> <p>16 that we have. I understand the credentials and</p> <p>17 how wonderful both realtors are.</p> <p>18 CHAIRMAN NEIMAN: Anyone on the board</p> <p>19 have any objection to the submission?</p> <p>20 MR. PODLISKA: No.</p> <p>21 CHAIRMAN NEIMAN: Okay. And that ties</p> <p>22 into the standing argument, and I have read the</p>
<p>3</p> <p>1 village's point of view, but I wanted to thank</p> <p>2 both counsel for submitting what I thought were</p> <p>3 very good briefs.</p> <p>4 We have a couple other preliminary</p> <p>5 issues that I think we should take care of before</p> <p>6 the main event. There was an issue -- there</p> <p>7 were some emails in the last 24 hours about late</p> <p>8 submissions, and I don't know that we need</p> <p>9 argument from you. I thought the board members</p> <p>10 could just address that and if either of you</p> <p>11 have any comments as we go, feel free.</p> <p>12 Technically, all of this should</p> <p>13 have been submitted on time keeping with the</p> <p>14 briefing schedule set out in the rules. I think</p> <p>15 my view is as long as those were filed with the</p> <p>16 village and then distributed to us and sent to</p> <p>17 us via email; is that correct? They were first</p> <p>18 filed with the village, both of you submitted</p> <p>19 your late submissions to the village and to us;</p> <p>20 is that correct?</p> <p>21 MR. O'DONNELL: I don't think we had</p> <p>22 any late submissions.</p>	<p>5</p> <p>1 realtors' affidavits about is there going to be</p> <p>2 hardship and detriment to the Dugans or not.</p> <p>3 Let's look at the code on the issue of standing</p> <p>4 because I think it will be helpful.</p> <p>5 Parties entitled to appeal. This</p> <p>6 is 11-502.C, parties entitled to appeal. An</p> <p>7 application for appeal to the Zoning Board of</p> <p>8 Appeals may be filed by any person aggrieved or</p> <p>9 adversely affected by an order, decision,</p> <p>10 determination, or failure to act of the village</p> <p>11 manager acting pursuant to his or her authority</p> <p>12 and duties under the code.</p> <p>13 We have conflicting opinions by the</p> <p>14 realtors and by the Dugans. Any thoughts from</p> <p>15 the board members? I don't want to just</p> <p>16 influence everyone with my thought on the issue.</p> <p>17 MR. PODLISKA: I think there's an</p> <p>18 arguable case to be made that the Dugans may be</p> <p>19 affected by the outcome of this. I don't see an</p> <p>20 issue to try to resolve this as a standing issue</p> <p>21 rather than moving on to the merits.</p> <p>22 MR. MOBERLY: I agree with that.</p>

<p style="text-align: center;">6</p> <p>1 Especially after I spent hours over the weekend.</p> <p>2 They better have standing or I just wasted a</p> <p>3 bunch of time reading this.</p> <p>4 CHAIRMAN NEIMAN: If they don't have</p> <p>5 standing, they don't have standing and it would</p> <p>6 be -- well, actually, in appeals our decisions</p> <p>7 do have precedential --</p> <p>8 MR. MOBERLY: Okay.</p> <p>9 CHAIRMAN NEIMAN: So any thoughts?</p> <p>10 MR. GILTNER: Is this the first time</p> <p>11 that we are considering standing? I mean, it's</p> <p>12 the fact that they have submitted their requests,</p> <p>13 it still has to come -- it's our decision?</p> <p>14 CHAIRMAN NEIMAN: Yes. The builder's</p> <p>15 response brief raised a standing issue. The</p> <p>16 Dugans responded in a reply brief. We have</p> <p>17 conflicting affidavits on the issue of hardship</p> <p>18 and whether the Dugans will be adversely</p> <p>19 affected. Kathryn?</p> <p>20 MS. ENGEL: I believe there's an</p> <p>21 argument for equitable consideration here and</p> <p>22 based on 11-502.B and the purpose of which it's</p>	<p style="text-align: center;">8</p> <p>1 action by establishing local procedures to</p> <p>2 review and correct administrative errors. It is</p> <p>3 not, however, intended as a means to subvert the</p> <p>4 clear purposes, meanings, or intents of the code</p> <p>5 or the rightful authority of the village manager</p> <p>6 to enforce the requirements of this code. To</p> <p>7 these ends, the reviewing body, that's us,</p> <p>8 should give all proper deference to the spirit</p> <p>9 and intent embodied in the language of this code</p> <p>10 and to the reasonable interpretations of that</p> <p>11 language by those charged with the administration</p> <p>12 of this code.</p> <p>13 So that means that the Dugans who</p> <p>14 filed the appeal have the burden of convincing</p> <p>15 us that the village's decision was either</p> <p>16 arbitrary, ill-considered, or erroneous. And</p> <p>17 with that, I think the Dugans' counsel can begin</p> <p>18 their argument unless any of you have anything</p> <p>19 else preliminary.</p> <p>20 MR. PODLISKA: Nothing.</p> <p>21 MR. GILTNER: No.</p> <p>22 MS. ENGEL: No.</p>
<p style="text-align: center;">7</p> <p>1 written, I don't see an issue going forward with</p> <p>2 it. I read both sides.</p> <p>3 CHAIRMAN NEIMAN: Okay. So the</p> <p>4 consensus -- is it accurate to say the consensus</p> <p>5 of the board is that Dugans have made out a</p> <p>6 colorable claim that they have standing and that</p> <p>7 we should move forward with the substance of the</p> <p>8 objection?</p> <p>9 MR. PODLISKA: Yes.</p> <p>10 MR. MOBERLY: Yes.</p> <p>11 MS. ENGEL: Yes.</p> <p>12 CHAIRMAN NEIMAN: Okay. Relatively easy.</p> <p>13 Now, before we get started with the</p> <p>14 actual arguments, Kathryn correctly noted that</p> <p>15 the standard for appeals, which also addresses</p> <p>16 the burden of proof for the appellant, is stated</p> <p>17 in 11-502.B. Let's read that out loud to refresh</p> <p>18 our memory on that one.</p> <p>19 The appeal procedure is provided as</p> <p>20 a safeguard against arbitrary, ill-considered,</p> <p>21 or erroneous administrative decisions. It is</p> <p>22 intended to avoid the need for resort to legal</p>	<p style="text-align: center;">9</p> <p>1 MR. MOBERLY: No.</p> <p>2 MR. O'DONNELL: Good evening,</p> <p>3 Mr. Chairman and Members of the Board. My name</p> <p>4 is Bob O'Donnell, and I represent the appellants</p> <p>5 here James and Nancy Dugan. What I'd like to do</p> <p>6 at the start is if you give me 45 seconds to set</p> <p>7 up the easel, get the computer in shape, and</p> <p>8 I'll move through my argument.</p> <p>9 CHAIRMAN NEIMAN: We won't start the</p> <p>10 clock until your easel is set up.</p> <p>11 MR. O'DONNELL: Thank you very much.</p> <p>12 We can start the clock now.</p> <p>13 By the way, anything that I am</p> <p>14 using on the easel will also be on the screen so</p> <p>15 those that are behind the easel will still be</p> <p>16 able to see. And again, anything that we are</p> <p>17 using on the screen other than the code sections</p> <p>18 has also been previously submitted.</p> <p>19 I do have hard copies of what I'm</p> <p>20 going to use by way of a presentation on the</p> <p>21 screen if you would like to have these available</p> <p>22 to you. I'll put them up here and leave it to</p>

1 your discretion if you would like.

2 What I'd like to do at the outset,  
3 and I'm really going to try not to repeat  
4 everything that's been written. I think I heard  
5 all of you say you have had the opportunity to  
6 and have taken advantage of the written submission  
7 to read it.

8 But there are several code sections  
9 that I think are going to come into play this  
10 evening that really need to be understood in the  
11 context of this application. The first is  
12 Section 10-104. And the issue with respect to  
13 that is the structure that is currently existing  
14 on the 504 property is not a precode structure.  
15 And the reason it is not a precode structure is  
16 it was voluntarily demolished by the Girschs in  
17 1993, 1994 and when it was rebuilt, it was not  
18 built in conformity with all of the code  
19 regulations with the exception of minimum lot  
20 area and lot dimension regulations which is what  
21 10-104 states.

22 In this instance, the structure as

1 it was upon demolition and rebuilt maintained  
2 the nonconformity with respect to the side yard  
3 setback. The wall facing the -- the south wall  
4 which faces the Dugans was existing at 5 feet 6  
5 inches and remained at 5 feet 6 inches and the  
6 code requires when a precode structure is  
7 voluntarily damaged or demolished as was the  
8 case here, it may be rebuilt as it was, but it  
9 must be rebuilt, restored, or repaired and be in  
10 conformity with all of the applicable district  
11 regulations other than minimum lot area and lot  
12 dimension regulations and here it maintained a  
13 nonconformity with respect to side yard setback  
14 because it is not a precode structure.

15 CHAIRMAN NEIMAN: Is that under 10-104.B?

16 MR. O'DONNELL: 10-104.C.1.

17 CHAIRMAN NEIMAN: Thank you.

18 MR. O'DONNELL: And again, what I put  
19 up here you have in front of you. This is the  
20 portion of the demolition plan submitted by the  
21 Girschs approved by the village, but it shows  
22 that that south wall was maintained. In other

1 words, not demolished, although the structure  
2 was, for the most part, demolished and rebuilt,  
3 that south wall remained.  
4 Exhibit 6 to our original submittal  
5 shows the survey of the existing structure and  
6 it shows the dimension of that to be 5 feet 6  
7 inches that remain. So the nonconformity remains,  
8 it's not a precode structure.

9 The second provision of the village  
10 code that comes into play is Section 12-206 and  
11 this will establish that the lot, the 504 lot,  
12 would not be a legal nonconforming lot upon the  
13 demolition of the structure that exists and under  
14 Section 12-206 there are several requirements for  
15 a legal nonconforming lot, but one is it needs  
16 to be vacant on June 18, 1988. This clearly  
17 wasn't. The structure that was demolished by  
18 the Girschs existed on June 18, 1988, or became  
19 vacant thereafter by reason of demolition or  
20 destruction of a precode structure.

21 So here if the structure that  
22 exists on the 504 lot is demolished since it was

1 not a precode structure, it would not be vacant --  
2 considered vacant, and a legal nonconforming lot.  
3 It would simply be a nonconforming lot.

4 The third code provision that  
5 becomes important for consideration is whether  
6 or not the structure that exists on the 504 lot  
7 by definition is an accessory structure. Under  
8 your code, candidly the only conclusion one can  
9 come to is that it is.

10 And the aerial photograph that I  
11 placed on the easel and is also contained in the  
12 packet and now on the screen, and what's  
13 important here is this particular aerial  
14 photograph shows in red the lot lines. So we  
15 can see what existed on both the 422, which  
16 contained the principal use we maintain and the  
17 504 lot which contained the accessory use.

18 What's important to the code first  
19 and foremost is the use. So the question becomes  
20 what is the use on the 422 property. It is a  
21 four-car garage with an accompanying two-bedroom  
22 apartment. Was that subordinate and serve --

1 was it subordinate to serve the principal  
2 structure. The answer is yes.

3 And keep in mind what the Girschs  
4 did back in 1993, they demolished the existing  
5 garage that accompanied the single-family home  
6 on the 422 lot, they demolished the existing  
7 garage that accompanied a single-family home on  
8 the 504 lot and rebuilt what was the single-  
9 family home into a four-car garage and an  
10 apartment.

11 Well, a four-car garage with an  
12 apartment or a coach house is -- and here I  
13 think it's critical that we take into account  
14 how the property sat one in relation to the  
15 other. Where I'm pointing is the single-family  
16 home on the 422 lot. The coach house is where  
17 I'm now pointing.

18 Between those two properties and  
19 straddling the property line is a very large and  
20 significant motor court. That motor court served  
21 singularly the single-family home on the 422  
22 property. So the question becomes is a four-car

1 garage with a small apartment, i.e., a coach  
2 house, an accessory use.

3 CHAIRMAN NEIMAN: Let me stop you there  
4 for a moment.

5 MR. O'DONNELL: Certainly.

6 CHAIRMAN NEIMAN: The builder has made  
7 an argument that the structure as remodeled meets  
8 the definition of a single-family residence.

9 Merely because it has a garage beneath it and a  
10 kitchen and bedrooms above it doesn't, in my  
11 view, turn it into an apartment or even a coach  
12 house. It has bedrooms, it has a kitchen.

13 Can you explain to us why it  
14 doesn't meet the definition of a single-family  
15 residence?

16 MR. O'DONNELL: Because it was never --  
17 a certificate of occupancy was never granted as  
18 a single-family residence. It was never used as  
19 a single-family residence. It was used as an  
20 accessory structure to the 422 single-family  
21 residence and the code speaks to use. Doesn't  
22 speak to what one intended.

1 So I would submit to you,  
2 Mr. Chairman, that if we had a four-car garage  
3 serving singularly the 422 single-family home  
4 and a two-bedroom apartment for in-laws or a rec  
5 room, which is what the Girschs originally  
6 intended to install, or a large storage area or  
7 anything else, it becomes a use that is accessory  
8 to the main structure.

9 CHAIRMAN NEIMAN: And I understand that  
10 argument and I appreciate it.

11 Is it a prerequisite under our code  
12 for the building to be a single-family residence  
13 to have received a certificate of occupancy?

14 MR. O'DONNELL: There is no requirement  
15 that a certificate of occupancy be issued, but in  
16 the first instance one would have to ask what is  
17 that property's -- I would submit to you that  
18 property's purpose from the time -- and I'm  
19 talking about the 422 structure, from initial  
20 design and intent, it was intended to be an  
21 accessory use. And it was built as an accessory  
22 use.

1 If one looks at the 1993 letter,  
2 which at the outset I think caused consternation  
3 amongst all and some confusion among some, the  
4 village's response to the initial submittal by  
5 Girsch, which called for the four-car garage  
6 with a rec room as opposed to a four-car garage  
7 with an apartment, the village's response, and  
8 the village manager's response, was entirely  
9 consistent with the code. He was told -- and if  
10 I can fast forward, what the village manager  
11 said, and I quote, "In summary, the zoning lot  
12 appears to be large enough to allow your clients  
13 to pursue their improvement plans. However, once  
14 the coach house is accessory to the principal  
15 structure, the property consists of one zoning  
16 lot and cannot be subdivided in the future."

17 In other words, once the coach  
18 house -- it was not limited to the coach house  
19 as a garage plus an apartment, a garage plus a  
20 rec room or a garage plus anything else. Once  
21 it is accessory to the principal structure in  
22 use, it becomes one zoning lot. And the code is

1 written emphasizing the use and what the village  
2 manager responded to was consistent with the code.

3 Now, when the change was made, and  
4 I think that's where we are -- I sense, Chairman  
5 Neiman, that's where you are going. So the  
6 Girschs changed. They came back and they came  
7 back with an alternate plan. They didn't change  
8 the structure, they changed the use from a four-  
9 car garage to serve what? To serve the 422  
10 single-family home and an apartment to serve  
11 what? The single-family home.

12 At no point did the village ever  
13 say a four-car garage with an apartment is not  
14 an accessory use or it does not become a zoning  
15 lot. There was zero expression whatsoever from  
16 the village in any way, shape, or form that said  
17 that change converts what was going to be a  
18 zoning lot to not being a zoning lot. That  
19 never occurred.

20 CHAIRMAN NEIMAN: But the change didn't  
21 mean that it was just a four-car garage and  
22 storage anymore, it was a four-car garage below

1 with a kitchen and bedrooms above, which,  
2 arguably, makes it a single-family residence on  
3 a separate lot.

4 MR. O'DONNELL: I would suggest to you,  
5 arguably could have, but that's not the way they  
6 designed it and used it.

7 Let's keep in mind that motor court  
8 exists straddling the property line. The motor  
9 court clearly establishes that that garage is  
10 going to be used for the 422 property. At no  
11 point -- and we have the affidavit from Mr. Early,  
12 a next-door neighbor, who acknowledged that  
13 during the LaRocques' occupancy of the house, it  
14 was used as Mr. LaRocque's office.

15 So whether we plug in to the void  
16 in addition to the garage a rec room or an  
17 apartment, or an office, it doesn't convert that  
18 coach house to be accessory in use to the  
19 principal structure and that's how your code is  
20 written.

21 So to jump ahead to the village  
22 attorney's analysis, which suggested the

1 capability of what a property may be used for,  
2 well -- and there's nothing in the code that  
3 suggests that one can disassemble a zoning lot  
4 if the properties are capable of sustaining two  
5 single-family homes, for example. There's  
6 nothing in your code that suggests that analysis.

