



## MEETING AGENDA

**REGULAR MEETING OF THE  
ZONING BOARD OF APPEALS  
WEDNESDAY, May 16, 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 April 18, 2018
- 4. APPROVAL OF FINAL DECISIONS**
  - a) V-01-18, 415 South Vine Street
  - b) V-02-18, Monument Sign on Landscaped Median of Salt Creek Lane
  - c) APP-03-17, 504 South Oak Street & 422 South Oak Street
- 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 – None**
- 8. PUBLIC HEARINGS**
  - a) V-04-18, 550 West Ogden Avenue
  - b) V-05-18, 842 West Seventh Street
- 9. NEW BUSINESS**
- 10. OLD BUSINESS**
- 11. ADJOURNMENT**

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VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
APRIL 18, 2018

1. CALL TO ORDER

Chairman Bob Neiman called the specially scheduled meeting of the Zoning Board of Appeals to order on Thursday, April 18, 2018 at 6:31 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

On behalf of the Board, Chairman Neiman offered condolences at the passing of Member Keith Giltner's father, stating our thoughts and prayers are with him. He thanked retiring member Marc Connelly for his many years of service on the Zoning Board, and made mention of his soft, quiet wisdom that will be missed. He also welcomed new member Tom Murphy to the Board.

2. ROLL CALL

**Present:** Members Gary Moberly, Joseph Alesia, Tom Murphy, Kathryn Engel, John Podliska and Chairman Bob Neiman

**Absent:** Members Keith Giltner

**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 February 22, 2018

Following corrections to the draft minutes, Member Engel moved to **approve the draft minutes of February 22, 2018, as amended.** Member Moberly seconded the motion.

**AYES:** Members Moberly, Alesia, Murphy, Engel, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Member Giltner

Motion carried.

b) Regular meeting of March 21, 2018

Following corrections to the draft minutes, Member Moberly moved to **approve the draft minutes of March 21, 2018, as amended.** Member Alesia seconded the motion.

**AYES:** Members Moberly, Alesia, Murphy, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** Member Engel

**ABSENT:** Member Giltner

Motion carried.

**4. APPROVAL OF FINAL DECISION**

a) **V-01-18, 415 South Vine Street**

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

The agenda was revised to include the approval of these final decisions; however, the Board agreed they would like more time to review the documents. As there is no substantive issue in either case to delay the approval, Member Podliska moved to **delay approval of the final decisions for V-01-18, 415 South Vine Street and V-02-18, Monument Sign on Landscaped Median of Salt Creek Lane.** Member Engel seconded the motion.

**AYES:** Members Moberly, Alesia, Murphy, Engel, Podliska and Chairman Neiman

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Member Giltner

Motion carried.

**5. RECEIPT OF APPEARANCES**

Court Reporter Kathy Bono administered the oath to all persons intending to speak this evening.

**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-04-18, 550 West Ogden Avenue**

Mr. David Kanzler, CEO of Hinsdale Orthopedics and property manager, addressed the Board. He explained they are asking for this variance for two reasons: 1) Patient safety, the large landscaping structure blocks sightlines for patients and cars; and 2) there are parking challenges in the area, 20 employees are being parked remotely. Granting the variance would provide an additional 4-6 parking spaces. Mr. Kanzler reported the business has been in place since 1980, and although no injury has been reported, there have been fender benders, but he cannot confirm whether the parking lot landscaping is the cause. He pointed out the neighbors are concerned that employees and patients do not park in front of their houses, since the loss of the Amlings parking. Member Moberly noted the landscaping is very tall; it could possibly be made smaller and lower. Mr. Kanzler agreed, but pointed out this would not address the parking need.

Director of Community Development Robb McGinnis confirmed the parking, as it exists, is grandfathered in well before 1989. There is a 60 space

1 deficiency under the current code.

2 The Board had no further questions for the applicant; Chairman Neiman set  
3 the public hearing for May 16, 2018.

4  
5 **b) V-05-18, 842 West Seventh Street**

6 Mr. Dan Roberts, Roberts Design and Build, addressed the Board stating that  
7 Mr. John Behrendt from his office addressed the ZBA previously for the  
8 original application. In this revised application, they are requesting corner  
9 side yard setback relief, but have reduced the request as a result of Board  
10 suggestions at the pre-hearing in February. They are able to make that  
11 compromise because they are no longer trying to keep a portion of the  
12 existing structure. The corner side yard setback would be reduced from the  
13 required 15' feet to 11.5' feet. He explained this corner lot is 45' feet wide by  
14 125' feet deep, and the hardship is trying to fit a reasonable house on the  
15 property.

16 The second request is for maximum building coverage relief of 1%. He  
17 pointed out there are many 47' foot lots; to his knowledge, this is the only 45'  
18 foot. They are only asking for enough relief to make the building lot coverage  
19 the same as a 47' foot wide lot would permit. This is 62' square feet of relief,  
20 which makes a huge difference in making a plan work. He noted there are  
21 always storm water concerns with a larger footprint, but in this case there are  
22 two streets for water to flow to, and as a corner lot there is more grass to  
23 absorb water. He has analyzed the building coverage relief relative to the 47'  
24 foot and 50' foot lots that are more prevalent, and he believes the request is  
25 reasonable and comparable to those.

26 Mr. Roberts said he has no feedback from neighbors as yet. They haven't sat  
27 down with everyone yet, but will before the next meeting. He does not believe  
28 this will impact any neighbor, as this property is up against Route 83.  
29 Chairman Neiman said although the two requests are interrelated, the seven  
30 standards for approval would have to be met for each request. It was clarified  
31 that the architect/builder is listed as the applicant on this case, but is acting  
32 on behalf of the property owner, Mr. Frank Spirovski. Mr. McGinnis said he  
33 has not done a count, but there are many 47' lots in the Village. He has never  
34 seen a 45' lot before.

35 The Board had no further questions for the applicant; Chairman Neiman set  
36 the public hearing for May 16, 2018.

37  
38 **8. PUBLIC HEARINGS**

39 **a) APP-03-17, 504 South Oak Street & 422 South Oak Street**

40 Chairman Neiman opened the public hearing on this matter and reminded the  
41 Board this is a continuation of the hearing from February.

42 Member Alesia stated that he was absent from the February 22<sup>nd</sup> hearing, but  
43 has reviewed the materials and the transcript and is ready to participate.  
44 There was no objection to his participation. Chairman Neiman also clarified  
45 that the arguments tonight are limited to the supplemental issue from  
46 February 22<sup>nd</sup>. He asked both parties to limit their arguments in accordance  
47 with the 10 minute rule which should suffice.

1  
2 *Due to the complex nature of the proceedings, the transcript of the public*  
3 *hearing is included as part of these minutes. (Exhibit A)*  
4

5 There being no further testimony, or questions from the Board, Member  
6 Podliska moved to **close the public hearing for APP-03-17, 504 South Oak**  
7 **Street & 422 South Oak Street.** Member Engel seconded the motion.  
8

9 **AYES:** Members Moberly, Alesia, Murphy, Engel, Podliska and Chairman  
10 Neiman

11 **NAYS:** None

12 **ABSTAIN:** None

13 **ABSENT:** Member Giltner  
14

15 Motion carried.  
16

## 17 **DELIBERATIONS**

18  
19 Chairman Neiman began deliberations by reading the standard that is  
20 applicable from the zoning code which states that the appeal procedure is  
21 provided as a safeguard against arbitrary, ill-considered or erroneous  
22 administrative decisions. It is intended to avoid the need for legal action by  
23 establishing procedures to review and correct administrative errors, but it is  
24 not intended as a means to subvert the clear purpose, meanings or intent of  
25 the code or the rightful authority of the Village Manager to enforce the  
26 requirements of the code. To that end the reviewing body, (the Zoning Board  
27 of Appeals), should give deference to the spirit and intent of the language of  
28 the code and reasonable interpretations of that code by those charged with its  
29 administration.

30 Member Murphy asked if a resident with one zoning lot could build guest  
31 quarters above their garage that included a kitchen, etc. if they state no one is  
32 going to live there. Mr. McGinnis explained you can only have one principal  
33 use on a lot, or zoning lot, or lot of record. So, when people ask for a pool  
34 house or a coach house, it has to be one element short of a dwelling unit. In  
35 other words, either a kitchen, bathroom or bedroom would have to be  
36 eliminated. Additionally, the Village makes sure the utilities come off the  
37 principal structure.