7 In fact -- and I'm jumping ahead  
8 but we have hit the point, in fact, your code  
9 screams otherwise. Section 1-102.B speaking  
10 generally about the purposes of your zoning code  
11 says, and I quote, "The purposes of this code  
12 related to land use patterns R-2, provide for  
13 the graceful elimination of nonconforming uses  
14 that adversely affect the character and value of  
15 permitted development."

16 More to the point, Section 10-101.A  
17 says, and I quote, "The continued existence of  
18 nonconformities is frequently inconsistent with  
19 the purposes for which such districts are  
20 established and thus the gradual elimination of  
21 such nonconformities is generally desirable."

22 The zoning lot that exists as we

1 maintain on the 504 and 422 lots is a conforming  
2 lot. If that zoning lot is allowed to be  
3 disassembled, you have now created two  
4 nonconformities as both lots will be nonconforming  
5 lots. Both 422 and 504. The code suggests that  
6 we should be going in the other direction to  
7 eliminate nonconformities and to not create them.

8 Further to that point is if you  
9 expanded your understanding or interpretation of  
10 the zoning code to allow zoning lots to be  
11 disassembled, if they were capable of containing  
12 single-family homes given the number of zoning  
13 lots, and I have heard village administrators  
14 speculate as to how many zoning lots are out  
15 there. I don't think anyone has a count but I  
16 think everyone has acknowledged there are many.

17 So if we expand the analysis to  
18 include what a property is capable of containing  
19 or housing, we are actually inviting more  
20 nonconformities as opposed to eliminating  
21 nonconformities, which is the clear expression  
22 of your code.



1 CHAIRMAN NEIMAN: We are on 15-minutes.  
2 I think it's fair to -- is it the consensus that  
3 a few more minutes for questions on his  
4 presentation? Five more minutes.

5 MR. O'DONNELL: Okay. Thank you.

6 MR. MOBERLY: Should we ask questions  
7 now or at the end?

8 CHAIRMAN NEIMAN: Whenever you want to  
9 ask questions.

10 MR. MOBERLY: In December, I don't know  
11 the exact date, December of 1994, a building  
12 permit was issued for the 504 structure as a  
13 single-family house. So they didn't build the  
14 house without a permit. And the permit is in  
15 all these things somewhere. It's showing it  
16 just on the 1 75-foot lot and not on the entire  
17 225-foot lot.

18 MR. O'DONNELL: Because they had a  
19 demolition permit.

20 MR. MOBERLY: No, it was a building  
21 permit to put the new structure up. That was a  
22 permitted structure. It was permitted.

1 MR. O'DONNELL: Clearly the structure  
2 was granted a permit. But my point is that the  
3 structure that was granted a permit was to build  
4 a four-car garage. You can call it anything but  
5 it was a four-car garage to serve the 422  
6 property. It was to be an accessory use to the  
7 422 property.

8 In the creation of zoning lots, as  
9 expressed in the code, focuses on use. If you

10 are getting some relief from the village to  
11 build something and you are allowed to build  
12 something, if you are using the properties as  
13 one, which an accessory use -- keep in mind, an  
14 accessory use is only permitted on a zoning lot.  
15 It is not -- there's no temporary -- you can use  
16 it as an accessory use for a while until you are  
17 ready to use it as a single-family home.

18 So to your point, Chairman Moberly --

19 MR. MOBERLY: I'm not the chairman, he  
20 is.

21 MR. O'DONNELL: I'm sorry, you aren't  
22 the chairman. I don't mean to annoy you.

1 MR. MOBERLY: That's okay.

2 MR. O'DONNELL: But my point is to take  
3 your -- they were granted a permit to build a  
4 single-family home. Okay. So they take the  
5 single-family home and they don't use it as a  
6 single-family home, they use it as a use  
7 accessory to the 422 property. They straddle  
8 the property line with a very large motor court.  
9 They build a sport court behind the four-car  
10 garage which serves the 422 property. They use  
11 the property as one property.

12 Whatever they were granted a permit  
13 for and whatever they built, once you use the  
14 property as an accessory use, that can only occur  
15 on a zoning lot and you are only permitted to do  
16 that to use two lots as one on a zoning lot.

17 So even if they intended at the  
18 time they got the permit for a single-family  
19 home, that's not the way they used it. That's  
20 not the way Girsch used it. That's not the way  
21 LaRocque used it. In fact, it was never used as  
22 anything but accessory to 422 and that's what

1 your code speaks to, accessory use.

2 MR. GILTNER: So there's a statement in  
3 the July 2017 memo from Michael Marrs, says, The  
4 staff has confirmed that the revised plans for  
5 504 South Oak were reviewed and approved by the  
6 village as plans for a single-family residence  
7 in 1994.

8 So you are suggesting they wouldn't  
9 know what the use was at that time, right?

10 But then it says, Following the 1993  
11 letter, the work shown on the revised plans then  
12 appears to have been carried out and inspected  
13 and approved by the village as a single-family  
14 residence.

15 So that inspection, that is also  
16 done right after it's built and they also  
17 wouldn't know what the use is at that point.

18 MR. O'DONNELL: They would only know  
19 what the use would be if somebody requested a  
20 certificate of occupancy to occupy that structure  
21 as a single-family home. The record does not  
22 show that that was requested, let alone granted.

1 So to that point -- so let's -- I

2 would dispute that being a single-family home

3 but let's call it a single-family home.

4 MR. GILTNER: The village considered it  
5 a single-family home.

6 MR. O'DONNELL: I agree. So you build  
7 a four-car garage with a small apartment, it's a  
8 single-family home. But you don't use it. You  
9 don't intend to use it. You don't ask the

10 village if you can use it because that can only  
11 come with a certificate of occupancy and for 24  
12 years you don't use it as anything but accessory  
13 to the 422 property.

14 I mean, we have to call it what it  
15 is. It's an accessory use. I don't think that  
16 can be disputed. And if it was an accessory use  
17 for 24 years and 2 owners, then it can only occur  
18 on a zoning lot and the creation of the zoning  
19 lot was done by Girsch, how Girsch used it, it

20 was continued by LaRocque as LaRocque used it.

21 CHAIRMAN NEIMAN: If someone applied  
22 for a certificate of occupancy today, do you

1 have an opinion on whether or not the village  
2 would grant it?

3 MR. O'DONNELL: I can't speak to what  
4 the village can do. I would say that once it  
5 became a zoning lot because of the accessory  
6 use, the correct answer under the code would be  
7 that should be denied.

8 And in point of fact that's, in  
9 essence, what the village manager did when she  
10 first realized that. When the application  
11 crossed the village manager's desk to apply for  
12 a demolition permit on the garage for 422 she  
13 said, wait a minute. 422 is a zoning lot in  
14 conjunction with 504. So back up. Let's take a  
15 look at what you intend to do. That is a zoning  
16 lot.

17 So wasn't exactly the question you  
18 posed, Mr. Chairman, but it was pretty close and  
19 the village's reaction out of the box was no,  
20 it's a zoning.

21 MR. PODLISKA: Mr. O'Donnell, let me  
22 ask you about going back to 9-101.B requirement

1 No. 4. What is your position as to how the  
2 requirements of 4 are met to make it an  
3 accessory structure? It's not on the same  
4 zoning lot as the residence; right?

5 MR. O'DONNELL: Sure it is. Because  
6 zoning lot isn't the lot of record. The zoning  
7 lot is -- the zoning lot as referred to here is  
8 422, 504. That's the zoning lot.

9 MR. PODLISKA: Well, what troubles me  
10 about that is that it sounds like a circuitous  
11 argument. You are saying that it's an accessory  
12 structure and therefore, it's one zoning lot.

13 MR. O'DONNELL: No. I'm saying it's an  
14 accessory structure, therefore, it may only be  
15 used on a zoning lot.

16 MR. PODLISKA: But does not this  
17 provision seem to go the other way around, that  
18 you have to show that it's on the same zoning  
19 lot before it's an accessory structure?

20 MR. O'DONNELL: I put up on the screen  
21 Section 12-206.

22 MR. PODLISKA: Do I have it in the

1 packet?

2 MR. O'DONNELL: Yes, you do. So 12-206  
3 is important because this is the definition of a  
4 zoning lot.

5 So a zoning lot is a tract of land  
6 consisting of one or more lots of record. And  
7 here the lots of record would be 504 and 422.  
8 Or parts thereof, under single ownership or  
9 control, located entirely within a block and  
10 occupied by, or designated by its owner or a  
11 developer at the time of filing for any zoning  
12 approval or building permit as a tract of land  
13 to be developed for a principal building and its  
14 accessory buildings or -- so that speaks to if  
15 you come in with an application that says I want  
16 to take two lots of record. I want to build a  
17 principal structure and an accessory use and we  
18 are going to call it a zoning lot hereafter.

19 MR. PODLISKA: But if the property  
20 owner wants to do it.

21 MR. O'DONNELL: That's right. Or --  
22 and here's the second part of the definition. A

1 principal use, together with such open spaces  
2 and yards are designed and arranged or required  
3 under this code to be used with such building or  
4 use.

5 So what we have here is two lots of  
6 records, 504, 422. 504 has the accessory  
7 structure in conjunction with 422. That creates.  
8 That makes the two of those lots of record a  
9 zoning lot.

10 MR. PODLISKA: So the first part of  
11 this would be to accommodate the property owner  
12 who wishes to add an accessory structure on his  
13 property. And the second part of this would  
14 impose that upon a property owner depending upon  
15 how the use was done on the structures.

16 MR. O'DONNELL: Precisely. And here we  
17 have the use of the structures of an accessory  
18 structure, the 504 coach house, that was  
19 designated, identified and used by the owner as  
20 accessory to 422. The village does not permit  
21 that unless you treat those two lots of record  
22 as a single zoning lot.

1 CHAIRMAN NEIMAN: I want to go back to  
2 9-101.B.2, which says, among other things, an  
3 accessory structure or use is a structure or use  
4 that is customarily found as an incident to such  
5 principal structure or use.

6 In order to find the building that  
7 you call a coach house, the four-car garage with  
8 an apartment, is customarily found as an incident  
9 to such principal structure or use, we necessarily  
10 have to buy your argument that it's not a single-  
11 family residence, it's not just a four-car garage,  
12 it's -- well, we have to say it is just a four-car  
13 garage and it's incident to the use of the other  
14 property or it's not an accessory.

15 MR. O'DONNELL: Mr. Chairman, I don't  
16 think any of us would disagree that a four-car  
17 garage which serves the single-family home on  
18 the lot next door is accessory.

19 CHAIRMAN NEIMAN: Now you are getting  
20 into the use.

21 MR. O'DONNELL: So does your code.  
22 That's what your code speaks to is the use.

1 CHAIRMAN NEIMAN: But it says the  
2 structure that you want us to say is an accessory  
3 structure is customarily found as an incident to  
4 such principal structure.

5 How would you address the argument  
6 that a separate single-family residence that is  
7 used as an accessory is customarily found as  
8 incident to such principal structure or use?

9 I agree with you that it was used  
10 that way by the last couple of owners, but it's  
11 a separate -- arguably, it's a separate single-  
12 family residence; the village thought so. And a  
13 separate single-family residence is not  
14 customarily found as an incident to another  
15 principal structure; it's a separate single-  
16 family residence.

17 MR. O'DONNELL: But with all due respect,  
18 I think we are focusing on labels and not use.

19 A four-car garage which was  
20 constructed adjacent to a large motor court that  
21 straddles the two property lines which the four-  
22 car garage served only the occupants of the

1 principal structure next door is by any  
2 definition an accessory use.

3 Now, the whole name of a coach house  
4 -- I mean, I do a considerable amount of work in  
5 Lake Forest and coach houses candidly are a dime  
6 a dozen. Now, many of the coach houses have  
7 other uses.

8 But a coach house historically by  
9 its name would have part of it to be a garage,  
10 or even a stable, depending how far back in time  
11 we go, and a residence area for people that work  
12 on the property to live. We don't call that a  
13 single-family home, we call that a coach house.  
14 Why do we call it a coach house? Because it  
15 serves as an accessory use to the principal  
16 structure. That's exactly what happened here.

17 And let's keep in mind if this  
18 single-family home was such an appropriate, if  
19 you will, single-family home, the first time  
20 anybody decided to contemplate that 504 property  
21 as a separate lot, what are they doing? They  
22 want to teardown completely and build a single-

1 family home not a four-car garage with a little  
2 under 2,000-square foot apartment.

3 That, I would suggest, in the  
4 village of Hinsdale, does not scream single-  
5 family home.

6 So I know I'm well over my time so  
7 I'm hesitant to go on unless there are more  
8 questions.

9 MR. MOBERLY: I'll ask you one question.

10 You talked a fair amount about wanting to  
11 eliminate nonconforming lots. Is the Dugans'  
12 lot, isn't that also nonconforming to that R-1?  
13 It's roughly 25,000-square feet.

14 MR. O'DONNELL: It may very well be but  
15 it's a nonconforming lot.

16 MR. MOBERLY: But you were just going  
17 on about how we need to eliminate nonconforming  
18 lots, and yet your client lives in a house on a  
19 nonconforming lot.

20 MR. O'DONNELL: You have legal  
21 nonconformities and those also in the village  
22 are somewhat a dime a dozen and they are allowed

1 to remain.

2 But what I'm suggesting here is the  
3 existing lot, what I'm referring to as the  
4 zoning lot, is a conforming lot. But my point  
5 is -- and it's not my point, it's your code's  
6 point -- is that whenever given the opportunity  
7 to eliminate nonconformities, I think the intent  
8 of the code is to do that not to create them and  
9 what would happen here is we would take a  
10 conforming lot and create two nonconforming  
11 lots.

12 MR. MOBERLY: Let's just go back  
13 30 years ago to 1988 just for fun. I picked a  
14 date out of the air. That was two separate  
15 single-family houses, I'm talking about 422 and  
16 504, on two separate lots with two separate  
17 owners on two separate pins. So they were.  
18 There's been two-single family houses on that  
19 space for many, many, many years.

20 MR. O'DONNELL: Okay.

21 MR. MOBERLY: So now you are saying it's  
22 one giant lot and the village never consolidated

1 that lot and they asked the ZBA for a variance  
2 to consolidate and we have actually taken the  
3 opposite tactic a couple of times that you have  
4 to get our permission to consolidate the lots  
5 together.

6 MR. O'DONNELL: I think part of the  
7 movement is, as I understand it, when these  
8 issues are presented and a zoning lot is created  
9 is to consolidate them legally at the time so we  
10 don't get into these arguments. But be that as  
11 it may, it didn't happen here.

12 But the point is in 1988, to carry  
13 forth your example, we have two single-family  
14 homes on two legal nonconforming lots, but an  
15 owner decided to take those two properties and  
16 say, I want to build my own estate using those  
17 two properties. I want to have my principal  
18 structure and I want to have my accessory  
19 structure.

20 And in order to do that, I need to  
21 do three things. I'm going to rip down the  
22 garage on 422 because I'm going to put my garage

1 on 504. I'm going to rip down the existing  
2 garage on 504. I'm going to take the former  
3 single-family home, I'm going to level it, and  
4 I'm going to build a new four-car garage for my  
5 house next door and add initially a rec room and  
6 then an apartment to it and use it thereafter  
7 singularly to serve the occupants of the 422  
8 property and that was done for 24 years. So  
9 under your code, that created a zoning lot which  
10 is not permitted to be unwound.

11 CHAIRMAN NEIMAN: We are at 32-minutes.  
12 Any of the other board members have any  
13 additional questions? We will certainly permit  
14 more time for questions.

15 (No response.)

16 Thank you, Mr. O'Donnell.

17 MR. O'DONNELL: Thank you.

18 Mrs. Dugan is going to briefly  
19 speak to some of the issues that affect her use  
20 and enjoyment of her property as it may be  
21 affected by this structure and that will be very  
22 brief.

1 MRS. DUGAN: Hello, Board. My name is  
2 Nancy Dugan and I will be brief.  
3 When we moved in, we understood  
4 that the LaRocques owned the coach house as well  
5 as the home and that part of the premium we were  
6 paying was to be next to this beautiful large  
7 property just like there's a property that's  
8 large on the other side, the former McGue home.

9 When the house was built in 1999,  
10 which was after the coach house was built, it  
11 was built primarily to enjoy that view. So if  
12 you look at our house, the majority of the house  
13 is facing the 504 and the 422 property.

14 If you will notice, the coach house  
15 is only set back between about six and nine feet,  
16 both the rebuilt wall and the new wall, and I  
17 thought single-family homes had sight set back  
18 rules or they don't.

19 And now, Bayit plans to build this  
20 huge 7,500 foot home not where the coach house  
21 is but basically right on top of our house. We  
22 are going to lose all of our light on the second

1 floor. We will have no light on the first  
2 floor. It's really a shame being I don't think  
3 we would have bought the house if we had known  
4 that this was going to be permitted in the future.

5 Also, Bayit said they were going to  
6 keep all the trees but they are taking down all  
7 the trees. And I know that's not part of the  
8 decision, but it's very disappointing that they  
9 are choosing to take down all of the trees that  
10 border us.

11 And then finally, we did talk to  
12 John Bohnen, who helped us about home values and  
13 we are here forever, the builder is not here  
14 forever, however, we do have four children. We  
15 might need to take money out on the house to  
16 help finance their education. I have four kids  
17 that are going to be in school within six years  
18 of each other in college and so just because we  
19 are not going to leave the community, doesn't  
20 mean that the value of our home is not very  
21 important to us because we may some day need to  
22 get money out of it to finance our kids'

1 education.

2 So I hope you keep this all in  
3 mind. Was this house really built as a single-  
4 family home? Check out where the walls are and  
5 everything like that. And I appreciate your  
6 time on this matter.

7 CHAIRMAN NEIMAN: Thank you.

8 MR. MARRS: I don't want to take too  
9 much of the owner's time but I just did want to  
10 briefly kind of summarize the village's position  
11 and make a couple of points.

12 Just to quickly reiterate the  
13 history of this matter, and you can kind of  
14 follow it along, but I thought I'd go through it  
15 briefly. I think it's important as you consider  
16 these code provisions and how the village has  
17 approached this, keep in mind they don't do  
18 transfer inspections in Hinsdale. Their contact  
19 with a particular property is driven by somebody  
20 coming in and asking for permits and that's how  
21 they facilitate learning about a particular  
22 property and from their existing files.

1 All right. So that happened last  
2 year when staff was approached by the current  
3 owner with plans for work at 422 Oak and they  
4 reviewed those plans and subsequently it was a  
5 neighbor who brought this 1993 letter to the  
6 village's attention and upon receiving that  
7 letter and consulting with me, staff went to the  
8 owner and said, I got an issue here because as  
9 you guys know, the letter specifies that if you  
10 -- it's a proposal from somebody asking if I do  
11 this, what's the result? And the village's  
12 response was you can do what you are proposing  
13 but be mindful that if you do, it becomes one  
14 zoning lot and you can't then sell it off as of  
15 right.

16 So from the village's position  
17 having seen that that clear statement was made,  
18 we said, Bayit Builders, you have a problem  
19 here. The builder then appealed that finding  
20 and it was during the process of dealing with  
21 that appeal, and delving kind of further into  
22 village records, that it came to the light that

1 as a result of the letter, the property owner  
2 had then revised his plans in order, from the  
3 village's perspective, to protect his rights.

4 Specifically, it was learned that  
5 the 1993 letter, and it wasn't entirely clear  
6 from the context of that letter alone, that it  
7 concerned plans for this four-car garage with  
8 just a rec room over it. And presumably as a  
9 result of that letter, the plan he subsequently  
10 submitted made sure he was including all of the  
11 elements necessary to maintain a single-family  
12 home on that 504 property. So instead of a rec  
13 room over a four-car garage, he designed a two-  
14 bedroom residence, kitchen, bathrooms, et cetera,  
15 still over a four-car garage.

16 Assuming that staff was consistent  
17 back then with the way they would approach it  
18 today, staff would not have approved those plans  
19 for an accessory structure because -- and it's  
20 even made clear in the 1993 letter, it says,  
21 Keep in mind that you can't have a dwelling unit  
22 in your proposed coach house. Okay. And it has

1 all the elements of a dwelling unit, of a single-  
2 family house. So the village accepted those  
3 plans, then inspected and approved the property as  
4 a single-family home.

5 Now, I saw when I was reviewing  
6 materials preparing for tonight that the  
7 neighbors' counsel had asserted there was no  
8 certificate of occupancy, but after conferring  
9 with Robb, he did provide me with one, so there  
10 is one, which I can provide.

11 MR. MOBERLY: Can you just tell us what  
12 it says?

13 MR. MARRS: Sure. It's an application  
14 for certificate of occupancy for a single-family  
15 residential home signed by the village for 504  
16 South Oak.

17 MR. O'DONNELL: Mr. Chairman, I have a  
18 real objection to this for two reasons. And I  
19 think they are important. One is yes, this is  
20 all coming in late, that's the obvious. But  
21 more important is, we submitted two separate  
22 Freedom of Information Act requests to the

1 village and this document, which would have been  
2 responsive to both, never appeared.

3 So I would object to this being  
4 brought into the hearing literally during the  
5 hearing, and coupled with the fact that we  
6 submitted two Freedom of Information Act  
7 requests for the village's entire file on this  
8 and this document never showed up. I haven't  
9 even seen it. If it's what counsel represents,  
10 it was clearly responsive.

11 CHAIRMAN NEIMAN: Nor have we and I  
12 don't think we can consider evidence referenced  
13 but not submitted is my gut reaction, but if you  
14 have the exhibit with you --

15 MR. MARRS: I understand. I wasn't a  
16 party to the FOIAs; I don't know what was  
17 disclosed. But I do know that counsel for the  
18 other side has it, so I assume it was given to  
19 everybody.

20 Also, I would point out, the  
21 Freedom of Information Act and responses to that  
22 are not discovery; they are a separate matter

1 than this. So I do think it's relevant and you  
2 consider it but I understand your position.

3 At the end of the day, the village  
4 considered these to be single-family properties  
5 and even without a certificate of occupancy, I  
6 think that's obvious from the fact that they  
7 approved it and it's existed that way for these  
8 years.

9 Staff, they focus a lot on use.  
10 And staff simply does not interpret the zoning  
11 lot definition as turning on use. I remind you  
12 again, we don't conduct transfer inspections.  
13 They don't have the resources or the capability  
14 to conduct a use analysis and get affidavits  
15 from neighbors and learn how a property has been  
16 used over the years.

17 The focus of the zoning lot  
18 definition is on the plans that are brought to  
19 the village, how somebody is presenting it. And  
20 that's exactly what happened in 1993. Somebody  
21 brought forth a plan that said, hey, I'm  
22 thinking of doing this. What's the result going



1 to be?

2 And the result was, the village  
3 said, if you do that, you don't have a separate  
4 independent lot anymore, you have a single  
5 zoning lot. So they changed their plans.  
6 There's no question about that. They changed  
7 the plans. They created a single-family home in  
8 order to protect their rights.

9 MR. PODLISKA: Should the homeowner  
10 have gotten a certificate of zoning compliance?  
11 I'm looking at 9-101.C.

12 CHAIRMAN NEIMAN: When required by  
13 subsection 11-401.C of this code, a certificate  
14 of zoning compliance evidencing a compliance of  
15 the accessory use or structure, the provisions  
16 of this code shall be obtained before any such  
17 accessory use or structure exist.

18 MR. PODLISKA: So when he went back to  
19 change the plan when he was told if you do it  
20 this way, you are going to have a problem, and  
21 we have all listened to how he went back and he  
22 changed what he was going to do, once he made

1 that decision to do it a different way, was he  
2 required then to present that and get a  
3 certificate of zoning compliance to establish  
4 that the new approach he was taking was going to  
5 comply?

6 MR. MARRS: No. Because it's an existing  
7 -- he's got an existing single-family home and he  
8 made his inquiry, he got the answer that he  
9 rejected and so then he went forward with keeping  
10 it as an existing use and having it inspected  
11 and approved as an existing single-family use.

12 CHAIRMAN NEIMAN: How do you address  
13 the Dugans' argument that when they bought their  
14 house, these two lots looked like one big lot  
15 with an accessory structure and it was used that  
16 way for years by prior owners and it's been used  
17 that way ever since the Dugans bought the house  
18 and initially even the village thought that was  
19 correct and it was an accessory use and then  
20 they found some more documents, the Dugans  
21 couldn't have found those documents. They built  
22 their house in a certain way and now if this new

1 house is allowed to be built, it takes away the  
2 property value and how were they supposed to  
3 know and isn't that unfair?

4 MR. MARRS: I don't know what the  
5 answer is to that other than the fact that I  
6 understand him referring to it as a coach house  
7 but it's a fairly substantial structure. It has  
8 a four-car garage, it looks like a house to me.

9 CHAIRMAN NEIMAN: How was it built so  
10 close to the other lot line?

11 MR. MARRS: That's a question I think  
12 Robb can answer.

13 CHAIRMAN NEIMAN: Please.

14 MR. MCGINNIS: It's a precode structure.  
15 They demolished part of it. But the reality is  
16 that structure existed and they did an extensive  
17 renovation to it but they didn't demolish it.  
18 That's why it's so close to that south lot line.

19 MR. MARRS: Right. So that's another  
20 issue that I wanted to raise.

21 Subject to 10-104 it's not a  
22 demolition, it's an alteration and an enlargement

1 which does not go to the subsection C that he  
2 was saying. They have a right to alter that  
3 existing precode structure. They have a right  
4 to enlarge it, which is exactly what they did.

5 So they have maintained their rights  
6 under 10-104. It was a single-family home. It  
7 continues to be a single-family home from the  
8 village's perspective. It's not an accessory  
9 structure.

10 A single-family home is not  
11 customarily found as an incident to a principal  
12 single-family structure. And frankly, again,  
13 would not have been approved by staff because we  
14 don't let you just put a second single-family  
15 home on your lot. It's two zoning lots with two  
16 single-family homes.

17 An accessory structure must be  
18 subordinate in extent and purpose. A single-  
19 family home is simply not subordinate in extent  
20 and purpose to a single-family home; they are  
21 both principal structures.

22 And lastly, to his focus on the

1 word capable, I appreciate his argument on that,  
2 but I guess I wasn't anticipating as much  
3 scrutiny on that particular word. Maybe if I  
4 had it to do over, I would use a different  
5 phrase like able or authorize, but I did not  
6 mean it in the sense that he is suggesting that  
7 I meant it to be. It wasn't a reference to use,  
8 so much as it was a reference to authority under  
9 the statute.

10 MR. PODLISKA: Both of these lots right  
11 now are nonconforming, right?

12 MR. MARRS: Yes.

13 MR. PODLISKA: And if the builder takes  
14 down what we have been calling a coach house,  
15 unless it's a renovation, can he build a new  
16 structure on that site?

17 MR. MARRS: Yes. Under 10-104 you can  
18 rebuild even if you voluntarily demo it, subject  
19 to the lot area. You have to -- as long as you  
20 conform to all the setbacks and other  
21 requirements, you are allowed to do it except  
22 for lot area and lot size.

1 MR. PODLISKA: So even though the lot  
2 area, the dimensions are nonconforming, there  
3 can still be a new structure on it?

4 MR. MARRS: Right. As long as you can  
5 create a building pad that fits and meets the  
6 other aspects of 10-104.

7 MR. MCGINNIS: Just to be clear, 422  
8 may be a conforming lot on its own. I don't  
9 have the dimensions offhand but that's a pretty  
10 big lot. It may well be a conforming lot.

11 MR. PODLISKA: I'm looking at the  
12 letter from 1993, it looks like neither one of  
13 them conformed. 422 the lot width is 121  
14 instead of 125, and 504 is both -- the lot width  
15 is 78 feet instead of 125 and the lot area is  
16 way down, it's 25,291 instead of 30,000, but  
17 they can still build new structures on both of  
18 those properties, right?

19 MR. MARRS: Correct.

20 MR. PODLISKA: Thank you.

21 MR. MARRS: And in closing, what the  
22 owner never did was designate this property as a

1 principal building, an accessory building  
2 through zoning approvals or building permit  
3 request. They made an initial inquiry and they  
4 changed their plans. And that is not enough to  
5 create a zoning lot. So in the village's mind,  
6 this was a single-family home then and continues  
7 to be. There's been no change in the property  
8 since. They didn't take out the kitchen or get  
9 rid of the bedrooms. It's still a single-family  
10 home. It's had a continuous existence, having  
11 all the elements of a single-family home, and in  
12 that respect, the village, for its part, it did  
13 not see any basis to agree that a single zoning  
14 lot had been created. And with that, unless  
15 there's more questions.

16 MR. MOBERLY: I have one question. The  
17 brick motor court, or whatever that brick  
18 structure is, between -- that links both of  
19 these houses, we have held before where you  
20 build over the lot line, you combine.

21 What does the village consider that  
22 paver brick thing to be?

1 MR. MARRS: At the risk of upsetting  
2 everybody again, I was able to get documents  
3 from the village in that respect yesterday as  
4 well, and at the time the permits were issued  
5 for the sport court, they put a condition on  
6 there that they had to stay one foot off the lot  
7 line.

8 CHAIRMAN NEIMAN: Mr. O'Donnell, could  
9 you step up for a minute.

10 As a fellow litigator, I saw  
11 justifiable steam coming out of your ears, and  
12 let's see if we can clear up any issues on  
13 administrative review now rather than your going  
14 up on administrative review, or someone going up  
15 on administrative review, and having this  
16 inadvertent reference to evidence that's not in  
17 the record become reversible error.

18 We trust the village's counsel that  
19 he didn't know what was or wasn't submitted as  
20 far as the FOIA request. I think that we can,  
21 as judges and juries want to do, not consider  
22 those references to evidence not in the record

1 in making our decision.

2 The alternative, however, and I'd  
3 like your view on it, and then I'd like the  
4 board members' view on it, is to have those  
5 documents produced to all parties, continue this  
6 matter until next month so that Mr. O'Donnell  
7 has a chance to consider that evidence not in  
8 the record so that the record is fully developed  
9 and then that issue couldn't possibly be  
10 reversible error on administrative review.

11 Your view, Mr. O'Donnell?

12 MR. O'DONNELL: And I would want -- and  
13 that's why we requested -- and one of the items  
14 that we specifically requested is certificates  
15 of occupancy. Because whether we all agree on  
16 the issues, I think we knew what the issues were  
17 and would be.

18 So I want this board to make a  
19 decision on merits and I want to be able to  
20 present our case similarly. So I'm much more in  
21 favor of letting us have what we have asked for,  
22 I don't know what all there is. It might be 2

1 document. I mean, I don't see why he can't look  
2 at it now and we continue this hearing.

3 Alternatively, if the board does not  
4 want to consider the evidence as not submitted,  
5 then I would argue -- I suppose we could  
6 continue this, but he simply just -- you cannot  
7 consider the argument that there was not a  
8 certificate of occupancy.

9 There's a fact. It's a fact.

10 There is a certificate of occupancy. We  
11 received it as part of our FOIA request.

12 MR. O'DONNELL: With all due respect,  
13 counsel can't have it both ways. Either we are  
14 allowed to see whatever documents were requested  
15 and adjust accordingly or, the new documents, if  
16 you will, or not produced documents, can't be  
17 considered. But counsel was saying that you  
18 should consider the documents that weren't  
19 produced and ignore the argument that we based  
20 upon the documents not being available.

21 MS. OVERBY: No, that was not my  
22 argument.

1 documents, it might be 22 or 2,200, I have no  
2 idea. But I would much prefer to take a look at  
3 that material and then present it to you. If it  
4 happens to be relevant and not play -- at least  
5 at this point, not play litigation games about  
6 what wasn't produced and what was requested, et  
7 cetera.

8 CHAIRMAN NEIMAN: And the FOIA requests  
9 were submitted far enough in advance that the  
10 responsive materials should have all been  
11 produced by now.

12 MR. O'DONNELL: Before we initially  
13 submitted our -- obviously, we were looking for  
14 the information upon which we could make a  
15 determination whether to appeal.

16 MS. OVERBY: Susan Overby, on behalf of  
17 Avra and Bayit.

18 We made an independent FOIA request  
19 as well. I did not realize there's a  
20 certificate of occupancy until I read your brief  
21 and I located the certificate of occupancy as a  
22 result of reading your brief. It's a one-page

1 MR. O'DONNELL: Well, all I'm saying is  
2 I'm perfectly willing to continue and deal with  
3 the substance of whatever the record is.

4 CHAIRMAN NEIMAN: So Ms. Overby, you  
5 are saying that the certificate of occupancy was  
6 part of the village's FOIA response to your FOIA  
7 request?

8 MS. OVERBY: Correct.

9 CHAIRMAN NEIMAN: And Mr. O'Donnell, you  
10 are saying you submitted a FOIA request which  
11 would have covered it and it wasn't and the  
12 certificate of occupancy wasn't part of the  
13 village's response to your FOIA request; is that  
14 correct?

15 MR. O'DONNELL: Absolutely.

16 MS. OVERBY: My position is I did not  
17 include the certificate of occupancy in my brief,  
18 however, when I read his brief, I re-reviewed  
19 all of the documents again and I discovered it's  
20 a one-page document.

21 I find it difficult to believe that  
22 it wasn't -- I mean, my understanding the way

1 that the village responds to FOIA requests is  
2 that they simply print out all of the scanned  
3 documents for the properties at issue. Maybe it  
4 was a copying error. But my suggestion is it's  
5 a one-page document, can you review it now? I  
6 have copies for everyone.