38 Member Podliska referenced the standard of review read by Chairman  
39 Neiman and concludes it is a reasonable interpretation contained in the July  
40 12, 2017 letter; the structures are capable of being separately maintained,  
41 altered, enlarged, rebuilt, restored and repaired in conformance with §10-104,  
42 and therefore these are two separate lots, and the building on 504 S. Oak can  
43 proceed. He believes this is a reasonable interpretation, and he is strongly  
44 influenced by the photograph included in Bayit Properties submission, Exhibit  
45 J. that illustrates 504 S. Oak is a stand-alone single-family residence.  
46 Additionally, the property has one access and its own billing for purposes of  
47 utilities. He noted that the Dugans submit that if this property is an accessory

1 to the principal structure, it is one zoning lot that can't be subdivided  
2 thereafter, but he disagrees with the analysis. Even if the code states it  
3 became one lot, the ZBA has the authority, if the circumstances are  
4 appropriate, to subdivide. The two existing structures conform to the  
5 surrounding area. Although the purchaser wants to tear the building down  
6 and build something else, and while the Dugans are asking to have this  
7 treated as a single lot, and part of their argument is their reliance upon the  
8 appearance of this lot, they may not enjoy the same view if something larger  
9 is built on the entire property.

10 Member Moberly agrees with Member Podliska's remarks, and added there  
11 were two houses on these properties in 1989, two houses in 1994 and two  
12 houses on two lots were sold in 2017.

13 Member Alesia also agrees, and added that when the Girschs went in to make  
14 their changes they were told they were creating an accessory structure, and  
15 would lose their right to sell this as a separate lot. Mr. Girsch changed the  
16 plans and built a property that is capable of being a single-family dwelling. It  
17 is capable of being a single-family residence regardless of how it was used  
18 since 1994. So, he concludes the Village's decision in this matter is  
19 reasonable.

20 Member Engel concurred, and added the record indicates this pre-code  
21 structure was remodeled, not entirely demolished and rebuilt.

22 Member Murphy disagrees and believes this property is clearly an accessory  
23 in use to 422 S. Oak. He is not convinced by the argument that having your  
24 next door neighbor's house and storing stuff in it makes it an accessory, but  
25 one of the provisions states the use of the structure has to be customarily  
26 found as an incident to such principal structure and use. Nor is he convinced  
27 that Mr. Girsch went to great lengths, because he knows Jerry Girsch and  
28 he's a careful guy. If he wanted to make sure, he would have asked for a  
29 letter of clarification at the time. There is no evidence there was ever a  
30 resident of the 504 S. Oak building; it was used for nothing and it was  
31 designed for nothing but to be the coach house and a four-car garage.  
32 Member Murphy added that, with all that said, he does not feel the decision  
33 the Village made is unreasonable, but he would have made it differently. He  
34 added, after hearing the standard of review, it would be hard to say his views  
35 are right enough that the Village is wrong.

36 Chairman Neiman said this is a difficult decision, and commended both  
37 attorneys for submitting good arguments; however, he does not believe the  
38 Dugans have established that the Village Manager's decision was arbitrary,  
39 ill-considered or erroneous. Mr. Girsch came back, and changed the plans,  
40 and with those changes these would remain two separate lots. Additionally,  
41 he is not sure how the builder was supposed to do any more due diligence  
42 than they did. The properties were marketed as two separate lots. The  
43 developer came back to the Village, and got assurances from the Village that  
44 it was two separate lots. He will vote to affirm the decision of the Village  
45 Manager in the letter of July 12, 2017.

46  
47 Member Alesia moved to deny APP-03-17, 504 South Oak Street & 422

1           **South Oak Street.** Member Podliska seconded the motion.  
2

3           **AYES:** Members Moberly, Alesia, Engel, Podliska and Chairman Neiman

4           **NAYS:** None

5           **ABSTAIN:** Member Murphy

6           **ABSENT:** Member Giltner  
7

8           Motion carried.  
9

10       **9. NEW BUSINESS** – None  
11

12       **10. OLD BUSINESS** – None  
13

14       **11. ADJOURNMENT**

15       With no further business before the Zoning Board of Appeals, Member Moberly  
16       made a motion to **adjourn the meeting of the Zoning Board of Appeals of**  
17       **April 18, 2017.** Member Engel seconded the motion.  
18

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

21       **NAYS:** None

22       **ABSTAIN:** None

23       **ABSENT:** Member Giltner  
24

25       Motion carried.  
26

27       Chairman Neiman declared the meeting adjourned at 8:13 p.m.  
28  
29

30       \_\_\_\_\_  
31       Christine M. Bruton  
32       Village Clerk  
33

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.)

CONTINUED REPORT OF PROCEEDINGS had of  
the above-entitled matter before the Hinsdale  
Zoning Board of Appeals, at 19 East Chicago  
Avenue, Hinsdale, Illinois, on April 18, 2018,  
at the hour of 6:30 p.m.

BOARD MEMBERS PRESENT:

MR. ROBERT NEIMAN, Chairman;

MR. GARY MOBERLY, Member;

MR. TOM MURPHY, Member;

MR. JOE ALESIA, Member;

MR. JOHN F. PODLISKA, Member; and

MS. KATHRYN ENGEL, Member.

\* \* \* \* \*



1           ALSO PRESENT:

2           MS. CHRISTINE BRUTON, Deputy Village  
3           Clerk;

4           MR. ROBB MCGINNIS, Director of  
5           Community Development;

6           MR. MICHAEL MARRS, Village Attorney;

7           MR. ROBERT O'DONNELL, Attorney for  
8           Mr. & Mrs. Dugan;

9           MS. SUSAN OVERBY, Attorney for Bayit  
10          Builders and Avra Properties.

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11

06:56:54PM 12           CHAIRMAN NEIMAN: Next matter is the  
13          continuation of the appeal Case APP-03-17, 504  
14          South Oak Street, 422 South Oak Street.

15           MR. ALESIA: Before we begin, just for  
16          the record, on February 22nd I was absent from  
17          the meeting, but I have had a chance to review  
18          all the materials as well as the transcript of  
19          that meeting, so unless there's any objection,  
20          I'm ready to participate.

06:57:28PM 21           CHAIRMAN NEIMAN: Great. Keep in mind  
22          that the arguments this evening are limited to  
23          the supplemental issue that we discussed at the  
24          February 22nd meeting. It's not necessary to

1 rehash the other arguments that were made on  
2 February 22nd and so if both parties could limit  
3 their arguments to that issue. I think under  
4 the circumstances, normally, we have a 15-minute  
5 rule. I think a 10-minute rule for each side on  
6 the supplemental issues should suffice and if  
7 you need more time, we will give you more time.

8 MR. O'DONNELL: Good evening. Again,  
9 my name is Bob O'Donnell. I represent the  
10 appellants James and Nancy Dugan.

11 I am going to refer to the same  
12 packet of material that I used at the last  
13 hearing. It's 13 pages. I have extra hard  
14 copies if anyone needs it. If you all have  
15 yours.

16 Shortly before the last hearing was  
17 adjourned an issue arose actually when the  
18 village attorney was speaking, he was holding up  
19 a document that he identified as a certificate  
20 of occupancy for the 504 property and I objected  
21 because we had not seen any such document and we  
22 had made two requests under the Freedom of

1 Information Act to the village and no such  
2 document appeared.

3 Since that time, and I'll not  
4 rehash what occurred that resulted in the  
5 adjournment, but since that time, we have had an  
6 opportunity to get ahold of that document as  
7 well as return to the village and review all of  
8 the documents that the village had responsive to  
9 our request and compare them to what we had  
10 previously been given.

11 The document -- and it's a document  
12 that is the first page of Group Exhibit A to the  
13 Bayit Builders' supplemental submission. I  
14 would put it on the screen but candidly, it's so  
15 small, you wouldn't be able to see it.

16 But the document is not a  
17 certificate of occupancy. It's a document on a  
18 village form, it's an application for a  
19 certificate of occupancy. In the upper right-  
20 hand corner of the document makes reference to a  
21 permit number. That is the building permit  
22 number and if you take a look at the second page

1 of that group exhibit, that is the application  
2 for the building permit. It shows the building  
3 permit number and the date of issuance of the  
4 permit 3/29/94.

5 That 3/29/94 date is the same date  
6 that appears on the application for the  
7 certificate of occupancy. So it appears,  
8 commonly done in many municipalities, that when  
9 the building permit is issued, one submits the  
10 application for a certificate of occupancy which  
11 the village then holds in its file until such  
12 time as the project is completed and the CO is  
13 issued.

14 The document also on the form that  
15 is the application for the certificate of  
16 occupancy has about 80 percent down that first  
17 page a section that says to be filled out by the  
18 building department. There are two lines, one  
19 for a conforming use, the other for a  
20 nonconforming use. And here the word, the  
21 letters ok are written in the conforming use.  
22 To me that means that the use that's proposed

1 and the building to be built is a conforming use  
2 in the zoning district or in a class of  
3 occupancy R-1 the zoning district is listed just  
4 beneath.

5 There's nothing on this document  
6 that reflects or indicates or states in any way  
7 that a certificate of occupancy was approved.  
8 This is an application not a certificate of  
9 occupancy.

07:02:02PM 10 However, the only purpose of my  
11 objection really was that there was a document  
12 being identified that we had not seen. A  
13 certificate of occupancy would have been  
14 required on the 504 lot for the accessory  
15 structure. In other words, if it was a four-  
16 car garage with a recreation room, the village  
17 now and then requires a certificate of occupancy  
18 if the property is going to be used.