7 MR. O'DONNELL: I thought I heard, and  
8 I'll be corrected, but I thought I heard the  
9 village attorney made reference to another  
10 document that he was able to find yesterday and  
11 I think that's what prompted you, Mr. Chairman,  
12 to react.

13 CHAIRMAN NEIMAN: I saw the steam  
14 coming out of your ears.

15 MR. O'DONNELL: That was probably pretty  
16 evident. My only suggestion is I thought I  
17 heard reference to what might be more documents.

18 MR. MARRS: That's correct. The  
19 village is not trying to play gotcha.

20 MR. O'DONNELL: No, no.

21 CHAIRMAN NEIMAN: You are not to blame  
22 here.

1 Ms. Overby, let me ask you a  
2 question.

3 MS. OVERBY: Sure.

4 CHAIRMAN NEIMAN: If I were in your  
5 shoes, but I'm not, I would be concerned that not  
6 giving Mr. O'Donnell a chance to re-review the  
7 FOIA request, the response to the FOIA request,  
8 to see if he in fact received the certificate of  
9 occupancy and any other documents that were  
10 referred to this evening, would hand Mr. O'Donnell  
11 a reversible error on administrative review and  
12 then the case goes up and your client spends  
13 however much money and wastes more time before  
14 you start breaking ground if the ultimate  
15 decisions will allow you to break ground.

16 MS. OVERBY: I'm in a difficult position  
17 because obviously from my client's perspective  
18 every day that passes is a day that we are not  
19 moving forward on this project. But I absolutely  
20 take your point that I don't want to put a time  
21 bomb in this proceeding such that there's  
22 reversible error. So if he feels he needs more

1 time to review the FOIA request, I can  
2 understand that inclination.

3 CHAIRMAN NEIMAN: I have a suggestion  
4 for everybody, and then I'll be quiet and let  
5 the other board members speak.

6 It seems to me that what might be  
7 the most efficient way to proceed is to allow  
8 Mr. O'Donnell and the village to go back and  
9 review what the village produced to Mr. O'Donnell.

10 If the documents that village's  
11 counsel referred to this evening were part of  
12 that response to the FOIA request, then we can  
13 make our decision without any further hearing  
14 because Mr. O'Donnell then would have had all of  
15 those documents all along and he didn't focus on  
16 them because no one was focusing on them and  
17 then no further argument would be needed.

18 If, however, they weren't produced,  
19 then I think we have to continue the hearing to  
20 allow everybody to argue what those documents  
21 showed and how they influenced the case.

22 Does that make sense to both sides?

1 MS. OVERBY: That makes sense to me.

2 MR. MARRS: Yes.

3 MR. O'DONNELL: Are you suggesting that  
4 be done tonight?

5 CHAIRMAN NEIMAN: Oh, no. What I'm  
6 suggesting is you and the village review the  
7 documents in the next week. You confer with  
8 each other to see if the documents that were  
9 referenced were produced.

10 If they were produced, then we need  
11 not have any further argument and when we  
12 reconvene next month, we will have the  
13 deliberations on the case without any further  
14 argument.

15 If, however, those documents weren't  
16 produced, then both sides will be allowed a  
17 limited amount of time, famous last words, to --  
18 at next month to address how those documents  
19 only should influence our decision.

20 Is that fair, Mr. O'Donnell?

21 MR. O'DONNELL: It is.

22 CHAIRMAN NEIMAN: Board members?

1 MR. MARRS: Does that mean Ms. Overby  
2 is going to get an opportunity --

3 CHAIRMAN NEIMAN: Oh, yes. Ms. Overby  
4 will present her case this evening in case we  
5 don't reopen anything.

6 MS. OVERBY: Okay.

7 MR. O'DONNELL: Could I just ask, the  
8 certificate of occupancy, can I actually see it?

9 CHAIRMAN NEIMAN: I think that's fair.

10 To the extent that there are -- we  
11 could call a special meeting if it's necessary  
12 to either do just our deliberations or to reopen  
13 the hearing, but let's see how quickly -- it seems  
14 to me -- let's first see how quickly Mr. O'Donnell  
15 and the village can figure out what was and wasn't  
16 included in the FOIA request.

17 If everything was included in the  
18 FOIA request, then we can have a special meeting  
19 just for deliberations or we can wait until next  
20 month. And similarly, if the documents weren't  
21 included, we can call a special meeting or wait  
22 until the next month.

1 Let's just make sure everybody is  
2 literally on the same page first and then Chris  
3 will circulate an email about whether the  
4 parties' preference is a special meeting before  
5 next month's meeting and if the board members  
6 are available, terrific, and if we are not, or  
7 if the consensus of the parties is that no  
8 special meeting is necessary, it can wait until  
9 next month, then we will wait until next month.  
10 Okay.

11 MR. PODLIKA: To make sure everybody  
12 gets on the same page, it might be helpful too  
13 to have counsel for both sides match up what they  
14 got from the village to make sure that everybody  
15 is working from the same set of documents. I  
16 think in the end that's going to make it easier.

17 CHAIRMAN NEIMAN: Does the village  
18 Bates stamp documents to their response to FOIA  
19 requests?

20 MS. BRUTON: Not the individual piece  
21 of paper but the bulk of the communication would  
22 have a date when it was responded to.

1 CHAIRMAN NEIMAN: Okay.

2 Ms. Overby?

3 MS. OVERBY: So again, my name is Susan  
4 Overby, and I represent Bayit Builders and Avra,  
5 which is the owner of 504 South Oak.

6 A lot of ground has already been  
7 covered. I just wanted to speak on a couple of  
8 points.

9 First of all, I understand that the  
10 board has determined, at least for purposes of  
11 this hearing, that the Dugans do have standing  
12 to appeal the village's decision but for the  
13 record, I just wanted to reiterate that it's our  
14 position that they don't have standing and that  
15 they have not shown that they will be aggrieved  
16 by the proposed building of a single-family  
17 structure, an additional new single-family  
18 structure at 504 South Oak.

19 We have heard a little bit about the  
20 history of 504 South Oak. From at least 1948  
21 until 1993, 504 South Oak was a single-family  
22 structure that was owned by separate owners from

1 the people who own 422 South Oak. So to the  
2 extent there's been argument that 504 South Oak  
3 was always a coach house to 422 South Oak, the  
4 recorded history of that property does not bear  
5 that out.

6 In 1993, Jerome Girsch purchased  
7 504 South Oak. He decided he wanted to make some  
8 modifications to that property. Again, I take  
9 issue with the notion that the building was ever  
10 demolished. It was altered but it was not torn  
11 to the ground.

12 He submitted his plans in 1993 to  
13 the village. The village said, if you proceed  
14 with these plans, you are going to have a single  
15 zoning lot. That was exactly the opposite of  
16 what Mr. Girsch wanted to do and we presented an  
17 affidavit from Mr. Girsch that explained his  
18 intention.

19 When the village made its original  
20 determination with respect to my clients'  
21 application to tear down the garage at 422 South  
22 Oak, it was based on this 1993 letter and it

1 took some time to find the other plans that were  
2 eventually executed.

3 And what happened was that I  
4 personally went to village hall and I found those  
5 plans and those plans were saved in a separate  
6 microfiche for preplan reviews. They were not  
7 scanned into the file. Nevertheless, anyone  
8 could have gone down to the village hall and  
9 looked at that microfiche and determine that the

10 intention was -- Mr. Girsch's intention was that  
11 504 South Oak remain a single-family residence.

12 The Dugans have made a valiant  
13 attempt to argue that the code says that mere  
14 use of a structure can convert it into a single  
15 zoning lot. I don't think that that is what the  
16 code says. I don't think that the Dugans can  
17 point to any specific portion of the code, or  
18 even reading two portions of the code together,  
19 to say that I could purchase my next-door  
20 neighbors' house and because I used it to host  
21 guests or as a closet or to store all of my  
22 cars, that somehow I created a single zoning lot

1 with those two single-family residences.

2 To the extent that the current  
3 structure at 504 South Oak is nonconforming, as  
4 the village has pointed out, it's a precode  
5 structure and as a precode structure, the  
6 closeness to the property line was permissible.

7 The fact that it was maintained as  
8 a -- that nonconformity was maintained does not  
9 somehow convert, as the Dugans have argued, a  
10 precode structure or precode lot into a

11 nonconforming lot. It was simply rebuilt and  
12 that portion that was nonconforming was  
13 maintained.

14 CHAIRMAN NEIMAN: Let me ask you a  
15 question.

16 MS. OVERBY: Sure.

17 CHAIRMAN NEIMAN: I agree in theory that  
18 anybody could have researched the microfiche and  
19 found that it used to be a single-family residence  
20 and was used that way before Mr. Girsch did the  
21 remodeling and after that it met the technical  
22 qualifications of the single-family residence,

1 but from the Dugans' perspective, when they  
2 bought their property, people don't go and  
3 research and microfiche what the next-door  
4 neighbors did. It looked like one compound, a  
5 big house with a small car garage and who was to  
6 know that it was a single-family residence and  
7 they relied on that when they bought the house.  
8 How do you respond to that?

9 MS. OVERBY: Well, I would like to  
10 point out my client, when it purchased 504 South  
11 Oak, relied on the assurances of the village  
12 manager that this was a lot that could be built  
13 on and we paid over a million dollars to  
14 purchase this lot.

15 If the Dugans prevail today, the  
16 structure at 504 South Oak may only be used as  
17 an accessory structure to 422 South Oak. If two  
18 separate purchasers had purchased those  
19 properties, if someone else had bought 422 and a  
20 third party bought 504, that would mean if the  
21 Dugans prevail, that they could use that  
22 property for no purpose because it could only be

1 used as an accessory structure. That is an  
2 absurd result.

3 It is unfortunate that the Dugans  
4 believed that a building was not going to be  
5 built, that it was always going to stay the same.

6 I live in Clarendon Hills. The  
7 house next door to me is a tiny ranch house.  
8 It's just been sold. They are going to build a  
9 giant house next door to me. One entire side of  
10 my house is going to be looking into that house.

11 That's what happens when you live in villages  
12 that has buildings next to them. You buy some  
13 shades and you put up some bushes.

14 And I understand that you are not  
15 considering the standing argument and your  
16 realtors -- Mr. Moberly has pointed out realtors  
17 will say all different kinds of things, but the  
18 sales history of 540 South Oak does not bear out  
19 that they paid a premium for those views. The  
20 house was on the market for 485 days and it sold  
21 for 85 percent less than asking, which is lower  
22 than average.



1 MR. MOBERLY: 85 percent of asking.

2 MS. OVERBY: Of asking. So there's not  
3 evidence that they paid a premium for that.

4 While I commiserate with the sense  
5 that they are not happy that their views might  
6 change, but that's what happens when you live in  
7 a village. And the zoning code, part of the  
8 goals of the zoning code when it was enacted in  
9 1989, were to maintain the current level of  
10 property level that we had at that time.

11 At that time in 1989, 504 South Oak  
12 was a single-family home and all we are asking  
13 is that it remain a single-family home as the  
14 village has perceived it since 1948, at least as  
15 far as then.

16 I think to the extent that the  
17 village takes the view, which I do not think is  
18 supported by any reading of the code, that use  
19 alone can convert two separate zoning lots into  
20 a single zoning lot, I think there needs to be  
21 an effort made that that becomes a matter of  
22 public record so that the unsuspecting buyer is

1 not placed in a situation where they can  
2 purchase a property for over a million dollars,  
3 doing all possible due diligence, with a letter  
4 from the village saying that they could build,  
5 and then be in a position where they cannot build,  
6 or God forbid if two people had purchased, if  
7 the Dugans prevailed, that they can only use  
8 their house as a coach house to the neighbor  
9 where they don't own that house.

10 I don't have anything further. If  
11 there are any questions, I'd be happy to answer.

12 CHAIRMAN NEIMAN: Any questions?

13 (No response.)

14 Thank you.

15 So we will -- I guess, the correct  
16 thing to do is say that we are going to close  
17 the public hearing pending the outcome of a  
18 comparison of what the village produced to  
19 Mr. O'Donnell and what Mr. O'Donnell received.

20 Mr. O'Donnell, if you could review  
21 those documents, if the village could review the  
22 documents it produced to Mr. O'Donnell to see if

1 the documents that were referred to were in fact  
2 produced. If they weren't in fact produced and  
3 they were covered by Mr. O'Donnell's FOIA  
4 request, then the village should produce them  
5 immediately. If they were in fact produced,  
6 then obviously nothing else has to be produced.

7 But if Mr. O'Donnell -- and  
8 Mr. McGinnis, if you could coordinate on that in  
9 the next few days, figure that out.

10 MR. MCGINNIS: Sure.

11 CHAIRMAN NEIMAN: And then, Chris, you  
12 will let me know and then you and I will speak  
13 further about what communication we will send to  
14 the respective parties about what actually  
15 occurred and what that means for whether we are  
16 going to reopen the hearing or whether to allow  
17 both parties to argue about the import of the  
18 documents that Mr. O'Donnell hadn't received, or  
19 alternatively, that we need no further public  
20 hearing because Mr. O'Donnell did, in fact,  
21 receive those documents and that we can then  
22 proceed to deliberations without further hearing.

1 And as part of that communication,  
2 Chris, I'll ask that you ask the parties whether  
3 their preference is that we call a special  
4 meeting to deliberate or reopen the hearing and  
5 then deliberate, depending on the results of the  
6 FOIA comparison. And if the consensus of the  
7 parties is they want that hearing sooner rather  
8 than later, we will poll all of the members and  
9 see if there's an available date earlier than

10 next month. If there is, we will do it. If  
11 not, we will do it next month.

12 Did that make any sense at all?

13 MR. O'DONNELL: It did, and I have a  
14 question. I want you to know that I read your  
15 rules, Mr. Chairman, and your rules provide that  
16 I get a five-minute reply.

17 CHAIRMAN NEIMAN: Yes, they do.

18 MR. O'DONNELL: My question is: Do you  
19 want me to do that today or wait until the next  
20 time?

21 CHAIRMAN NEIMAN: Oh, no, you should do  
22 it now.

1 MR. O'DONNELL: Okay.

2 MR. MOBERLY: I would not be opposed --  
3 if we wait four weeks, you can do your reply now,  
4 but if we reconvene in four weeks, a lot is going  
5 to happen. I wouldn't mind a brief summary.

6 CHAIRMAN NEIMAN: But we might not  
7 reopen and Mr. O'Donnell is entitled to his five  
8 minutes.

9 MR. MOBERLY: Okay.

28-14-42PV 10 MR. O'DONNELL: I just want to make a  
11 couple of points. The first one has to do with  
12 the application of 10-104 as to whether or not  
13 we are talking about a precode structure here.

14 And let me actually address it  
15 backwards, if you will, as how it was addressed.  
16 The village attorney was asked a question by one  
17 of the members, I candidly don't recall who, as  
18 to well, how are they going to be able to fit --  
19 the structure that exists now is nonconforming,  
20 how are they going to be able to build a new  
21 home and I think it was you, Mr. Podliska.

22 MR. PODLISKA: Yes, it was.

1 MR. O'DONNELL: And the answer was:  
2 Well, the existing structure is a precode  
3 structure and Section 10-104 says that you can  
4 demolish it and rebuild it but when you rebuild  
5 it, you have to rebuild it in conformity to all  
6 of the applicable regulations except those that  
7 really don't control, which would be lot area  
8 and lot dimensions. I couldn't agree more.  
9 That was already done. That was my point with  
10 respect to what Girsch did.

28-15-48PV 11 Back in 1993 when Girsch demolished  
12 -- and we have the demolition plans as an  
13 exhibit, so there's no doubt that he demolished  
14 much of the structure. I never said all. Much  
15 of the structure. And he got a demolition  
16 permit; he was able to rebuild.

28-16-52PV 17 If he was going to rebuild as a  
18 precode structure, he would have to comply with  
19 all applicable regulations of that district  
20 except for minimum lot area and lot dimension  
21 regulations, which is exactly the correct answer  
22 that the village attorney provided.

1 But, when he rebuilt, he rebuilt  
2 with another nonconformity. The minimum side  
3 yard setback was not complied with because he  
4 maintained that existing wall. The code is clear  
5 that when you rebuild a precode structure and you  
6 can maintain precode structure status if you  
7 comply with all requirements of that district  
8 except for minimum lot area and lot dimension  
9 regulations.

28-17-32PV 10 CHAIRMAN NEIMAN: Why can't they  
11 teardown that building now and rebuild a new  
12 house that doesn't need any variation?

13 MR. O'DONNELL: It's not a precode  
14 structure. That's the problem. Because they  
15 lost precode structure status when Girsch  
16 rebuilt with an existing nonconformity. It's  
17 not a precode structure.

28-17-32PV 18 What it is is a nonconforming lot.  
19 So any argument that's based on -- premised on  
20 the structure that's there to be demolished and  
21 replaced as being a precode structure, it's not.  
22 That was what Girsch took down and replaced but

1 he maintained the nonconformity, it loses its  
2 status as a precode structure.  
3 And actually, we have a letter from  
4 the village in May of 2016, which says just that  
5 when there was an inquiry made by a neighbor, an  
6 area resident. And they were asked about in a  
7 preplan review and the response from the village  
8 talking about the 504 lot, quote, "The property  
9 is a nonconforming interior lot." No precode  
10 structure. It's not a legal nonconforming lot  
11 because it lost precode structure status when  
12 Girsch rebuilt and maintained a nonconformity.

28-18-45PV 13 CHAIRMAN NEIMAN: How would you respond  
14 to the builder's argument that they did their  
15 due diligence, the village told them that it was  
16 two separate lots and they could build a new  
17 house on one of the lots and they relied in good  
18 faith on what the village told them and they  
19 spent money and there's kind of a detrimental  
20 reliance argument and how would you remedy their  
21 loss?

22 MR. O'DONNELL: No doubt they had

1 bought two lots, but they bought a property, a  
2 single property in a single purchase, and that  
3 property had a single-family home on one lot and  
4 --

5 CHAIRMAN NEIMAN: But they are two  
6 different --

7 MR. O'DONNELL: One purchase.

8 CHAIRMAN NEIMAN: Yes, but two separate  
9 pins.

10 MS. DUGAN: We have two pins on our  
11 property.

12 MR. O'DONNELL: Two separate pins.

13 CHAIRMAN NEIMAN: But you can convey  
14 two different properties in one deed.

15 MR. O'DONNELL: Yes. Of course.

16 CHAIRMAN NEIMAN: Okay. So how are  
17 they to know it wasn't one property when the  
18 village told them otherwise?

19 MR. O'DONNELL: Well, they clearly knew  
20 it wasn't used as one property. They knew it  
21 was used as one.

22 CHAIRMAN NEIMAN: Okay. But my

1 question was: How do you remedy their damage?  
2 If they relied in good faith on what the village  
3 told them they would be able to do and they  
4 spent money to buy one lot and then the other,  
5 keeping in mind that their intent was to build a  
6 new house, and now if we say no, you can't do  
7 it, what's their remedy? And why would they be  
8 held responsible for what the village -- for not  
9 knowing what the village told them they could  
10 do?

11 MR. O'DONNELL: Well, first, one can  
12 always make the inquiry before you purchase,  
13 particularly when your intention is to develop  
14 both as single-family homes. So you certainly  
15 can perform that due diligence by making that  
16 inquiry before you buy.

17 CHAIRMAN NEIMAN: I understood  
18 Ms. Overby's argument to say that they did do  
19 that and the village said sure, go ahead.

20 MR. O'DONNELL: Well, I don't think  
21 that's what occurred. Because what occurred on  
22 May 27, 2016, they submitted a single page

1 application for a review, preplan review only  
2 for the 504 lot. And the village's response to  
3 that was -- well, they did not identify the  
4 single-family home, they just submitted a request  
5 for 504. The village's response was looks like  
6 a single-family lot. But we, the village,  
7 reserve the right to change if more information  
8 becomes available.

9 Then they turn around and submit it  
10 for a demolition permit for the garage on 422.  
11 That's when the village realized, wait a minute,  
12 we are talking about a zoning lot. So when the  
13 village -- and it's not incumbent on the village  
14 to advise a perspective purchaser on what they  
15 should or should not purchase and whether or not  
16 they can do what they intend to do. That's  
17 typically what due diligence is for. And  
18 typically when a developer -- typically when a  
19 developer purchases a piece of property, they  
20 take advantage of a period of time to find out  
21 if there's an opportunity to do what they intend  
22 before they close.

1 So, candidly, having represented  
2 any number of developers, if a developer didn't  
3 take advantage of the opportunity to find out  
4 from the community what it is they were buying  
5 and whether or not their plan could be executed,  
6 or even possible to execute, I don't think that's  
7 the responsibility of a neighbor. I don't think  
8 that's the responsibility of the village.

9 Because here when the village was  
10 presented with requests and they -- well, first --  
11 and I'm not suggesting anybody was misleading  
12 anybody, but the initial request out of the box  
13 from Bayit Builders was to show only a single  
14 page application and a survey of the 504 lot  
15 only not showing the 422 lot.

16 It was the village when they finally  
17 got the application to demolish the garage at  
18 422 that said, wait a minute. Now we, the  
19 village, see what's going on. You are looking  
20 to put a garage on 422 because your garage is on  
21 504. That's a zoning lot.

22 So I would suggest to you if the

<p style="text-align: center;">82</p> <p>1 submission at the outset said look, this is what</p> <p>2 we are buying, the whole thing, both lots. From</p> <p>3 what the village's reaction was when they became</p> <p>4 aware of that 422 was part of this equation, the</p> <p>5 village instantly said zoning lot, you can't do</p> <p>6 it.</p> <p>7           So I think the responsibility lies</p> <p>8 with the purchaser here. I don't think it</p> <p>9 relies with the village and it certainly doesn't</p> <p>10 lie with the neighbor.</p> <p>11           CHAIRMAN NEIMAN: Any other questions</p> <p>12 of Mr. O'Donnell?</p> <p>13           MR. PODLISKA: Yes. On this</p> <p>14 demolition, you refer to the demolition but the</p> <p>15 village said that was merely a remodel. So when</p> <p>16 we are looking at 10-104, if it's demolished,</p> <p>17 then it has to be rebuilt to code except for</p> <p>18 minimum lot area and lot dimension regulations.</p> <p>19           But I'm looking at the letter that</p> <p>20 the village sent on August 11, 1993, where it</p> <p>21 says, The coach house can be remodeled provided</p> <p>22 that the remodeling does not create any new</p>	<p style="text-align: center;">84</p> <p>1           CHAIRMAN NEIMAN: Wait, wait, wait.</p> <p>2 How did he apply to demolish anything when it</p> <p>3 was a remodel all along? There were parts of</p> <p>4 the structure that was there that were going to</p> <p>5 remain.</p> <p>6           MR. O'DONNELL: Because he was taking</p> <p>7 down so much of the property. We can see here</p> <p>8 what he took down. He was demolishing most of</p> <p>9 the structure.</p> <p>10           CHAIRMAN NEIMAN: Okay. You are</p> <p>11 referring to it as a demolition because a lot of</p> <p>12 the structure was being torn down, but you can</p> <p>13 see that not all of it was being torn down;</p> <p>14 correct?</p> <p>15           MR. O'DONNELL: Absolutely. Because he</p> <p>16 maintained the nonconformity of the existing</p> <p>17 south wall.</p> <p>18           CHAIRMAN NEIMAN: How much of a</p> <p>19 structure has to be demolished before it's</p> <p>20 technically a demolition under that section of</p> <p>21 the code?</p> <p>22           MR. O'DONNELL: Well, that section of</p>
<p style="text-align: center;">83</p> <p>1 nonconformities or increase any existing</p> <p>2 nonconformities.</p> <p>3           That means that when he remodeled,</p> <p>4 the fact that it's too close to the lot line,</p> <p>5 he's not required to comply with that provision</p> <p>6 of the code, right, he's only remodeling. He</p> <p>7 can't make the nonconformity worse but he isn't.</p> <p>8           MR. O'DONNELL: Here, what 10-104 --</p> <p>9 I'll answer your question in two parts because</p> <p>10 there's a two-part answer.</p> <p>11           The code Section 10-104 refers to</p> <p>12 any demolition. Doesn't say you have to</p> <p>13 demolish the entire property, it talks about any</p> <p>14 demolition.</p> <p>15           MR. PODLISKA: But it has to be a</p> <p>16 demolition not a remodel.</p> <p>17           MR. O'DONNELL: Well, let's take a look</p> <p>18 at the next document that I just put up on the</p> <p>19 screen. We have a demolition plan, the approved</p> <p>20 demolition plan that Girsch received back in</p> <p>21 1993. So he applied to demolish and the village</p> <p>22 granted permission to demolish and rebuild.</p>	<p style="text-align: center;">85</p> <p>1 the code refers to any demolition and it's up to</p> <p>2 each municipality. Obviously, the village</p> <p>3 determines the extent of demolition that</p> <p>4 requires a permit to do so. But here, clearly</p> <p>5 there was a requirement for a demolition permit</p> <p>6 which was applied for and received. So there</p> <p>7 was a demolition.</p> <p>8           The point with respect to the</p> <p>9 rebuild, if I can get to the second part of my</p> <p>10 answer, is that's fine that they rebuilt it.</p> <p>11 There's no objection to that. But the fact that</p> <p>12 they rebuilt it and maintained a nonconformity</p> <p>13 other than lot area or lot dimensions took it</p> <p>14 out of the category of a precode structure.</p> <p>15           MR. PODLISKA: I understand what you are</p> <p>16 saying, but that depends upon you are defining</p> <p>17 this as a demolition whereas the village is</p> <p>18 calling it a remodel. And the village in their</p> <p>19 letter is saying as long as it's only a remodel,</p> <p>20 that nonconformity can continue, just don't make</p> <p>21 it any worse. That's what this letter says from</p> <p>22 '93; right?</p>

1 MR. O'DONNELL: I disagree because it's  
2 clear that what Girsch was doing in his own  
3 plan. The plans are part of the record. His  
4 own plans reflect a demolition and rebuild.

5 MR. PODLISKA: Your position is the  
6 village is wrong on that; right?

7 MR. O'DONNELL: Not at all wrong. I  
8 think the village at the time was correct, that  
9 the demolition was obviously permitted. The  
10 rebuild -- call it rebuild, remodel, put  
11 something else there, it doesn't really matter.  
12 It fits the definition under 10-104.

13 In order for that additional  
14 construction to be done and maintain status as a  
15 precode structure, it had to eliminate all  
16 nonconformities except for two. It maintained  
17 an existing nonconformity. So there's no  
18 problem with what the village did but it lost  
19 its status as a precode structure.

20 MR. PODLISKA: I don't think that's what  
21 this letter from the village in '93 is saying.

22 MR. O'DONNELL: The village in 1993

1 MR. O'DONNELL: My point is way before  
2 that. My point is they can't build a new  
3 structure on their property and use it other  
4 than accessory to the 422 property. In other  
5 words, they can't spinoff, if you will, or  
6 divide the zoning lot because again --

7 MR. PODLISKA: I understand. But if  
8 you lose on that point, that it is two separate  
9 properties, your argument is even if it's two  
10 separate properties, you can't build on this  
11 property because you have lost your ability to  
12 construct as long as it complies with everything  
13 else other than width and area.

14 MR. O'DONNELL: To be fair, our case is  
15 premised on the 422 and the 504 properties being  
16 considered as a zoning lot.

17 If we lose on that and that's  
18 considered simply a nonconforming lot, well then  
19 it can be built on and there are requirements  
20 for construction on a nonconforming lot.

21 My only point would be as a further  
22 limitation is you can't consider that any longer

1 made no comment whatsoever with respect to  
2 whether or not the status of the precode  
3 structure was being maintained or not.

4 MR. PODLISKA: Well, they are saying that  
5 it's okay to remodel provided the remodeling  
6 does not create any new nonconformities or  
7 increase any existing nonconformities; right?

8 MR. O'DONNELL: That's correct. And  
9 that's allowed to be done. But in order to be a  
10 precode structure, which is elevated status, if  
11 you will, under your zoning code, you can maintain  
12 an existing nonconformity and it becomes a  
13 nonconforming lot. That's what the village did.  
14 But the status of a precode structure because  
15 there are special rights granted or conferred on  
16 properties with precode structures. My only  
17 point is that special status was lost when they  
18 maintained the nonconformity of the side yard  
19 setback.

20 MR. PODLISKA: But did I understand you  
21 to say that as a result, today they cannot build  
22 a new structure on that property?

1 as a precode structure, so kind of the  
2 additional rights one gets on a property with a  
3 precode structure would be lost. There are  
4 still rights that are available to be built on a  
5 nonconforming lot.

6 MR. PODLISKA: I got it. Thank you.

7 MR. O'DONNELL: Okay. If I wasn't  
8 clear, I apologize.

9 CHAIRMAN NEIMAN: Thank you,  
10 Mr. O'Donnell.

11 Is there a motion to do what I said  
12 before? Let me be more specific.

13 Is there a motion to close the  
14 Public Hearing subject to reopening along the  
15 lines that I talked about before?

16 MR. GILTNER: So moved.

17 MR. PODLISKA: Second.

18 CHAIRMAN NEIMAN: Roll call?

19 MS. BRUTON: Member Moberly?

20 MR. MOBERLY: Yes.

21 MS. BRUTON: Member Giltner?

22 MR. GILTNER: Yes.

1 MS. BRUTON: Member Engel?  
 2 MS. ENGEL: Yes.  
 3 MS. BRUTON: Member Podliska?  
 4 MR. PODLISKA: Yes.  
 5 MS. BRUTON: Chairman Neiman?  
 6 CHAIRMAN NEIMAN: Yes.  
 7 So both parties should know that  
 8 both of their attorneys and the village counsel  
 9 did a really good job tonight because these were  
 10 really good legal arguments on both sides. I  
 11 can go either way on this and I think this is in  
 12 part based on the skill of all the counsel and  
 13 partly based on the fact that we passed some  
 14 rules saying focus your arguments in writing and  
 15 don't just dump on us. So both sides should be,  
 16 in my view, very pleased.  
 17 This isn't the first time sitting  
 18 in any of these chairs that I thought boy, I  
 19 better understand how difficult a job real  
 20 judges have doing this job. So thank you to  
 21 everybody, and we will let you know what's  
 22 happening.

1 MR. MARRS: Could I make one comment  
 2 before you close?  
 3 CHAIRMAN NEIMAN: Yes.  
 4 MR. MARRS: I just want to make sure,  
 5 typically when we would continue a public  
 6 hearing, we would do it to a date certain but in  
 7 this case, the notice only went to the parties  
 8 here; correct?  
 9 MR. MCGINNIS: Correct. Under appeal  
 10 there's no mailing requirements.  
 11 MR. MARRS: So if everyone here present  
 12 understands that they will be communicated to  
 13 all of us.  
 14 MS. OVERBY: There won't be any open  
 15 meetings issues with that?  
 16 MR. PODLISKA: We can continue it to a  
 17 date certain subject to amending it later on if  
 18 we choose to.  
 19 CHAIRMAN NEIMAN: Why don't we continue  
 20 it until next month and if there's another -- if  
 21 the parties want us to expedite whatever  
 22 additional hearing or deliberations are needed,

1 then we will. I suspect, Chris, we would have  
 2 to publish notice of that hearing to comply with  
 3 open meetings. I know this is an appeal but --  
 4 MS. BRUTON: We do a legal notice which  
 5 needs to be done between 15 and 30 days before  
 6 the hearing so that doesn't really give you a  
 7 lot of wiggle room.  
 8 MR. MARRS: But not for an appeal. We  
 9 don't publish for an appeal.  
 10 MS. BRUTON: Yes, we publish a legal  
 11 notice.  
 12 CHAIRMAN NEIMAN: We will continue it  
 13 to next month's meeting and if the parties want  
 14 us to expedite the matter and have an earlier  
 15 deliberation or deliberation and hearing.  
 16 MS. BRUTON: If it's a deliberation, if  
 17 we are not having a public hearing, so I don't  
 18 think you would need to publish.  
 19 CHAIRMAN NEIMAN: Okay. Right. So if  
 20 we only need deliberation and the parties want  
 21 that deliberation expedited, then no public  
 22 notice would be required and if we can figure

1 out a date that's convenient for everybody, we  
 2 will do it. If we have to reopen the hearing,  
 3 then we have to do it with sufficient lead time  
 4 for the village to issue the public notice to  
 5 comply with the Open Meetings Act. We will try  
 6 to do it that way and if we can coordinate all  
 7 that, we will and if we can't, it will be next  
 8 month.  
 9 MS. OVERBY: I need to ask one  
 10 clarifying question. If we find that the FOIAs  
 11 were not -- the records were not included in  
 12 Ms. Dugan's FOIA request, is the contemplation  
 13 that there would be further argument or do you  
 14 want more written submissions?  
 15 CHAIRMAN NEIMAN: Is your question if  
 16 the Dugans' FOIA request didn't request those  
 17 documents?  
 18 MS. OVERBY: No. I'm sorry if I  
 19 misspoke.  
 20 If it turns out that the Dugans'  
 21 attorney did not receive the documents that I  
 22 received or that were referred to by the



1 village's attorney, is the idea then we have a  
 2 hearing, do you want more writing on it?  
 3 CHAIRMAN NEIMAN: No. We will have a  
 4 hearing limited to the import of the documents  
 5 that Mr. O'Donnell did not receive. We are not  
 6 reopening the entire hearing. It will be a very  
 7 short reopening of the hearing limited to the  
 8 import of those specific documents nothing else.  
 9 We had the hearing.