19 A certificate of occupancy is not  
07:02:38PM 20 limited to being issued for residential units,  
21 single-family homes. It is required to be  
22 issued for a structure that is going to be used.

1 So a rec room with a four-car garage, an  
2 apartment with a four-car garage, an office with  
3 a four-car garage, even an accessory structure  
4 would have required a certificate of occupancy.

5 So the certificate of occupancy  
6 does not support in any way, shape or form, that  
7 the structure on the 504 property was not an  
8 accessory structure, which really leads us back  
9 to the fact that the coach house, which has been  
10 identified frankly in every writing that I have  
11 seen, the coach house on the 504 lot is an  
12 accessory structure.

13 Your code and Exhibit 4 to the  
14 packet I referred to Section 9-101.B, the  
15 definition of accessory structure applies hand  
16 in glove to the coach house. I don't need to go  
17 through it. I did that last time. It applies.

18 If it is an accessory structure,  
19 the structure on the 504 lot, and it is, it must  
20 be located on the same zoning lot as the  
21 principal structure. That's according to  
22 Section 12-206 or Exhibit No. 6.

1                   A zoning lot may not be divided  
2       unless the lots are conforming if they are  
3       subdivided. Here the two lots, particularly the  
4       504 lot, would not be conforming if divided  
5       therefore the zoning lot cannot be divided.

6                   And most importantly, that's  
7       exactly what the Girschs were told in 1993 by  
8       the village manager. If you take a look at  
9       Exhibit No. 8, what they were told is speaking  
10      directly to this point, "In summary, the zoning  
11      lot appears to be large enough to allow your  
12      clients to pursue their improvement plans.  
13      However, once the coach house is accessory to  
14      the principal structure, the property consists  
15      of one zoning lot and cannot be subdivided in  
16      the future."

17                  Now, you might say well, what they  
18      were contemplating at that time is a four-car  
19      garage with a rec room. Doesn't matter.  
20      Whether it's a four-car garage with a rec room  
21      or a four-car garage with an apartment, it's  
22      still a coach house. It still fits the

1 definition of an accessory structure.

2 The point that the village manager  
3 was making is if you are going to have an  
4 accessory structure, which they did, then that  
5 accessory structure has to be part of a zoning  
6 lot, the zoning lot can't be divided. That was  
7 also -- that same point was confirmed by the  
8 village manager in July of 2017.

9 When I look at the supplemental  
10 submittal of Bayit Builders, they make a  
11 statement, and it's interesting, they make a  
12 statement in the last page of their submission,  
13 and they specifically make reference to the  
14 single-family home, the so-called single-family  
15 home that exists on the 504 property, and they  
16 say that that single-family home can't be  
17 converted, using the word converted, to an  
18 accessory structure.

19 The structure on the 504 property  
20 was never used as a single-family home. At no  
21 point in time was that structure used as  
22 anything than accessory to the principal



1 structure on the 422 lot.

2 That structure, from the time it  
3 was built in the early '90s until today, was  
4 used only as a four-car garage to service the  
5 principal structure on the 422 lot and in  
6 addition to the four-car garage serving only the  
7 principal structure on the 422 lot it had an  
8 apartment, a living area. That living area does  
9 not take -- does not convert it into a single-  
10 family home. It was never used as a single-  
11 family home and your code talks in terms of use.

12 CHAIRMAN NEIMAN: Where does the  
13 definition of a zoning lot address the idea that  
14 how the owner uses any of the buildings on the  
15 lot is relevant?

16 MR. O'DONNELL: If I may direct you to  
17 that point, Mr. Chairman, and I have extra  
18 copies of this.

19 That Section 12-206 when -- and I  
20 included the entire provision, but as one reads  
21 this and the relevant portion is a tract of land  
22 consisting of one or more lots of record. Yes,

1 here. Or parts thereof under single ownership  
2 or control. Yes. Located entirely within a  
3 block and occupied by, occupied by, a principal  
4 building and its accessory buildings.

5 The 422 lot contained a single-  
6 family home with a single occupant utilizing an  
7 accessory structure that existed on the 504 lot.  
8 Section 12-206 defines a zoning lot to fit what  
9 occurred here.

07:08:28PM

10 So directly to your point, Chairman  
11 Neiman, occupied by or used by would mean one  
12 and the same. Those two lots were occupied as a  
13 single zoning lot by a principal structure and  
14 an accessory structure from the time that  
15 structure on the 504 lot was built in 1994  
16 remaining to today. It was never used as a  
17 single-family home.

07:09:04PM

18 CHAIRMAN NEIMAN: So you read the term  
19 occupied by in Section 12-206 to imply that the  
20 owner has to actually live there?

21 MR. O'DONNELL: I'm saying in this  
22 instance, yes. The owner did live on the zoning

1 lot with a house on one lot 422 and an accessory  
2 structure on 504.

3 CHAIRMAN NEIMAN: But are you saying  
4 that the owner didn't occupy the building on the  
5 south lot?

6 MR. O'DONNELL: When you say south, you  
7 are talking 504?

8 CHAIRMAN NEIMAN: Yes.

9 MR. O'DONNELL: No. The owner occupied  
10 the zoning lot. This occupied by refers to the  
11 zoning lot. The zoning lot is the two or more  
12 lots under single ownership or control.

13 CHAIRMAN NEIMAN: Thank you.

14 MR. ALESIA: You mention use and  
15 there's been a lot of back and forth on use.

16 What section can you point us to  
17 where use is pivotal in support of your argument?

18 MR. O'DONNELL: The most frequent use  
19 of the word use, I knew I was going to do that.  
20 If you look at tab 4, that's the definition of  
21 an accessory structure or use.

22 So in each of the five elements of

07:09:42PM

07:10:14PM

1     what constitutes or what constitutes an  
2     accessory structure, it makes specific reference  
3     to use or use with respect to each one of those.

4             So my point there is a structure  
5     can be accessory to a principal structure either  
6     by designation or use. And here I would suggest  
7     it was both but it was clearly by use because  
8     from the time it was built until today it  
9     served, it meaning the structure on the 504  
10    property, served only the principal structure on  
11    the 422 lot. That makes it an accessory  
12    structure. One in Hinsdale can only have an  
13    accessory structure as part of a zoning lot.

14            MR. MURPHY: You are talking about a  
15    definition of accessory structure or use. I'm  
16    not surprised that use pops up in each of those  
17    because in each case we are talking about a  
18    structure or use as though you can have a  
19    structure and you can have a separate something,  
20    a walkway or whatever that is a use, I presume.

21            So I guess I'm not following the  
22    argument that in defining accessory structure

1 use, the use of the word use means that the  
2 structure evaluation is going to be done only by  
3 use because structure and use are two different  
4 things in the definition. Does that make sense?

5 MR. O'DONNELL: Candidly, not really.  
6 And I can tell you why it doesn't make sense.  
7 Because here it talks about an accessory  
8 structure.

9 MR. MURPHY: Or use.

07:12:20PM 10 MR. O'DONNELL: Or use.

11 But I think most applicable here is  
12 that we have a structure on the 504 property.  
13 What is that structure? First and foremost the  
14 structure is a four-car garage.

15 Now, a four-car garage doesn't  
16 necessarily make it accessory but in this  
17 instance, the two garages that existed prior to  
18 1994, one on 504, one on 422, were torn down.  
19 They were replaced with a single four-car garage  
20 serving only the 422 property because that was  
21 the only occupant, that was the only user of the  
22 property.

07:12:48PM

1                   So if we focus -- and I would  
2       submit to you by definition the primary function  
3       of a coach house historically is to house today  
4       vehicles, yesterday it used to be the horse and  
5       carriage with living quarters attended to it.  
6       But always defined as accessory.

7                   In fact, I did look up several  
8       definitions this afternoon and historically, a  
9       coach house served what you call it a principal  
10      structure or principal use, historically, it's  
11      often referred to as the main house but it also  
12      often refers to the property, what we are now  
13      calling the zoning lot, being the estate.  
14      Whatever term you use, that structure served  
15      only the 422 principal structure.

16                  MR. MURPHY: I get that.

17                  I guess what I'm saying is just as  
18      a legal matter reading this you are saying an  
19      accessory structure or use, two things, but  
20      accessory structure or accessory use A and B.  
21      We are not talking about an accessory use here,  
22      we are talking about a structure.

1 MR. O'DONNELL: Well, in a sense we are  
2 talking about both. It doesn't say accessory  
3 structure and use, it says accessory structure  
4 or use.

5 MR. MURPHY: Right, but what would  
6 accessory use be? What kind of a nonstructure --  
7 the words "or use" have to mean something.

8 MR. O'DONNELL: They do. I agree.

9 MR. MURPHY: So if something is not an  
10 accessory structure, it can still be an  
11 accessory use. What kind of thing are you  
12 talking about?

13 MR. O'DONNELL: One that would come to  
14 my mind where one utilized a vacant area but  
15 landscaped, used it for children's recreation,  
16 had a patio, not technically a patio, maybe a  
17 structure, that's why I'm kind of not going  
18 there. You can clearly incorporate the estate  
19 to include a large open space area.

20 MR. MURPHY: Exactly how I would read  
21 it. But then when I go through this definition,  
22 I should be able to cross out the words "or use"

1 every time through here and still read it and I  
2 would get the definition of accessory structure.  
3 I take out "or use" in any of these places  
4 because that's B of the two-prong definition we  
5 are using, I take out "or use" in each of those  
6 places, I should still be able to read this and  
7 have an accurate definition of an accessory  
8 structure, right?

9 MR. O'DONNELL: Yes. Yes. I agree.

07:15:38PM 10 MR. MURPHY: It seems to me, what it's  
11 worth, it seems to me the word serves is much  
12 more meaningful with respect to the definition  
13 of accessory structure than the word use because  
14 you should be able to just eliminate those words  
15 use to come up with a definition of structure.  
16 And then I think the concept you are talking  
17 about is more of the word use is No. 1, serves,  
18 comes up in No. 3 as being served. Does that  
19 make sense?

07:16:12PM 20 MR. O'DONNELL: No, it does. I  
21 understand. And again, it's either or. It's  
22 either a principal structure or use or it could



1 be both.

2 MR. MURPHY: Agree. Agree. Okay.

3 MR. O'DONNELL: Because when we talk  
4 about a garage, you know, and again, it's not  
5 just the garage in this case, you have the  
6 connective motor court that straddles the  
7 property line so that's really part of the  
8 parking/driving uses that are on what I believe  
9 to be the single zoning lot.

07:16:46PM

10 MR. MURPHY: I guess my point is when  
11 you diagram this, when you break this down I  
12 think with the contract division, I'm not left  
13 with use being the defining aspect of an  
14 accessory structure. And there's still plenty  
15 of things in here that tie the two together and  
16 it still makes sense but I don't think the code  
17 is saying use is the governing fact.

18 MR. O'DONNELL: No. And I'm not  
19 suggesting that it is. I was merely responding  
20 to Member Alesia.

07:17:18PM

21 MR. MURPHY: I thought you said that.  
22 I watched all the earlier --

1 MR. O'DONNELL: No. And I didn't --

2 MR. MURPHY: You did not say that  
3 before? Okay. I misunderstood.

4 MR. O'DONNELL: Well, I didn't watch so  
5 if you say I did, I did.

6 MR. MURPHY: I thought that was a key  
7 part of your argument. If it is not, then I'm  
8 sorry.

9 MR. O'DONNELL: I don't think it was.  
10 I was just responding to where does use come  
11 into play and I was just responding by saying it  
12 really comes into play in the definition of  
13 accessory structure.

14 MR. MURPHY: Okay.

15 CHAIRMAN NEIMAN: It seems to me we  
16 have gotten back to the substance of what was  
17 argued in February, which may be helpful to us  
18 this evening, and if it's the consensus of the  
19 board members that we should continue this for a  
20 few more minutes, that's okay with me, but we  
21 are beyond the scope of what the argument was.

22 I think by definition the limited

07:17:38PM

07:18:02PM

1 issue of whether or not there was an occupancy  
2 permit granted was only worth a couple minutes  
3 and we got back into the substance of the  
4 argument, which at least for me, helps refresh  
5 my memory.

6 MR. O'DONNELL: I have concluded but  
7 for questions, so it's at your pleasure now.

8 CHAIRMAN NEIMAN: I have a question.

9 So your argument in your  
10 supplemental brief is that Mr. Girsch's intent  
11 was to use both lots as a single-family compound  
12 while maintaining the appearance. So far as the  
13 village was concerned, the properties were  
14 capable of being used independently.

15 How, when one owner, one family,  
16 owns two adjacent lots both with structures on  
17 them and arguably, both structures could meet  
18 the definition of a principal residence but the  
19 owner is using one of the structures for  
20 something other than a principal residence, how  
21 is the village supposed to know that the owner  
22 is doing that and does it make a difference?

1                   MR. O'DONNELL: I don't think it makes  
2           a difference under your code, but I do think the  
3           circumstance would arise when the owner of the  
4           property seeks some permission, some permit,  
5           some approval from the village before doing  
6           something.

7                   And I think that's when this  
8           village and many other villages take the  
9           opportunity really to cement the notion of a  
10          zoning lot. There's that movement of a foot  
11          here, I believe, and I know it's in other  
12          municipalities where candidly you don't want  
13          this circumstance to arise. But I think it  
14          really depends in the first instance how you are  
15          using the properties. In other words, you do  
16          have to meet the defined requirements of an  
17          accessory structure.

18                   Now here I think the coach house  
19          pretty definitively does that. But to answer  
20          your question, Chairman Neiman, if you, for  
21          example, had two clearly single-family homes on  
22          two separate lots and by all appearances the two

07:21:12PM

1 properties were completely separate homes, there  
2 was no motor court straddling them, there was no  
3 this house is using that house for a garage, had  
4 the garage on the other lot, and in addition to  
5 the garage, by the way, there was a sport court  
6 located behind the coach house which was  
7 obviously serving only purposes attended to the  
8 principal structure so in this case it wasn't  
9 just the structure itself, the garage or the  
10 coach house itself, but I think a municipality  
11 unless someone comes forward and makes  
12 application for some approval or some permit,  
13 then it's really everyone is on notice that if  
14 you use the properties, if you have an accessory  
15 structure and a principal structure, then you  
16 are allowed to do that.

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17 And I think a key is here both  
18 before the original home was torn down by Girsch  
19 and then rebuilt on the exact same footprint the  
20 structure was nonconforming. The side yard  
21 setback there was a violation and it remains  
22 today violation of a side yard setback. So you

1 get that break. You get that because it's a  
2 zoning lot. That's what allowed that circumstance  
3 to occur because you are taking the two lots and  
4 combining them into one.

5 So under the code it's, I believe,  
6 if you are using a coach house, attended to a  
7 principal structure, you can only do that on a  
8 zoning lot. But here it really doesn't matter  
9 because when Girsch came to the city, to the  
10 village in 1994, he was told if you are going to  
11 use it, the coach house is accessory to the main  
12 house, it can only be done on a zoning lot and  
13 you can't unwind the zoning lot.

14 CHAIRMAN NEIMAN: But then he changed  
15 his plan.

16 MR. O'DONNELL: What he changed is --  
17 he didn't change his plan. What he changed is  
18 he went from having a rec room above the garage  
19 to an apartment above the garage.

20 CHAIRMAN NEIMAN: Which made it a  
21 principal residence. He met the definition of a  
22 principal residence with those modifications.

1 MR. O'DONNELL: Most respectfully, it  
2 didn't. It's still a coach house. It's still  
3 accessory to the principal structure.

4 CHAIRMAN NEIMAN: Because that's how  
5 Girsch was using it?

6 MR. O'DONNELL: That's how it was  
7 built. With all due respect, I don't think you  
8 can tell anyone that a four-car garage with a  
9 1,500 foot apartment, that four-car garage was  
10 there to serve and only serve the 422 structure.  
11 Only. And, parenthetically, the testimony we  
12 had last time is that the use of the residential  
13 portion of the coach house was as an office.

14 CHAIRMAN NEIMAN: So I'll grant you,  
15 Mr. O'Donnell, that it would be unusual,  
16 especially in this town perhaps, to have a four-  
17 car garage on the first floor of a principal  
18 residence and a 1,500 square foot living space  
19 above it.

20 In my view there are some highly  
21 unusual homes that have been built in this town  
22 with four-car garages and 15,000 square feet of

1 living space all around them. But, regardless,  
2 both buildings still met the definition of a  
3 principal residence.

4 Here's my problem. I understand  
5 that in terms of appearance it looked like a  
6 coach house. I understand that that's how the  
7 Girschs used it but isn't it still a principal  
8 residence?

9 MR. O'DONNELL: No.

07:24:50PM 10 CHAIRMAN NEIMAN: Because it wasn't  
11 used that way?

12 MR. O'DONNELL: It wasn't designed,  
13 built or used that way. It was designed to be a  
14 coach house. It was designed and built and used  
15 to be accessory to 422. I would submit there's  
16 no doubt about that.

17 So when you say well, it meets the  
18 requirements of a principal residence, that was  
19 never on the table. That was never what it was  
20 going to be used for. That was never what was  
07:25:14PM 21 built. That's never how it was used. So it  
22 defies logic to say no, roll back to 1994 could



1       they have built a four-car garage with a 1,500  
2       square foot apartment? Let's say that they  
3       could have. All right. But one difference.  
4       One difference. They could not under your code  
5       have continued the nonconformity from the side  
6       yard setback. The only reason that that was  
7       key, that's critical, they didn't get a variance  
8       from the side yard setback. They continued that  
9       nonconformity and the only reason they were  
10      allowed to continue that nonconformity is  
11      because it was a zoning lot.