10 MS. OVERBY: We will receive notice of  
 11 whatever those documents are?

12 CHAIRMAN NEIMAN: Of course.

13 MS. OVERBY: Okay.

14 CHAIRMAN NEIMAN: Thank you, everybody.

15 MR. MOBERLY: Motion to adjourn.

16 MR. GILTNER: Second.

17 CHAIRMAN NEIMAN: Roll call, please?

18 MS. BRUTON: Member Moberly?

19 MR. MOBERLY: Yes.

20 MS. BRUTON: Member Giltner?

21 MR. GILTNER: Yes.

22 MS. BRUTON: Member Engel?

1 MS. ENGEL: Yes.

2 MS. BRUTON: Member Podliska?

3 MR. PODLISKA: Yes.

4 MS. BRUTON: Chairman Neiman?

5 CHAIRMAN NEIMAN: Yes.

6 (WHICH, said Public Hearing  
 7 was continued to March 21,  
 8 2018 at 6:30 p.m.)  
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1 STATE OF ILLINOIS )

) ss:

2 COUNTY OF DU PAGE )

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

16 IN TESTIMONY WHEREOF I have  
 17 hereunto set my hand and affixed my notarial  
 18 seal this 14th day of March, A.D. 2018.  
 19

KATHLEEN W. BONO,  
 C.S.R. No. 84-1423,  
 Notary Public, DuPage County  
 237 South Wisconsin Avenue,  
 Addison, IL 60101-3837

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 22

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<p><b>view</b> [10] - 3:1, 3:15, 4:13, 15:11, 38:11, 54:3, 54:4, 54:11, 70:17, 90:16</p> <p><b>views</b> [2] - 69:19, 70:5</p> <p><b>Village</b> [2] - 2:2, 2:5</p> <p><b>village</b> [98] - 3:16, 3:18, 3:19, 5:10, 8:5, 11:21, 12:9, 17:8, 17:10, 18:1, 18:12, 18:16, 19:21, 21:13, 23:10, 25:6, 25:13, 26:4, 26:10, 27:1, 27:4, 27:9, 27:11, 30:20, 32:12, 34:4, 34:21, 35:22, 40:16, 41:22, 43:2, 43:15, 44:1, 45:3, 45:19, 46:2, 47:18, 52:12, 52:21, 53:3, 58:1, 58:9, 58:19, 60:8, 60:9, 61:6, 62:15, 63:14, 63:17, 65:13, 65:19, 66:4, 66:8, 67:4, 68:11, 70:7, 70:14, 70:17, 71:4, 71:18, 71:21, 72:4, 74:16, 75:22, 77:4, 77:7, 77:15, 77:18, 78:18, 79:2, 79:8, 79:9, 79:19, 80:6, 80:11, 80:13, 81:8, 81:9, 81:16, 81:19, 82:5, 82:9, 82:15, 82:20, 83:21, 85:2, 85:17, 85:18, 86:6, 86:8, 86:18, 86:21, 86:22, 87:13, 90:8, 93:4</p> <p><b>village's</b> [22] - 3:1, 8:15, 17:4, 17:7, 27:19, 40:10, 41:6, 41:11, 41:16, 42:3, 44:7, 49:8, 52:5, 53:18, 57:6, 57:13, 60:10, 64:12, 80:2, 80:5, 82:3, 94:1</p> <p><b>villages</b> [1] - 69:11</p> <p><b>void</b> [1] - 19:15</p> <p><b>voluntarily</b> [3] - 10:16, 11:7, 50:18</p>	<p>12:3, 38:16, 76:4, 84:17</p> <p><b>walls</b> [1] - 40:4</p> <p><b>wants</b> [1] - 29:20</p> <p><b>wasted</b> [1] - 6:2</p> <p><b>wastes</b> [1] - 59:13</p> <p><b>ways</b> [1] - 56:13</p> <p><b>week</b> [1] - 61:7</p> <p><b>weekend</b> [1] - 6:1</p> <p><b>weeks</b> [2] - 74:3, 74:4</p> <p><b>weight</b> [1] - 4:15</p> <p><b>whatsoever</b> [2] - 18:15, 87:1</p> <p><b>whereas</b> [1] - 85:17</p> <p><b>WHEREOF</b> [1] - 96:16</p> <p><b>WHEREUPON</b> [1] - 2:11</p> <p><b>WHICH</b> [1] - 95:6</p> <p><b>whole</b> [2] - 33:3, 82:2</p> <p><b>width</b> [3] - 51:13, 51:14, 88:13</p> <p><b>wiggle</b> [1] - 92:7</p> <p><b>willing</b> [1] - 57:2</p> <p><b>wire</b> [1] - 4:12</p> <p><b>Wisconsin</b> [1] - 96:21</p> <p><b>wishes</b> [1] - 30:12</p> <p><b>witnesses</b> [2] - 96:8, 96:11</p> <p><b>wonderful</b> [2] - 4:14, 4:17</p> <p><b>word</b> [2] - 50:1, 50:3</p> <p><b>words</b> [4] - 12:1, 17:17, 61:17, 88:5</p> <p><b>worse</b> [2] - 83:7, 85:21</p> <p><b>writing</b> [3] - 90:14, 94:2, 96:11</p> <p><b>written</b> [6] - 7:1, 10:4, 10:6, 18:1, 19:20, 93:14</p>	<p><b>Z</b></p> <p><b>ZBA</b> [1] - 36:1</p> <p><b>zero</b> [1] - 18:15</p> <p><b>ZONING</b> [1] - 1:3</p> <p><b>zoning</b> [65] - 17:11, 17:15, 17:22, 18:14, 18:18, 20:3, 20:10, 20:22, 21:2, 21:10, 21:12, 21:14, 23:8, 23:14, 24:15, 24:16, 26:18, 27:5, 27:13, 27:15, 27:20, 28:4, 28:6, 28:7, 28:8, 28:12, 28:15, 28:18, 29:4, 29:5, 29:11, 29:18, 30:9, 30:22, 35:4, 36:8, 37:9, 41:14, 45:10, 45:17, 46:5, 46:10, 46:14, 47:3, 49:15, 52:2, 52:5, 52:13, 65:15, 66:15, 66:22, 70:7, 70:8, 70:19, 70:20, 80:12, 81:21, 82:5, 87:11, 88:6, 88:16</p> <p><b>Zoning</b> [2] - 1:9, 5:7</p>
<p><b>W</b></p> <p><b>wait</b> [12] - 27:13, 62:19, 62:21, 63:8, 63:9, 73:19, 74:3, 80:11, 81:18, 84:1</p> <p><b>wall</b> [8] - 11:3, 11:22,</p>	<p><b>Y</b></p> <p><b>yard</b> [4] - 11:2, 11:13, 76:3, 87:18</p> <p><b>yards</b> [1] - 30:2</p> <p><b>year</b> [1] - 41:2</p> <p><b>years</b> [9] - 26:12, 26:17, 35:13, 35:19, 37:8, 39:17, 45:8, 45:16, 47:16</p> <p><b>yesterday</b> [3] - 4:12, 53:3, 58:10</p>	

7a

## MEMORANDUM

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

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

**DATE:** April 5, 2018

**RE:** Zoning Variation – V-04-18; 550 W. Ogden Avenue

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In this application for variation, the applicant requests relief from the Parking Lot Landscaping requirements set forth in section 9-107(A)(2) in order to eliminate a landscape island and add 4 parking spaces.

It should be noted that the Zoning Board of Appeals does not have express authority on this request. As such, it will move on to the Village Board as a recommendation provided that four affirmative votes are received.

This property is located in the O-2 Limited Office District in the Village of Hinsdale and is located on the southwest corner of Ogden Avenue and Monroe Street. The property has a frontage of approximately 175', a depth of approximately 453', and a total square footage of approximately 79,275. The maximum allowable lot coverage is 80% or approximately 63,420 square feet.

cc: Kathleen A. Gargano, Village Manager  
Zoning file V-04-18



Zoning Calendar No.

V0418

**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): Hinsdale Partnership, LLC / MORGAN HARRISON CONSTRUCTION

ADDRESS OF SUBJECT PROPERTY: 550 West Odgen Hinsdale IL 60521

TELEPHONE NUMBER(S): 630-917-0972 / 630-888-5401  
Andy MacMillan - MHC

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

General Contractor For Site Improvements

DATE OF APPLICATION: 3/22/18



**RECEIVED**  
Ch 3/22/18

## SECTION I

Please complete the following:

1. Owner. Name, address, and **telephone number** of owner: Hinsdale Partnership, LLC 550 West Ogden Hinsdale IL 60521 630-917-0972  
\_\_\_\_\_
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.) \_\_\_\_\_  
**LOT 2 IN HINSDALE PARTNERSHIP ASSESSMENT PLAT OF PART OF BLOCK 2 IN D. S. ESTABROOK'S ADDITION TO HINSDALE IN SECTION 2, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF HINSDALE PARTNERSHIP ASSESSMENT PLAT RECORDED NOVEMBER 24, 1980 AS DOCUMENT R80-73055, IN DU PAGE COUNTY, ILLINOIS**  
The Real Property or its address is commonly known as 550 W Ogden Ave, Hinsdale, IL 60521-3186. The Real Property tax identification number is 09-02-212-007-0000.
5. Consultants. Name and address of each professional consultant advising applicant with respect to this application:
  - a. Attorney: \_\_\_\_\_
  - b. Engineer: \_\_\_\_\_
  - c. \_\_\_\_\_
  - 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.

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.
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.
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.
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.

## 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.
2. Ordinance Provision. The specific provisions of the Zoning Ordinance from which a variation is sought:

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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.)

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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.)

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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 or 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 or 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.)

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### SECTION III

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

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

## SECTION IV

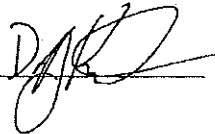
1. Application Fee and Escrow. Every application must be accompanied by a non-refundable application fee of \$250.00 plus an additional \$600.00 initial escrow amount. The applicant must also pay the costs of the court reporter's transcription fees and legal notices for the variation request. A separate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

## SECTION V

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

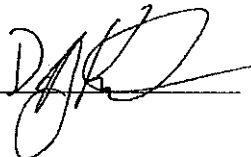
Name of Owner: Hinsdale Partnership, LLC \_\_\_\_\_

Signature of Owner: For Owners: \_\_\_\_\_



Name of Applicant: For Hinsdale Partnership, LLC: David Kanzler \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_



Date: \_\_\_\_\_

Hinsdale Partnership, LLC  
550 W. Ogden Ave.  
Hinsdale, IL 60521

**RE: Application for Variation – Expanded Response**

**SECTION I**

4. Subject Property:

LOT 2 IN HINSDALE PARTNERSHIP ASSESSMENT PLAT OF PART OF BLOCK 2 IN D. S. ESTABROOK'S ADDITION TO HINSDALE IN SECTION 2, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING THE PLAT OF HINSDALE PARTNERSHIP ASSESSMENT PLAT RECORDED NOVEMBER 24, 1980 AS DOCUMENT R80-73055, IN DU PAGE COUNTY, ILLINOIS.

The Real Property or its address is commonly known as 550 W. Ogden Ave., Hinsdale, IL 60521-3186. The Real Property tax identification number is 09-02-212-007-0000.

7. Neighboring Owners:

*Manor Care/HCR Healthcare, 600 Ogden Ave., Hinsdale, IL 60521*  
*Mr. Lincoln Brewer, 454 N. Monroe St., Hinsdale, IL 60521*  
*Mr. Lawrence Jennings, 444 N. Monroe St., Hinsdale, IL 60521*  
*Mr. Michael Reedy, 447 N. Monroe St., Hinsdale, IL 60521*  
*Mr. Salvatore Occhipinti, 441 N. Monroe St., Hinsdale, IL 60521*

8. Survey:

See enclosed.

9. Existing Zoning:

O-2

10. Conformity:

The approval being requested confirms with the Village Official Comprehensive Plan and the Official Map except with respect to the current landscape requirements as identified in Section 6-109 of the Village Code referencing Section 9-107: Buffers and Landscaping, Item A-2, Parking Lot Interior Landscaping.

11. Zoning Standards:

See SECTION II, number 2.

12. Successive Application:

Not Applicable.

**SECTION II**

1. Title:

See enclosed.

2. Ordinance Provision:

Section 9-107.A.2 - Parking Lot Interior Landscaping

*In addition to the requirements set forth in subsection A1 of this section, every parking lot shall contain at least one tree of three inches (3") or greater in diameter for each thirty (30) parking spaces constructed after the effective date of this code. Such trees may be provided by the preservation of existing trees or the planting of new trees. Each tree shall be surrounded by a landscaped area of at least thirty six (36) square feet. No existing or new tree located more than five feet (5') outside the perimeter of the paved parking area shall be counted in meeting the requirements of this subsection A2. All islands in excess of fifty (50) square feet created by curbs or other traffic flow regulators shall be landscaped.*

*Planting islands located within the interior of a parking lot shall be at least six feet (6') in width. Village owned parking lots shall be exempt from this requirement.*

3. Variation Sought:

The variation sought is for the minimum number of trees for each thirty (30) parking spaces. The current lot provides for 100 car parking spaces requiring 4 onsite parking lot trees.

The proposed project will include the removal of the existing landscaped island and 1 tree to provide the necessary additional car parking stalls.

The variation sought is for the reduction of onsite parking lot trees.

4. Minimum Variation:

The minimum variation would require 4 trees.

5. Standards for Variation:

The characteristics of the Subject Property that prevent compliance with the provisions of the Zoning Ordinance are:

a. Unique Physical Condition:

The Subject Property is exceptional and very well maintained. The existing mature treeline along the southern property line allows for great screening and provides privacy to the adjacent residential area.

b. Not Self-Created:

The east, south, and western greenspace areas adjacent to the parking lot have suitable vegetation and trees. The absence of suitable locations for additional trees requires the variation.

c. Denied Substantial Rights:

The Subject Property currently provides extensive landscaping when compared to the surrounding neighbors and other similar uses. The reduction of 1 tree and green space island will provide safer onsite circulation reflecting the current condition of neighboring properties.

d. Not Merely Special Privilege:

This waiver provides the much-needed parking, but more importantly eliminates the 2'-3' retaining wall around the parking island. This restricts adequate vehicle site distance and could provide unsafe pedestrian access to the building.

e. Code and Plan Purposes:

The variation of the code will not result in the deviation of Villages Comprehensive Plan or negatively impact surround properties.

f. Essential Character of the Area:

The variation will not change the character or adversely affect the area.

g. No Other Remedy:

There is not means to provide the necessary parking and safety other than to remove the parking island and tree.



Reserved for Recorder's Office

**TRUSTEE'S DEED**

This indenture made this 15<sup>th</sup> day of April, 2002, between CHICAGO TITLE LAND TRUST COMPANY, a corporation of Illinois, as Trustee under the provisions of a deed or deeds in trust, duly recorded and delivered to said company in pursuance of a trust agreement dated the 14<sup>th</sup> day of July, 1981, and known as Trust Number 1080257, party of the first part, and

HINSDALE PARTNERSHIP, L.L.C.

whose address is:

550 N. Monroe, Hinsdale, IL

party of the second part.

**WITNESSETH**, That said party of the first part, in consideration of the sum of TEN and no/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE considerations in hand paid, does hereby **CONVEY AND QUITCLAIM** unto said party of the second part, the following described real estate, situated in DuPage County, Illinois, to wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A" AND MADE A PART HEREOF:

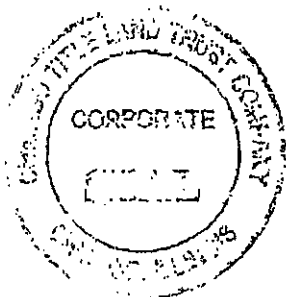
Permanent Tax Number: 09-02-212-007-0000

together with the tenements and appurtenances thereunto belonging.

TO HAVE AND TO HOLD the same unto said party of the second part, and to the proper use, benefit and behoof forever of said party of the second part.

This deed is executed pursuant to and in the exercise of the power and authority granted to and vested in said trustee by the terms of said deed or deeds in trust delivered to said trustee in pursuance of the trust agreement above mentioned. This deed is made subject to the lien of every trust deed or mortgage (if any there be) of record in said county given to secure the payment of money, and remaining unreleased at the date of the delivery hereof.