12                   My answer to your question would be  
13      different. It would have to be different  
14      legally if they cured the nonconformity of the  
15      side yard setback but they didn't. That was for  
16      whatever reason important to them to build the  
17      exact same structure on the exact same footprint  
18      and carry that nonconformity forward. That's a  
19      zoning lot.

20                   CHAIRMAN NEIMAN: We are now 25 minutes  
21      into the 10-minute limit. Any other questions  
22      from the board?

1 MR. MURPHY: Is there a definition of  
2 principal residence in the code? I know there's  
3 dwelling but I didn't read it all obviously, but  
4 I didn't know if that was a term of art.

5 MR. MCGINNIS: There is a definition  
6 for principal structure or building. "A  
7 structure or building in any zoning lot intended  
8 to be utilized for a principal use and to which  
9 any other structure on such lot must be  
10 accessory."

11 MR. MURPHY: Okay. That helps.

12 CHAIRMAN NEIMAN: That's interesting.  
13 Intended to be utilized for a principal use.

14 MR. MARRS: But are you asking,  
15 Commissioner, the definition for single-family  
16 dwelling?

17 MR. MURPHY: The term was used  
18 principal residence and I didn't see that  
19 definition appear anywhere so I wondered if it  
20 was --

21 MR. MCGINNIS: There's a distinction.  
22 There's also dwelling unit. I think that's

1 important to point out as well.

2 MR. MURPHY: Well, dwelling, I did find  
3 that definition. That's any structure or  
4 portion thereof designed or used for habitation  
5 by one or more families, right?

6 CHAIRMAN NEIMAN: Designed or used.

7 MR. MOBERLY: Designed is the key word.

8 MR. O'DONNELL: Just to clarify,  
9 principal structure is used in the definition of  
10 accessory structure but the phrase principal  
11 building is used in the definition of zoning  
12 lot. I think they are intending to mean the  
13 same thing but it's a different label.

14 CHAIRMAN NEIMAN: Well, 12-206 in the  
15 alphabetical definitions.

16 MR. MCGINNIS: Under dwelling there's  
17 actually three different definitions, dwelling,  
18 dwelling single-family detached and dwelling  
19 unit.

20 CHAIRMAN NEIMAN: Okay.

21 Any other questions of  
22 Mr. O'Donnell?

1 (No response.)

2 Thank you.

3 MR. O'DONNELL: Thank you.

4 MS. OVERBY: Susan Overby on behalf of  
5 Bayit Builders and Avra Properties.

6 First, there are a number of  
7 factual inaccuracies that I'd like to correct  
8 from Mr. O'Donnell's presentation. But the  
9 first I'd like to point -- to direct your  
10 attention to is the certificate of occupancy and  
11 there's a disagreement between the sides about  
12 what a certificate of occupancy is and what an  
13 application for certificate of occupancy is.

14 So the first attachment to our  
15 submission is what we submit is a certificate of  
16 occupancy. And as Mr. O'Donnell noted, the  
17 reason that this became an issue is because the  
18 village's attorney was attempting to controvert  
19 the Dugans' argument that Mr. Girsch evidence of  
20 the fact that he did not intend this to be a  
21 single-family residence was that he did not  
22 apply for or receive a certificate of occupancy.

07:30:10PM

07:30:42PM

1                   Now that this document has come to  
2     light, the Dugans' position has shifted and they  
3     claim that whether or not they applied for a  
4     certificate of occupancy is irrelevant. But  
5     regardless of that shift in argument, we submit  
6     that this is, in fact, an approved application  
7     for certificate of occupancy. It is not dated  
8     3/27/94. It is dated February 16, 1994, on the  
9     date to the building commissioner. Then you can  
10    see at the top a permit was later issued in  
11    March of 1994 and in the section that says to be  
12    filled out by building department, it says  
13    conforming use, ok, class of occupancy R-1 and  
14    the type of occupancy that was applied for was a  
15    single-family residence.

16                  Now, the Dugans' argue that this is  
17    merely an application, it is not in fact a true  
18    certificate of occupancy. So I went back and I  
19    looked through the FOIA request for 504 South  
20    Oak and determined that this document is all  
21    that exists for any certificates of occupancy in  
22    the file for 504 South Oak. There's no separate

1 stand-alone certificate of occupancy, which  
2 leads us to believe that the village's practice  
3 was to approve an application for a certificate  
4 of occupancy after the permits were issued and  
5 after the inspection.

6 MR. MURPHY: Have you found any other  
7 instance?

8 MS. OVERBY: Yes, and I have attached  
9 them.

07:32:26PM 10 So attached to my submission I have  
11 attached the building permits, all the building  
12 permits that show that for this 1993, 1994  
13 renovation all of those were for single-family  
14 residences.

15 MR. MURPHY: No, that's not my  
16 question.

17 Have you found other instances  
18 where this was done?

19 MS. OVERBY: Yes. Yes. So Exhibit D  
07:32:46PM 20 is a 1948 certificate of occupancy for 504 South  
21 Oak and it's the same certificate of occupancy  
22 and then it says, to be filled out by the

1 building department and it's checked conforming  
2 use checked class A. There's no other separate  
3 stand-alone.

4 MR. MURPHY: I'm talking about your  
5 position is that the village -- this was how the  
6 village did things.

7 MS. OVERBY: It's based on my review of  
8 the file which --

9 MR. MURPHY: For what property?

10 MS. OVERBY: For two properties.

11 MR. MURPHY: What I'm asking is were  
12 there other instances around that time that you  
13 could find where the village was doing this  
14 thing, this exact thing, when they issued a  
15 certificate of occupancy?

16 MS. OVERBY: You mean in 1994, 1993?

17 MR. MURPHY: Yes. 1948 doesn't seem to  
18 be terribly relevant to how things were being  
19 done. You can assume this meant that was all  
20 there needed to be, then it seemed like there  
21 would be other instances.

22 MS. OVERBY: So I reviewed the file for

07:33:14PM

07:33:36PM

1 504 South Oak and 422 South Oak and for the  
2 entire histories of both of those properties I  
3 was unable to locate a stand-alone certificate  
4 of occupancy. I was only able to locate an  
5 application for certificate of occupancy that  
6 indicated an approval.

7 MR. MURPHY: My question is: Down the  
8 street six months earlier they do the exact --

9 MS. OVERBY: I understand your  
10 question. With respect to 422 South Oak I was  
11 unable --

12 MR. MOBERLY: What about for -- there  
13 were hundreds of houses built in the '90s in  
14 Hinsdale. Is this the standard procedure for  
15 how all certificates of occupancies were --

16 MR. MCGINNIS: I can't tell you that.  
17 I can tell you today they would issue a  
18 certificate of occupancy or a certificate of  
19 completion for everything.

20 What I found was that there was a  
21 formal certificate of occupancy granted for new  
22 single-family homes back into the '80s and '90s



1 but I can't find evidence of a formal  
2 certificate of occupancy issued for anything  
3 other than but for new single-family homes.

4 MR. MOBERLY: But is this it?

5 MR. MCGINNIS: No. That's not the  
6 formal certificate of occupancy that was issued  
7 for new single-family homes.

8 MS. OVERBY: But that was only issued  
9 for new single-family homes.

07:35:08PM 10 MR. MOBERLY: Okay. This was a  
11 rebuilt. Or you tell me what it is.

12 MS. OVERBY: Right. And so that leads  
13 to my next point, which is the Dugans' argue  
14 that in 1994, 1993 the entire structure at 504  
15 South Oak was torn down and rebuilt. The plans  
16 indicate that that is not correct. And with  
17 respect to this argument that they rebuilt this  
18 nonconformity, that's simply not true when you  
19 look at the plans. They demolished -- so prior  
20 to 1994, 504 South Oak had an attached garage  
21 and then it had one single stall garage. They  
22 removed the attached garage, they removed a

1 living space or recreation area, I'm not sure  
2 what it was, and expanded the garage that was  
3 under the living space to the four-car garage  
4 and the four corners of the main structure  
5 remain the same. They changed the windows. So  
6 this alleged rebuilding of a nonconformity is  
7 simply not accurate to what the plans show.

8 CHAIRMAN NEIMAN: I have some questions  
9 going back to the certificate of occupancy  
10 issue.

11 MS. OVERBY: Sure.

12 CHAIRMAN NEIMAN: Is it your contention  
13 that the application for the certificate of  
14 occupancy for 504 South Oak was submitted on  
15 February 16, 1994?

16 MS. OVERBY: It's my contention that  
17 that's when it was dated by the applicant.

18 CHAIRMAN NEIMAN: Okay. Fair enough.

19 Is it also your contention that up  
20 in the right-hand corner of the application the  
21 certificate of occupancy there's a permit number  
22 issued and a date issued of March 27, 1994, is

1     it your contention that the certificate of  
2     occupancy was, in fact, issued on March 27, 1994?

3             MS. OVERBY: No. That's when the permit  
4     was issued. Because we can see the permit on  
5     the next page.