IN WITNESS WHEREOF, said party of the first part has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Assistant Vice President, the day and year first above written.



CHICAGO TITLE LAND TRUST COMPANY,  
as Trustee as Aforesaid

By: *Idra Maluica*  
Assistant Vice President

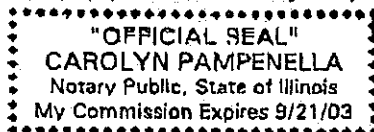
State of Illinois  
County of Cook

SS.

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that the above named Assistant Vice President of **CHICAGO TITLE LAND TRUST COMPANY**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice President appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of the Company; and the said Assistant Vice President then and there caused the corporate seal of said Company to be affixed to said instrument as his/her own free and voluntary act and as the free and voluntary act of the Company.

Given under my hand and Notarial Seal this 15<sup>th</sup> day of April, 2002.

PROPERTY ADDRESS:  
550 N. Monroe  
Hinsdale, IL



*Carolyn Pampenella*  
NOTARY PUBLIC

This instrument was prepared by:  
**CHICAGO TITLE LAND TRUST COMPANY**  
171 N. Clark Street  
ML04LT  
Chicago, IL 60601-3294

AFTER RECORDING, PLEASE MAIL TO:

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ OR BOX NO. \_\_\_\_\_

CITY, STATE \_\_\_\_\_

SEND TAX BILLS TO: \_\_\_\_\_

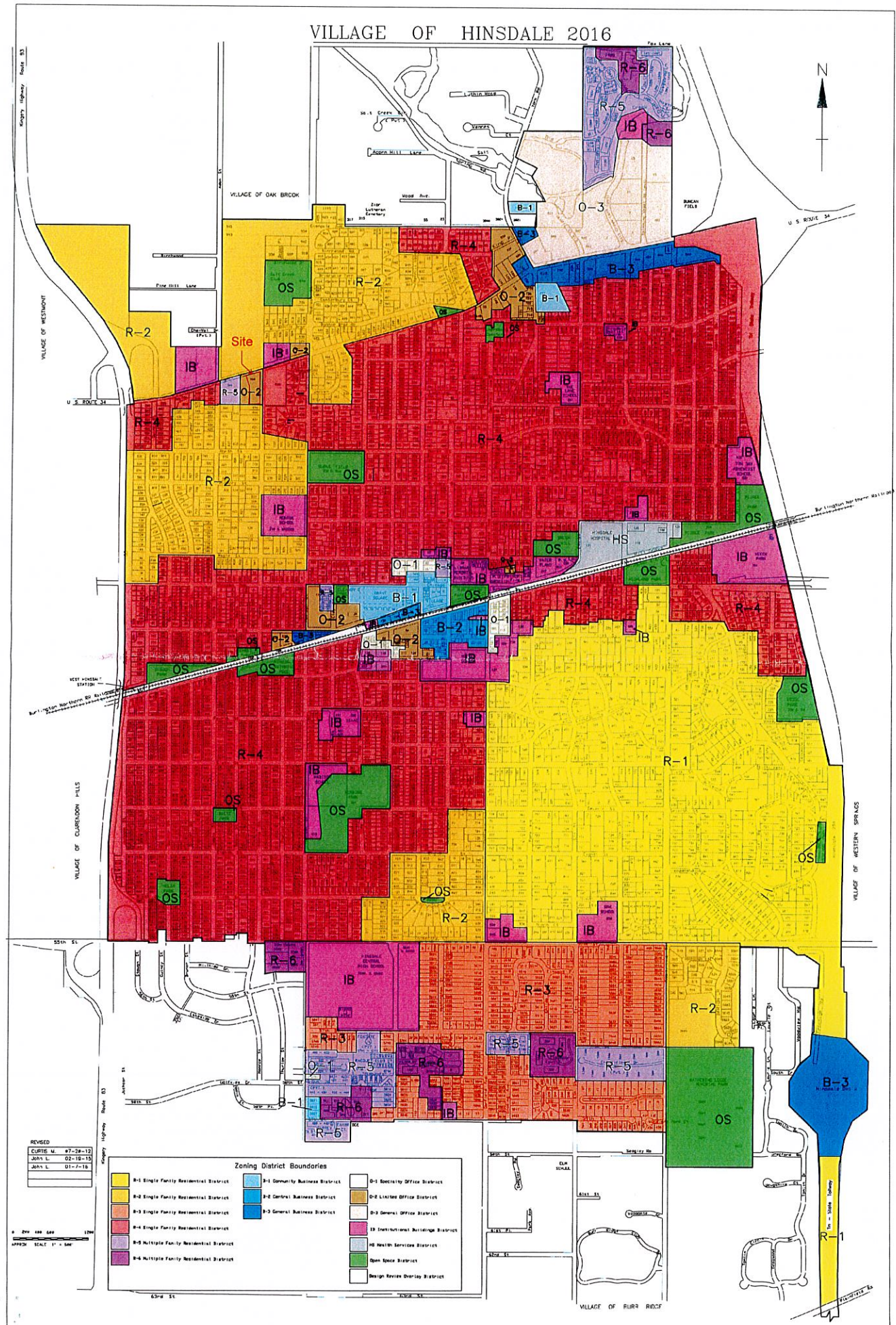
## EXHIBIT A

A parcel of land in the Northeast corner of Block 2 in Estabrooks Addition to the Town of Winsdale, described as follows: Beginning at the Northeast corner of said Block 2; thence Southwesterly along the Northerly line of said Block 2 (Southernly line of Ogden Avenue) 100 feet to a point; thence South parallel to the Easterly line of Block 2 (Westerly line of Monroe Street) to a point of intersection with a line drawn at right angles to the Easterly line of said Block 2 at a point 225 feet South of the Northeast corner thereof; thence Easterly to the East line of said Block 2 at a point 225 feet South of the Northeast corner thereof; thence Northerly along the Easterly line of said Block 2 to the place of beginning, being a Subdivision of the Southeast quarter and part of the Northeast quarter of Section 2, Township 38 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded July 2, 1868 as Document 9709, in DuPage County, Illinois.

That part of Block 2 of Estabrook Add. to the Town of Winsdale, being a subdivision of the South East 1/4 and part of the North East 1/4 of Section 2, Township 38 North, Range 11, East of the Third Principal Meridian, described as follows: beginning at a point in the East line of said Block 2 which is 10 chains North of the South East corner thereof; thence running West a distance of 156.0 feet; thence North parallel with the East line of said Block 2, a distance of 231.36 feet to a point of curve; thence Northerly along a curved line, convex to the East and having a radius of 159.0 feet, a distance of 46.69 feet to a point of tangent; thence Northwesterly along a line that is tangent to the last described curve and also perpendicular to the Northerly line of said Block 2, a distance of 163.19 feet to the Northerly line of said Block 2; thence Northeasterly along the Northerly line of said Block 2, a distance of 119.0 feet, more or less, to a point that is 100.0 feet Southwesterly of the North East corner of said Block 2; thence South and parallel with the East line of said Block 2 to a point of intersection with a line drawn at right angles to the East line of said Block 2 at a point 225.0 feet South of the North East corner thereof; thence East along said last described perpendicular line a distance of 95.85 feet more or less, to the East line of said Block 2; thence South along the East line of said Block 2 a distance of 271.60 feet more or less to the place of beginning, according to the plat thereof recorded July 2, 1868 as Document 9709, in DuPage County, Illinois.



# VILLAGE OF HINSDALE 2016





ENLARGEMENT - A



ENLARGEMENT - C

ENLARGEMENT - B



## SITE PLAN

Hinsdale Orthopaedic Associates REMODEL of OGDEN AVENUE FACILITY schematic design 7/25/2017

LOT 2 IN HINSDALE PARTNERSHIP SKESSIONS PLAT OF THAT PART OF BLOCK 10 IN SECTION 26, TOWNSHIP 38 NORTH RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING A CORNER TO SAID LOT 2, ESTABLISHED ADDITION TO HINSDALE.

THENCE ALONG THE EAST LINE OF SAID BLOCK 10, N 79° 00' 00" W, 10 CHAINS TO AN IRON PILE MARKING THE CORNER THEREOF; THENCE ALONG THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE WEST LINE OF SAID BLOCK 10, S 89° 00' 00" W, 10 CHAINS TO A POINT ON THE EAST LINE OF SAID BLOCK 2, WHICH IS TO CHAIN NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE EAST LINE OF SAID BLOCK 2 TO THE NORTHERLY LINE THEREOF; THENCE ALONG THE NORTHERLY LINE OF SAID BLOCK 2 TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH TO THE PLACE OF BEGINNING, ACCORDING TO THE PLAN RECORDED JULY 2, 1889 AS DOCUMENT 3737 IN DO PAIR COUNTY, MINNESOTA.



THIS IS TO CERTIFY THAT WE, RYHEAR & SON, INC., HAVE SURVEYED THE PROPERTY DESCRIBED IN THE ABOVE CAPTION AND LOCATED THE IMPROVEMENTS THEREON, AS SHOWN BY THE ANNEXED PLAT WHICH IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

WITNESSED UNDER MY HAND AND SEAL, AT NAPERVILLE,  
ILLINOIS, THIS 20 DAY OF NOVEMBER, 2010.

A TITLE COMMITMENT WAS NOT FURNISHED TO RHEAR & SON, INC. FOR USE IN THE PREPARATION OF THIS SURVEY. THEREFORE THERE MAY BE ADDITIONAL CLAIMS, ENCUMBRANCES OR SURVIVANCES AFFECTING THE PROPERTY WHICH ARE NOT SHOWN. COMPARE THE DESCRIPTION ON THIS PLAT WITH YOUR DEED. ABSTRACT, RECORD OR CERTIFICATE OF TITLE. BUILDING LINES ARE SHOWN ONLY WHERE THEY ARE SO RECORDED ON THE MAPS OR PLATS. REFER TO YOUR DEED OR ABSTRACT AND REPORT ANY DIFFERENCE AT ONCE.

RYNEAR & SON, INC.  
PROFESSIONAL DESIGN FIRM LICENSE #164-004137

PREPARED FOR: VOLT ELECTRIC  
PROJECT NO: 10-2333

55 BUTTWOOD CIR., NAPERVILLE, IL 60544  
TEL: (630) 356-9888 FAX: (630) 355-5382

**MEMORANDUM**

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

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

**DATE:** April 10, 2018

**RE:** Zoning Variation – V-05-18; 842 W. 7<sup>th</sup> Street

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In this application for variation, the applicant requests relief from the minimum corner side yard requirements set forth in section 10-105 (A)(3) and the maximum building coverage requirements set forth in section 3-110 (F)(1) for the construction of a new single family home. The applicant is requesting a 3.5' reduction in the required corner side yard setback from 15' to 11.5' and an increase of 62 square feet to the maximum allowable building coverage from 1,406sf. to 1,468sf.

It should be noted that the Zoning Board of Appeals does not have express authority on the Building Coverage portion of this request. As such, that portion will move on to the Village Board as a recommendation provided that four affirmative votes are received.

This property is located in the R-4 Residential District in the Village of Hinsdale and is located on the south side of 7<sup>th</sup> Street between Jackson and Stough. The property has a frontage of approximately 45', a depth of approximately 125', and a total square footage of approximately 5,625. The maximum FAR is approximately 2,800 square feet, the maximum allowable building coverage is 25% or approximately 1,406 square feet, and the maximum allowable lot coverage is 60% or approximately 3,375 square feet.

cc: Kathleen A. Gargano, Village Manager  
Zoning file V-05-18



Zoning Calendar No. V-0518

**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): Daniel J. Roberts - Roberts Design & Build

ADDRESS OF SUBJECT PROPERTY: 842 West 7th Street, Hinsdale, IL

TELEPHONE NUMBER(S): 630-927-1325

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

Roberts Design & Build is the Architect for the Owner

DATE OF APPLICATION: 04/09/18





## SECTION I

Please complete the following:

1. Owner. Name, address, and **telephone number** of owner: Frank Spirovski  
1476 Perry Street, #606, Desplaines, IL 60016 Phone Mobile 630-863-5281
2. Trustee Disclosure. In the case of a land trust the name, address, and **telephone number** of all trustees and beneficiaries of the trust: No Trust
3. Applicant. Name, address, and **telephone number** of applicant, if different from owner, and applicant's interest in the subject property: Daniel J. Roberts - Roberts Design & Build  
4506 Roslyn Road, Downers Grove, Illinois 60515
4. Subject Property. Address and legal description of the subject property: (Use separate sheet for legal description if necessary.) 842 West 7th Street, Hinsdale, Illinois  
Lots 96 and 95 (except the south 2 feet thereof) in S. T. Kimbell's resubdivision, being a resubdivision of Block 21 in Stough's Second Addition to Hinsdale, Being a Subdivision in the East 1/2 of Section 11, Township 38 North, Range 11, East of the Third Principal Meridian, according to the Plat of Resubdivision recorded August 5, 1892 as Document 49378, In DuPage County, Illinois
5. Consultants. Name and address of each professional consultant advising applicant with respect to this application:
  - a. Attorney: \_\_\_\_\_
  - b. Engineer: Ridgeline Consultants, LLC 1661 Aucutt Road, Montgomery, IL 60538 630-801-7927
  - c. Architect: Roberts Design & Build same info as Applicant
  - 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. \_\_\_\_\_  
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.

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.
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.
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.
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.

## 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.

2. Ordinance Provision. The specific provisions of the Zoning Ordinance from which a variation is sought:

Section 3-110: Build space and Yard Requirements. Item D Minimum Yards, item D, 2., (a), (i)  
Note from non-conforming lots Section 10-105: Legal Nonconforming Lots of Record, A, e3, (a) (ii)  
for R-4 front yard setback to be 15' or 30% of lot width whichever is greater which is 15'. Note the average of that side yard is less than 15' so 15' would be the corner side setback.

Section 3-110: Build space and Yard Requirements. Item F. Maximum Building coverage: 1. The maximum building coverage is 25%.

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.)

The variation no. 1. sought is to reduce the north setback of the corner side lot from 15' to 11'-6". The purpose is to make the 45' more buildable as the majority of the current corner lots are 45'. The narrow width of a corner lot being 45' only allows a 24' house. A typical 50' interior lot allows a 35' house.

The variation no. 2 sought is to increase the lot coverage from 25% or 1,406 s.f. to 1,468 s.f. or 26%. This will allow the same lot coverage as the 47' x 125 typical corner lots. We will not increase the maximum F.A.R. of 2,800 s.f.

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 above is the minimum variation required. We have tried design to reduce this setback and have not been successful.

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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.
- (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.)

Variance No. 1: We have reviewed other floor plan designs at 24' and find they do not flow or function well. 24' is too narrow to allow 2 rooms in depth with corridor and circulation space.

Variance NO. 2: Because the lot is only 45 x 125 and allows 1,406 s.f. the floor plan only allows very small spaces that are not reasonable. we are only requesting to match the 47' X 125' Maximum Building Coverage which only adds 62 s.f., but greatly improves the ability to make a floor plan work.

### **SECTION III**

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

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

## SECTION IV

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

## SECTION V

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

Name of Owner: FRANK STROVSKI

Signature of Owner: Frank Strowski

Name of Applicant: DANIEL J. ROBERTS

Signature of Applicant: [Signature]

Date: 4/9/18.

Spirovski Residence  
Variance Application  
842 West 7<sup>th</sup> Street  
Hinsdale, Illinois

## SECTION I

1-9     **See attached application.**

10.     **Statement of Conformity:**

Variance No. 1: The proposal for the variance conforms to all requirements of the code except for the variation request for the corner side yard setback. The required setback is 15' as the average setback is less than 15'. We are requesting an 11'-6" setback reducing the setback by 3'-6". All other construction will be within the setback and a second story will be over the existing remaining portion of the residence.

Variance No. 2: We believe the conformity of the Village Code was designed for lots or standard size of 50 x 125 or similar. These corner lots are unique as they are smaller than the interior lots. We are requesting to match the Maximum Building Coverage of the 47' X 125' existing corner lots which we feel is reasonable.

11.     **Zoning Standards:**

Variance No. 1: The ordinance is requiring us to maintain the required corner front setback. We will maintain all other the required setback on all new construction. We feel since these corner lots are so small and this one being 45' where most corner lots are 47' and minimum interior lots are typically 50' that the size of the house will conform to the size of other lots in the area, and even smaller as 50' lots have 35' homes.

Variance No. 2: We are only requesting to match the Maximum Building Coverage of 47' X 125' lots adding only 62 s.f. Being a corner lot, there is plenty of grass area for drainage and water will flow to the street. This will be maintaining the footprint of all other 47' corner lots since this is the only 45' corner lot.

## SECTION II

1     **Title:** See attached.

2     **Ordinance Provision.** See attached application.

3     **Variation Sought:** See attached application.