6             CHAIRMAN NEIMAN: Right.

7             MS. OVERBY: So the permit was issued  
8     and then inspections were done. And I have  
9     attached all of the inspections. And then at  
10    some later date, while it's not dated, someone  
11    filled in conforming use ok, R-1.

12            CHAIRMAN NEIMAN: Where is that?

13            MS. OVERBY: That is on the application  
14    for certificate of occupancy under to be filled  
15    out by the building department.

16            CHAIRMAN NEIMAN: At the bottom of the  
17    application?

18            MS. OVERBY: Correct. Conforming use  
19    ok, class of occupancy R-1.

20                    So our contention is that Girsch's  
21    architect submitted this application, which was  
22    dated the 16th of 1994, permits were issued,

1 then various inspections occurred over the  
2 course of the project. And then at some point  
3 the building department filled in conforming use  
4 ok and class of occupancy R-1. I can't say when  
5 conforming use ok was put in, it's not dated.

6 CHAIRMAN NEIMAN: Okay. Mr. McGinnis,  
7 is it accurate to say, I just want to make sure  
8 I understood your -- the village's position on  
9 this.

07:38:28PM

10 Is it accurate to say that in this  
11 time period in '94 the village normally did not  
12 have a separate form for the approval of a  
13 certificate of occupancy?

14 MR. MCGINNIS: So, again, not having  
15 the, you know, anything to pull from, we do have  
16 the staff secretary was here at the time. I did  
17 ask her about this. I did show her the  
18 document. She said that it was her  
19 understanding that Chuck Schmitz, who was the  
20 then building commissioner, only issued a formal  
21 certificate of occupancy for new single-family  
22 homes primarily because the title company wanted

07:39:02PM

1 to see that formal certificate of occupancy  
2 before they rolled the construction loan into an  
3 end loan.

4 And the certificate of occupancy,  
5 the formal half sheet of certificate of  
6 occupancy, was not generally issued for  
7 remodels, renovations, what have you, additions.

8 CHAIRMAN NEIMAN: And just to clarify  
9 the record, it's therefore possible that  
10 Ms. Overby's position that the ok, class of  
11 occupancy R-1 without a date at the bottom of  
12 the application for certificate of occupancy, is  
13 it possible that that is how the village issued  
14 a certificate of occupancy at the time and it's  
15 also possible that that's not how they did it,  
16 we just don't know?

17 MR. MCGINNIS: I would agree with that.

18 CHAIRMAN NEIMAN: Okay. That clarifies  
19 things.

20 MS. OVERBY: So the reason we sort of  
21 got into this conversation about the certificate  
22 of occupancy and other documents that relate to

1 the village's view of these properties in the  
2 original hearing was that the Dugans argued that  
3 there was no evidence that the village treated  
4 504 South Oak as a single-family residence and  
5 from my clients' perspective in terms of the due  
6 diligence that they could possibly have done  
7 before purchasing this property, the only things  
8 they could have done they did it.

9 They sent a letter to the village  
10 asking can we develop this as a single-family  
11 residence and the village said they could. And  
12 they reviewed the files on the properties which  
13 indicate that this property has been treated by  
14 the village as a single-family residence in  
15 every interaction that the village has with the  
16 property.

17 So you asked Mr. Dugan's attorney  
18 how is the village supposed to enforce the  
19 implication of a single zoning lot if the  
20 implication of a single zoning lot can be  
21 created by mere use of a property and he said  
22 well, the way that village's typically interact

1 is when they issue permit or have some other  
2 reason to inspect the property. And the file for  
3 504 South Oak shows that every time the village  
4 interacted with that property they treated it as  
5 a single-family residence.

6 I also think it's important to note  
7 that from 1948 until 1993 the properties 504  
8 South Oak and 422 South Oak were owned by  
9 separate owners. Completely different families  
10 lived in those houses.

11 To say that 504 South Oak has  
12 always been a coach house is simply incorrect  
13 and that also goes to the fact that the Dugans  
14 argue incorrectly that the property was built in  
15 1994. It was not built in 1994. It was  
16 remodeled in 1994.

17 And as we argued, Mr. Girsch went  
18 to great lengths to ensure that he could, at a  
19 future date, sell the property to be redeveloped  
20 or used as a single-family residence later on.  
21 And so he changed his plan. He expended a lot  
22 more money to make sure that 504 South Oak

1 retained all of the characteristics of a single-  
2 family residence.

3 CHAIRMAN NEIMAN: I happened to ride by  
4 the house this morning and there was some  
5 differences from when I rode by and drove by it  
6 in February.

7 There's a new fence that gives the  
8 appearance that on the 422 lot there's now a  
9 fence along -- I don't know if it's along the  
10 property line, but it's a new fence and there's  
11 been some kind of demolition on the 504 building  
12 and if I'm not mistaken, I'm not sure there were  
13 two driveway aprons all along when the Dugans  
14 owned it but now there's one driveway apron that  
15 goes to the 422 lot and there's a separate one  
16 for the 504 lot. How come?

17 MS. OVERBY: My clients own both  
18 properties and we are remodeling 422 South Oak  
19 to prepare it to be sold.

20 CHAIRMAN NEIMAN: Okay.

21 MS. OVERBY: So I can't speak to exactly  
22 why they did that.



1 I know they have been using 504  
2 South Oak to stage trucks and equipment at 504  
3 while they are working on the interior of 422.

4 I'm not quite sure that I'm getting  
5 what you are asking.

6 CHAIRMAN NEIMAN: I was a little  
7 surprised. There seems to me to be an attempt  
8 to alter the appearance of the lots, lot/lots,  
9 to be determined, to make it appear to the eye  
10 today as opposed to when I drove by in February  
11 that they were -- they look more separate than  
12 they did a couple months ago.

13 MS. OVERBY: Well, when we purchased  
14 the two lots, we intended to make them as  
15 separate as separate could be and we are  
16 finishing our remodeling on 422 and preparing to  
17 sell it. So it's not in any way to sway this  
18 body if that's what you are asking.

19 CHAIRMAN NEIMAN: Yes, kind of.

20 MS. OVERBY: No. That's not the  
21 intention of doing it. We have pictures. Both  
22 sides have submitted a lot of different pictures

1 showing how the properties were. It's not an  
2 attempt to change the facts on the ground such  
3 that it would sway you. It's simply in  
4 preparation for attempting to sell 422 South Oak.

5 MR. MOBERLY: Just for follow-up, we  
6 drove by this, my wife and I wanted to see what  
7 this was all about. And it was probably after  
8 the first hearing and the fence was there then.

9 CHAIRMAN NEIMAN: It was?

07:45:30PM

10 MR. MOBERLY: Yes. There was a  
11 relatively new wooden fence but it's been there  
12 for I'm not sure. Was there a building permit  
13 required for a fence?

14 MR. MCGINNIS: I'm going to need to  
15 look into this tomorrow. Actually, I wrote a  
16 note here.

17 MR. MOBERLY: Okay. The fence was up I  
18 think relatively shortly after our first  
19 meeting. I drove by and there was a fence there.  
20 It's probably been six weeks.

07:45:54PM

21 MS. ENGEL: I drove by there before the  
22 first meeting and that fence was there.

1 MR. MOBERLY: It looks like it was  
2 built within six to nine months.

3 MR. MCGINNIS: There have been permits  
4 pulled for the 422, several permits pulled for  
5 the 422 South Oak property.

6 CHAIRMAN NEIMAN: How about 504?

7 MR. MCGINNIS: The permit apps were  
8 submitted for the new house but beyond that I  
9 would have to --

07:46:22PM

10 CHAIRMAN NEIMAN: Okay. Because  
11 there's work going on in 504. Windows are gone.  
12 I mean, there's work going on.

13 MS. OVERBY: That one window in the  
14 front I think has been boarded up for some time.

15 CHAIRMAN NEIMAN: Okay.

16 MR. PODLISKA: 422 has its own garage  
17 now, right, multi-car garage?

18 MS. OVERBY: Yes.

07:46:50PM

19 MR. PODLISKA: And the 504 property you  
20 are asking us to make a decision based upon the  
21 appearance of that property, I think it's in one  
22 of your exhibits here?

1 MS. OVERBY: Yes.

2 MR. PODLISKA: Your response in  
3 opposition. You have Exhibit J. I'm not quite  
4 sure how to get you to the page I'm looking at  
5 because these pages are not sequentially  
6 numbered, but it's attachment 1 and it says it's  
7 a Village of Hinsdale Historic Preservation  
8 Commission application for certificate of  
9 appropriateness.

07:47:22PM

10 MS. OVERBY: Right.

11 MR. PODLISKA: And then attached to  
12 that there's some architectural drawings and  
13 then some color photographs. And I'm looking at  
14 the first colored photograph it's shifted to the  
15 right of the page.