4     **Minimum Variation.** See attached application.

5     **Standards for Variation:**

Variance No. 1: The character of the existing property is very narrow for a corner lot. There are several 47' corner lots in Hinsdale, but this lot is 45'. Even a 50' interior lot would allow a 35' wide house, this lot would only allow a 24' wide house. This lot is also at the far west side of town, adjacent to route 83. There are no other lots on the west side of Jackson that would be affected by the variation.

Variance No 2: The increase of the Maximum Building Coverage would only be by 1% or 62 s.f. and will be the same as the other 47' X 125 corner lots. The F.A.R. will not be changed.

Spirovski Residence  
Variance Application  
842 West 7<sup>th</sup> Street  
Hinsdale, Illinois

- a. Unique Physical Condition: The unique physical condition of this lot is how narrow it is. Due to being a corner lot, it does not allow for a well designed floor plan since the 45' corner lot only allows for a 24' wide house. It also differs from other lots since it is adjacent to route 83 and there are no homes on the west side of the street.
- b. Not Self-Created: This lot is existing and has the hardship has not been created by the Owner or Applicant.
- c. Denied Substantial Rights: Corner lots are typically larger than interior lots because of the larger corner setbacks. A 50' interior lot would allow a 35' wide house. This lot only allows a 24' wide house. This is also a very small lot at 45' wide.
- d. Not Merely Special Privilege: The home is being designed for the Owner and a family. This is not being done for speculation or for profit. There are no special privileges that will be obtained through this variation. It is only to allow for a home that has standard function and width.
- e. Code and Plan Purposes: This variation would not change the purpose of the Code or harmony of the site and adjacent areas. It does not change the intent of the Official Comprehensive Plan for the community. The home will remain a single family residence and would be no closer to the street than it has been for over 75 years.
- f. Essential Character of the Area: The variation would not result in a use or development of the Subject Property that:
  - i. Would not be materially detrimental to the public welfare or materially injurious to the enjoyment, use development or value of the properties in the vicinity. This will remain a single family residence and only 1 portion the existing will be located at the same location as the existing home.
  - ii. This is on the north side of the home adjacent to 7<sup>th</sup> street and would not impair an adequate supply of light and air to other properties.
  - iii. This will not have an affect on congestion in the public streets.
  - iv. This will not cause flood or fire.
  - v. This will not unduly tax public utilities and facilities in the area.
  - vi. This will not endanger the public health or safety of others.
- g. No Other Remedy: See attached application.

### SECTION III

- 1. See attached architecture plans showing site plan, floor plans and exterior elevations. We have included 10 full size sets of plans and 10 half size.
- 2. See attached survey and Schedule of zoning requirements.

### SECTION IV

- 1-3 Owner will comply with agrees to pay all fees required for the variation.



Spirovski Residence  
Variance Application  
842 West 7<sup>th</sup> Street  
Hinsdale, Illinois

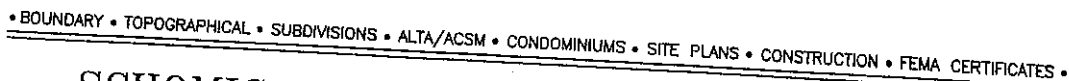
## **SECTION V**

See application for Owner's Signatures.

**842 7TH STREET HINSDALE, ILLINOIS**

**VILLAGE OF HINSDALE ZONING REQUIREMENTS**

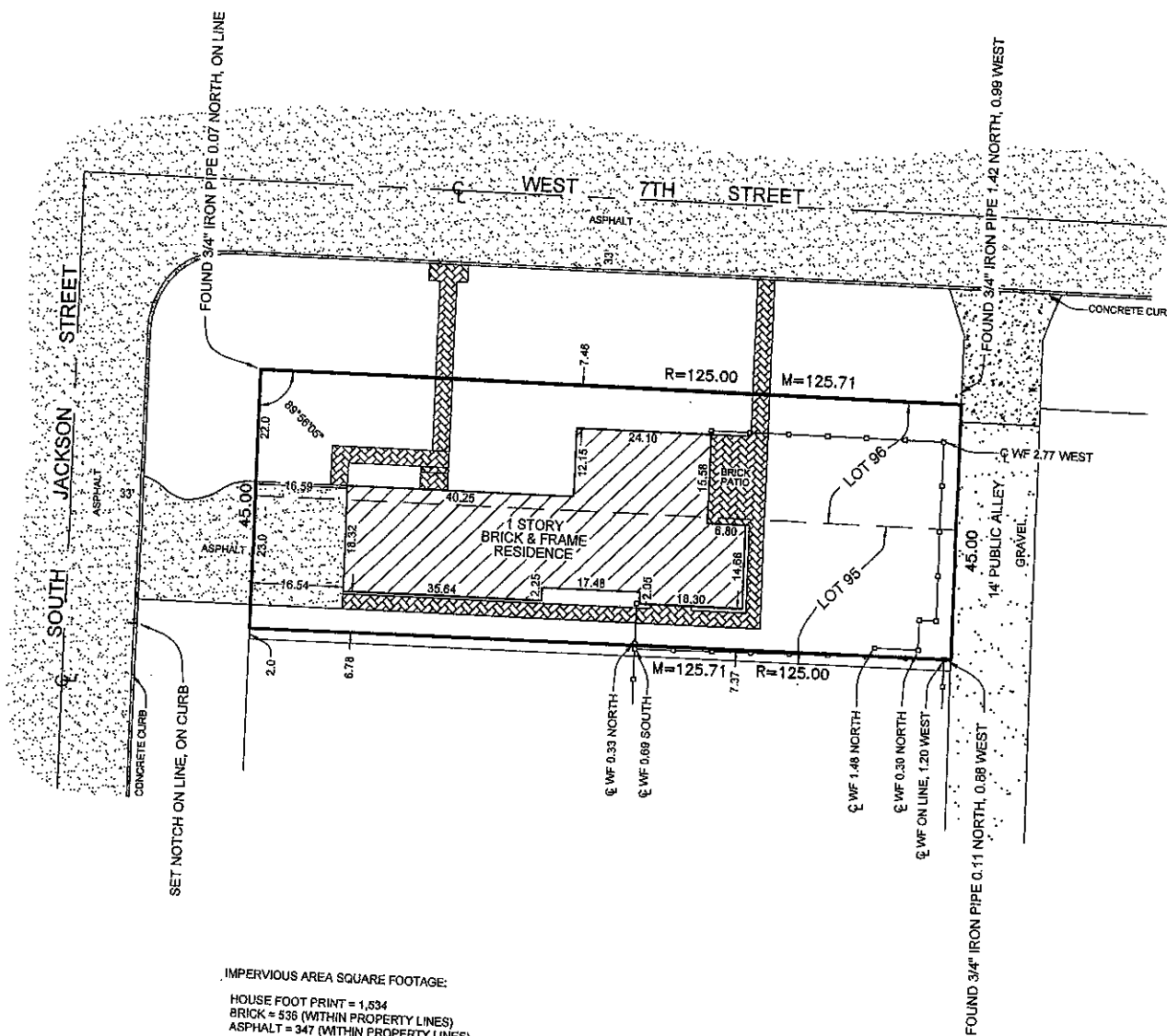
ITEM:	DESCRIPTION:		REQUIREMENT:	ACTUAL:	NON CONFORMING
1	Maximum Elevation:		34' plus .75 foot for each foot of side yard provided in excess of 6'.	34'-0"	NONC
2	Maximum Lot Area and Dimensions:		7000	5,625.00	NONC
3	Min. Side Yard:		6' or 6' plus 10% of lot width in excess of 50' whichever is more.	6'	NONC
4	Corner Side Yard:		15' of 30% of lot width whichever is greater.	15' (AT NEW CONSTRUCTION) 7.48' (AT EXIST)	NONC
5	Total Side Yards:		30% of total lot width. = 13.5'	13.5'	NONC
6	Max. Height Accessory		15'	NOT APPLICABLE	
7	Maximum Elevation Accessory:		NA	NOT APPLICABLE	
8	Minum Front Yard		35'/Average of the setbacks of all lots on frontage, including the existing building, excluding the highest and lowest setbacks for building on developed lots. The min. front and corner setback are 20' (excluding non conforming above)	The Average requirement is 20.42' the actual is 22'-5"	
9	Side and rear setback for accessory		2' in the rear 20% of the lot or 6' in front of the rear 20%.	NOT APPLICABLE	
10	Rear yard setback for Primary Structure		25'	43'-11-1/2"	
11	Maximum Floor Area Ratio		2800 s.f.	2800 s.f.	
12	Maximum Building Coverage for principal and accessory		25% = 1406 s.f.	1468 s.f.	
13	Maximum Building Coverage for Accessory		10%	NOT APPLICABLE	
14	Maximum Lot Coverage		50% = 2812.50 s.f.	2390 s.f.	Non pervious



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

LOTS 96 AND 95 (EXCEPT THE SOUTH 2 FEET THEREOF) IN S. T. KIMBELL'S RESUBDIVISION, BEING A RESUBDIVISION OF BLOCK 21 IN STOUGH'S SECOND ADDITION TO HINSDALE, BEING A SUBDIVISION IN THE EAST 1/2 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF RESUBDIVISION RECORDED AUGUST 5, 1892 AS DOCUMENT 49378, IN DU PAGE COUNTY, ILLINOIS.

COMMON ADDRESS: 842 WEST 7TH STREET, HINSDALE.



IMPERVIOUS AREA SQUARE FOOTAGE:

HOUSE FOOT PRINT = 1,534  
BRICK = 536 (WITHIN PROPERTY LINES)  
ASPHALT = 347 (WITHIN PROPERTY LINES)

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

IMPORTANT: COMPARE 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.

NO 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 WITHOUT THE WRITTEN PERMISSION OF  
SCHOMIG LAND SURVEYORS LTD. ONLY PLATS WITH AN EMBOSSED SEAL ARE  
REGISTERED BELOW. © COPYRIGHT, ALL RIGHTS RESERVED.

SURVEY DATE: MARCH 9TH, 2017.

BUILDING LOCATED: MARCH 9TH, 2017.

IMPERVIOUS AREA ADDED: MARCH 16TH, 2017.

ORDERED BY: MARIA SPIROVSKI

<sup>2</sup>LAT NUMBER: 90NE60-1 & 171015 SCALE: 1" = 20'

### LEGEND

M. = MEASURED DIMENSION  
R. = RECORDED DIMENSION  
B.L. = BUILDING LINE  
P.U.E. = PUBLIC UTILITY EASEMENT  
D.E. = DRAINAGE EASEMENT

C. = CENTER LINE  
 C.L.F. = CHAIN LINK FENCE  
 W.F. = WOOD FENCE  
 V.F. = VINYL FENCE  
 I.F. = IRON FENCE

STATE OF ILLINOIS     )  
COUNTY OF COOK        ) ss.

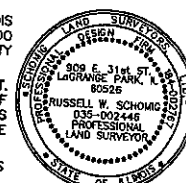
LOT AREA: 5,656 SQUARE FEET.

WE, SCHOMIG LAND SURVEYORS, LTD. AS AN ILLINOIS  
PROFESSIONAL DESIGN FIRM, LAND SURVEYOR CORPORATION, DO  
HEREBY CERTIFY THAT WE HAVE SURVEYED THE PROPERTY  
DESCRIBED HEREON.

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



Date	Revision	By

**ROBERTS**  
**Design & Build**  
4608 ROSLYN ROAD  
DOWERS GROVE, IL 60516  
OFFICE 630.827.1325  
FAX 630.214.4048



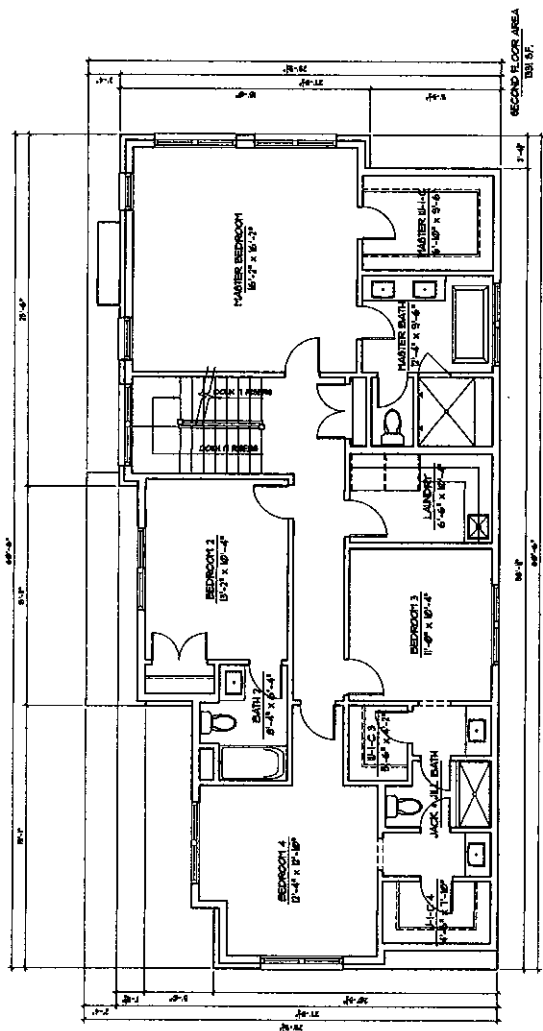
MIKE AND MARIA SPIROVSKI  
PROPOSED NEW RESIDENCE  
842 WEST 7TH STREET  
HINSDALE ILLINOIS

Date	04/09/2018
Drawn	DJR
Checked	DJR

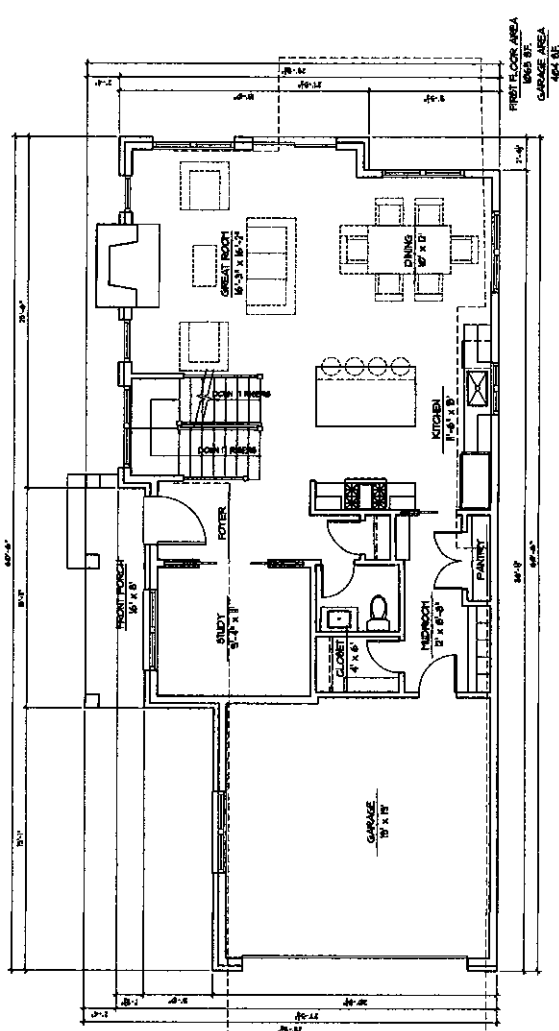
Job No 1722  
Sheet T-1

[illegible]



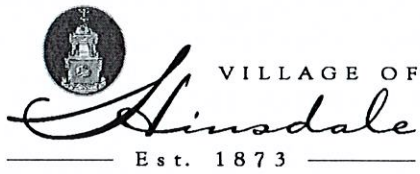


SECOND FLOOR PLAN



**FIRST FLOOR PLAN**





8a  
MEMORANDUM

**DATE:** April 13, 2018  
**TO:** Chairman Bob Neiman and Members of the Zoning Board of Appeals  
**CC:** Robb McGinnis, Director of Community Development  
**FROM:** Christine M. Bruton, Village Clerk  
**RE:** APP-03-17, 504 South Oak Street & 422 South Oak Street

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Due to the volume of materials relative to the above named appeal and public hearing before the Zoning Board of Appeals, staff has elected not to reprint the materials for purposes of this rescheduled public hearing. Hard copies have been previously distributed to Zoning Board members.

Please refer to the Zoning Board of Appeals packet for February 22<sup>nd</sup> posted on the Village website to view the zoning application.

[http://cms4.revize.com/revize/hinsdale/document\\_center/ZoningBoardAppeals/2018/02%20FEB/zba%20packet%20%2002%2022%2018%20special.pdf](http://cms4.revize.com/revize/hinsdale/document_center/ZoningBoardAppeals/2018/02%20FEB/zba%20packet%20%2002%2022%2018%20special.pdf)

Thank you.