16 MS. OVERBY: This one? Yes.

17 MR. PODLISKA: Yes. That's the  
18 property we are talking about, right?

19 MS. OVERBY: Correct.

07:47:44PM

20 MR. PODLISKA: Okay. This is what we  
21 have been referring to with a lot of use of the  
22 term coach house, right?

1 MS. OVERBY: Correct.

2 MR. PODLISKA: That sure looks like a  
3 single-family residence to me.

4 MS. OVERBY: It does to me, too.

5 MS. ENGEL: And it doesn't look  
6 anything like the one next to it..

7 MR. PODLISKA: So I'm concerned that we  
8 may have gotten more tied up with jargon than we  
9 should have.

07:48:02PM

10 Because I'm looking at this house  
11 and this looks like a single-family residence.  
12 We talked about the small square footage but  
13 this is a house that you can very easily see in  
14 any part of Hinsdale.

15 MS. OVERBY: It was marketed and sold  
16 as a single-family residence and that is how we  
17 bought it.

18 MR. PODLISKA: This is not the house  
19 before 1994, this is the house since then?

07:48:24PM

20 MS. OVERBY: No. This is from the  
21 listing photo.

22 MR. PODLISKA: Okay. Thank you.

1 MS. OVERBY: You are welcome.

2 MR. MOBERLY: I'm a licensed realtor.

3 I'm sure you are shocked and impressed by that,  
4 but this is the listing from the MLS and it  
5 closed on July 13, 2017, the same day as the 422  
6 lot closed and they closed as separate  
7 transactions on separate pins.

8 MS. OVERBY: So I would like to make  
9 one final point and then I'm happy to answer any  
10 additional question.

11 It's our position that the code has  
12 no language that makes it so the use of a  
13 single-family residence alone can cause it to be  
14 transformed into an accessory structure and  
15 cause two previously separate lots to be  
16 combined into a single-family lot; and if that  
17 is the village's contention, our response is  
18 that that needs to be accomplished in a way that  
19 is much clearer to a third-party purchaser who  
20 is coming to develop a property and takes all  
21 necessary steps to ensure that they can develop  
22 the property as it was sold to them and to

07:49:00PM

07:49:34PM

1 prevent this situation where an unwary buyer  
2 gets into a situation where they have spent over  
3 a million dollars and then if the Dugans  
4 prevail, their position is that lot can only be  
5 used as an accessory structure from here on out  
6 and that, quite frankly, doesn't seem fair.

7 MR. MURPHY: Did you say that they had  
8 asked the village before buying?

9 MS. OVERBY: Yes.

07:50:18PM 10 MR. MURPHY: What exactly -- I haven't  
11 seen anything.

12 MS. OVERBY: I sent a supplemental  
13 letter. We sent a letter to the village manager  
14 and -- actually, the realtor sent a letter to  
15 the village manager attaching our plan and the  
16 village manager said yes, you can develop the  
17 property in this manner. And I'll be honest,  
18 there's some disclaimer language saying you have  
19 to get all the proper permits. And so we  
07:50:44PM 20 purchased the property and then when we  
21 submitted the permit, that's when all of this  
22 sort of erupted.

1 MR. MURPHY: I missed that.

2 CHAIRMAN NEIMAN: Any other questions?

3 MR. MARRS: Just to go back when I  
4 first referenced the certificate of occupancy  
5 document, the application last time, it was my  
6 understanding was that that's what served as a  
7 certificate of occupancy at that time and that  
8 that designation of ok is what converted it from  
9 the application to certificate.

07:51:54PM

10 Now, I understand, based on what  
11 Robb says, I don't think we are going to get to  
12 the bottom of that, how that actually happened  
13 back then.

14 But that aside, I do think the fact  
15 that it's checked single family, that building  
16 permits subsequently were issued and signed off  
17 on and inspections were done based on this  
18 application, that it's more evidence again that  
19 this was being treated as a single-family home  
20 and I want to go back to something that I think  
21 is important.

07:52:26PM

22 When Mr. O'Donnell was talking



1 about the 1993 letter, he read you a provision  
2 however, once the coach house was accessory to  
3 the principal structure, the property consists  
4 of one zoning lot and cannot be subdivided in  
5 the future. He did not read the very next  
6 sentence, which says, please note that no  
7 separate dwelling units will be permitted in the  
8 coach house, all right.

9 So this was written at a time when  
10 they had proposed this plan of a rec room with a  
11 garage and the village was telling them that's  
12 fine. If you do this, you can do it but you are  
13 going to create a zoning lot and be advised that  
14 you can't put a dwelling unit in there.

15 So what happened next? They went  
16 back, they changed their plans in order to  
17 protect their rights and put everything that  
18 they needed into this to create a dwelling unit.  
19 It's got a kitchen, it's got a bathroom. It's  
20 got sleeping areas.

21 It's been pointed out that this is  
22 not similar to every other house in Hinsdale,

1 that it has a lot of garage space in comparison  
2 to living space. Well the village doesn't  
3 regulate design. They look at whether it has  
4 all the elements that make it a dwelling unit.  
5 And that's what this is. And they couldn't have  
6 put that dwelling unit in, it wouldn't have been  
7 approved if it wasn't being approved as a dwelling  
8 unit. If it was an accessory structure, they  
9 wouldn't have signed off on it with the kitchen  
10 and everything else in it. So I think that's  
11 important.

12 And the only other point I wanted  
13 to make is that we have had a lot of talk about  
14 the definitions here and the use of the word use.  
15 And the village has just never -- they are not  
16 the use police. They don't have the resources  
17 to go out and monitor uses on properties. And I  
18 go back to that point of what we look at, what  
19 the village looks at, is those contacts that  
20 come to them when people apply for permits and  
21 the record shows that through time the village  
22 has consistently treated this as a single-family

1 use and I know that it was in Ms. Overby's brief  
2 but she didn't touch on it but I wanted to  
3 mention the motor court.

4 We have the permits that we talked  
5 about last time and that she attached as  
6 exhibits where they came in for the driveway  
7 permit and the village said well, we can't grant  
8 this. This is two separate addresses, two  
9 separate properties. You need two separate  
10 permits. And importantly, you have to keep that  
11 driveway one foot off the property line or we  
12 are not going to approve it and that's how it  
13 was designed and inspected presumably. Now it  
14 may have been filled in later after the village  
15 was no longer monitoring it but that was the  
16 village's condition on approving that particular  
17 permit.

18 So those are the couple of points I  
19 wanted to make. The village has, in my mind, been  
20 very consistent all through this in treating this  
21 as a single-family unit and again, the use is  
22 not the dispositive factor and it's not explicit

1 in our definitions that this is what controls.  
2 It is whether it is -- we can't have a single-  
3 family dwelling unit on the same zoning lot as  
4 another single-family dwelling unit.

5 So to my mind, it's not designed as  
6 an accessory structure, it's a dwelling unit and  
7 we ask that that's how the village interpreted  
8 it and we ask that you uphold our determination.

9 CHAIRMAN NEIMAN: Thank you.

07:56:22PM 10 Is there a motion to close the  
11 Public Hearing?

12 MR. PODLISKA: So moved.

13 MR. MOBERLY: Second.

14 CHAIRMAN NEIMAN: Roll call, please?

15 MS. BRUTON: Member Moberly?

16 MR. MOBERLY: Yes.

17 MS. BRUTON: Member Alesia?

18 MR. ALESIA: Yes.

19 MS. BRUTON: Member Murphy?

07:56:30PM 20 MR. MURPHY: Yes.

21 MS. BRUTON: Member Engel?

22 MS. ENGEL: Yes.

1 MS. BRUTON: Member Podliska?

2 MR. PODLISKA: Yes.

3 MS. BRUTON: Chairman Neiman?

4 CHAIRMAN NEIMAN: Yes.

5 (WHICH, were all of the  
6 proceedings had, evidence  
7 offered or received in the  
8 above entitled cause.)

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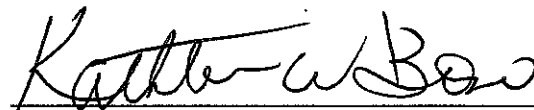
22

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

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

16                    IN TESTIMONY WHEREOF I have  
17    hereunto set my hand and affixed my notarial  
18    seal this 26th day of April, A.D. 2018.

19  
20  
21  
22

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

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**FINAL DECISION**

**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
PETITION FOR VARIATION**

**Zoning Calendar:** V-01-18

**Petitioner:** Howard Chang

**Meeting held:** Public Hearing was held on Wednesday, March 21, 2018 at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on March 8, 2018.

**Premises Affected:** Subject Property is commonly known as 415 S. Vine Street, Hinsdale, Illinois and is legally described as:

PARCEL 1: LOT 3 AND THE SOUTH 28 FEET OF LOT 1 OF KLEIN'S SUBDIVISION OF PART OF OUTLOT 3 OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 24, 1926 AS DOCUMENT 221973, IN DUPAGE COUNTY, ILLINOIS

PARCEL 2: THAT PART OF OUTLOT 3 OF THE TOWN OF HINSDALE, IN THE NORTHWEST  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE EAST LINE OF VINE STREET, AS SHOWN ON PLAT OF KLEIN'S SUBDIVISION OF PART OF SAID OUTLOT 3; WEST OF THE WEST LINE OF LOT 3 IN KLEIN'S SUBDIVISION, AFORESAID; NORTH OF THE SOUTH LINE OF LOT 3, AFORESAID, EXTENDED WEST; AND SOUTH OF THE NORTH LINE OF LOT 3, AFORESAID, EXTENDED WEST, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 14, 1866 AS DOCUMENT 7738 IN DUPAGE COUNTY, ILLINOIS

**Subject:** In this application for variation, the applicant requests relief from the minimum front yard setback requirements set forth in section 3-110D(1) for the construction of a new single family home. The applicant is requesting an 11.4' reduction in the required front yard setback from 36.4' to 25'.

**Facts:** This property is located in the R-4 Residential District in the Village of Hinsdale and is located on the east side of Vine



Street between Fourth and Fifth. The property has a frontage of approximately 90', a depth of approximately 101.8', and a total square footage of approximately 9,162. The maximum FAR is approximately 3,390 square feet, the maximum allowable building coverage is 25% or approximately 2,290 square feet, and the maximum allowable lot coverage is 60% or approximately 5,497 square feet.

**Action of the Board:** Members discussed the request and agreed that the standards for variation set forth in 11-503 (F) of the Hinsdale Zoning Code had been met. Specifically cited reasons included the abnormally deep lots on most of the block as well as the existing and fairly consistent setbacks of other homes on the block.

A motion to recommend approval was made by Member Moberly and seconded by Member Alesia.

**AYES:** Members Moberly, Alesia, Podliska, Giltner

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Members Connelly, Engel, Chairman Neiman

#### THE HINSDALE ZONING BOARD OF APPEALS

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Chairman Robert Neiman

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.

# **FINAL DECISION**

## **VILLAGE OF HINSDALE ZONING BOARD OF APPEALS PETITION FOR VARIATION**

**Zoning Calendar:** V-02-18

**Petitioner:** 8 Salt Creek Campus, LLC

**Meeting held:** Public Hearing was held on Wednesday, March 21, 2018 at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on March 8, 2018.

**Premises Affected:** Subject Property is commonly known as the Landscaped Median of Salt Creek Lane, Hinsdale, Illinois and legally described as:

PARCEL 1: LOT 5 IN OFFICE PARK OF HINSDALE, BEING A SUBDIVISION OF PART OF SECTION 36, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 20, 2002, AS DOCUMENT R2002-243817, IN DUPAGE COUNTY, ILLINOIS

PARCEL 2: NON-EXCLUSIVE, PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT RECORDED JUNE 11, 1973 AS DOCUMENT R73-33823 AS AMENDED BY DOCUMENTS R73-35331, R81-2365 AND R2001-197280, DESCRIBED IN RIDE DESCRIPTIONS 2, 4 AND 6 ATTACHED THERETO, AND BY EASEMENT GRANT RECORDED JANUARY 18, 1989 AS DOCUMENT SR89-006821 AS AMENDED BY DOCUMENT SR89-006821 AS AMENDED BY DOCUMENT R89-072896 AND AS CREATED BY EASEMENT GRANT RECORDED JUNE 20, 1989 AS DOCUMENT R89-072897, DESCRIBED IN EXHIBITS C1 THROUGH C5 ATTACHED THERETO, FOR THE PURPOSES OF INGRESS AND EGRESS OVER, UPON AND ACROSS EASEMENT PREMISES

PARCEL 3: A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF EASEMENTS AND OPERATING COVENANTS

RECORDED MAY 29, 2003, AS DOCUMENT R2003-200111, AND RE-RECORDED JANUARY 10, 2006 AS DOCUMENT R2006-005825 AND AMENDED BY R2012-024784 FOR THE PURPOSE OF VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS UPON THE ROADWAYS; RETENTION, DETENTION AND DRAINAGE OF WATER AND OVER COMMON IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO THE CLOCK TOWER, SIDEWALKS, LANDSCAPED AREAS AND POND FOR PEDESTRIAN INGRESS, EGRESS ACCESS AND FOR PASSIVE RECREATIONAL PURPOSES OVER THE FOLLOWING DESCRIBED LAND: LOTS 1,2,3,4,5,6,7,8,9 AND 10 IN OFFICE PARK OF HINSDALE BEING A SUBDIVISION OF PART OF SECTION 36, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 20, 2002, AS DOCUMENT R2002-243817, IN DUPAGE COUNTY, ILLINOIS

**Subject:**

In this application for variation, the applicant requests several sign variations in conjunction with the Med Properties medical office campus. The sign package has been reviewed by the Plan Commission in terms of design and content, and as such, the relief being requested is for only the location and illumination of the sign and not the content, materials, etc. It should be noted that this request is being driven by the fact that the Code does not account for campus type signage or the unusual nature of the relationship between their buildings and the rest of the office park. As a result, the applicant is requesting variations from the following:

Section 9-106(G) (5) - to allow off premises identification signs.

Section 9-106(G) (5) – to allow illumination of off premises identification signs.

Section 9-106(J) (4) (d) - to allow a total square footage of 110 square feet, in lieu of the 100 square feet permitted for ground signs.

**Facts:**

This property is located in the O-3 Office District in the Village of Hinsdale and is located on the north side of Ogden Avenue between York Road and the Tri-State.

**Action of the Board:**

Members discussed the request and agreed that the standards for variation set forth in 11-503 (F) of the Hinsdale Zoning Code had been met. It was noted that the

same request had been considered and approved by the Zoning Board of Appeals in 2015 and none of the conditions had changed from that time other than modifications specifically requested by the Plan Commission.

A motion to recommend approval was made by Member Podliska and seconded by Member Giltner.

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

THE HINSDALE ZONING BOARD OF APPEALS

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Chairman Robert Neiman

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.

**FINAL DECISION**  
**VILLAGE OF HINSDALE**  
**ZONING BOARD OF APPEALS**

**ZONING CALENDAR:** App 03-17

**PETITIONERS:** James and Nancy Dugan, Co-Petitioners

**HEARING HELD:** A Public Hearing on the Appeal was held before the Zoning Board of Appeals ("ZBA") on Wednesday, February 22, 2018, at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois. The Hearing was continued to, and concluded on, April 18, 2018.

**PREMISES AFFECTED:** The Subject Properties are commonly known as 504 South Oak Street & 422 South Oak Street, Hinsdale, Illinois (collectively, the "Properties"), with PINS of 09-12-225-017 (the "422 South Oak Property") & 09-12-225-009 (the "504 South Oak Property").

**BACKGROUND:** Prior to 1993, the 504 South Oak Property and 422 South Oak Property were separately owned, improved with a single-family residence on each, and functioning as two (2) separate zoning lots. On August 11, 1993, the then-Owner of both Properties sent a letter to the Village (the "1993 Letter") inquiring whether a structure on the 504 South Oak Property then being used as a principal residence could be remodeled and converted to use as an accessory structure to the principal residence on the 422 South Oak Property. The Village responded that the principal residence on the 504 South Oak Property could be remodeled and thereafter used as an accessory structure to the principal residence to the 422 South Oak Property only if the Properties were combined into a single Zoning Lot. Specifically, the 1993 Letter stated "you may combine the two Lots of Record at 422 and 504 S. Oak into a single Zoning Lot for purposes of allowing the coach house at 504 to be used as an accessory structure to the residence at 422. However, once you combine the two Lots of Record into a single Zoning Lot, you will not be able to separate them in the future."

The plans originally proposed in the 1993 Letter were for a four-car garage and recreation room above.

The current owner and developer of the Properties, Avra Properties Fund II End-User, LLC, and Bayit Builders, LLC (collectively, the "Current Owner") applied for certain building permits in 2017. A question then arose as to whether a single zoning lot had been created in 1993-1994 by the actions of the then-Owner. A review of Village records revealed that after receiving the Village's response to his 1993 Letter, the then-Owner of the Properties in 1993-1994 did not proceed with his original plans, but

instead revised the plans to include multiple bedrooms, a living room, a kitchen, a dining room and loft living space. Those revised plans that included all necessary elements to create a dwelling unit under the Zoning Code were carried out. After some back and forth, the Village ultimately determined that the then-Owner in 1993-1994 had not proceeded with the plans that would have resulted in the creation of a single zoning lot, but instead took steps to maintain independent principal structures on each lot, presumably to ensure that the 504 South Oak Property and 422 South Oak Property could continue to be regarded by the Village as separate principal residences and separate zoning lots. The Village concluded that the Properties had been, and should continue to be, viewed as independent single-family lots, rather than a single zoning lot.

**SUBJECT PETITION:** In September, 2017, Petitioners, who own property adjacent to the 504 South Oak Property, requested an interpretation as to whether the 422 South Oak Property and 504 South Oak Property together constituted a single "Zoning Lot" as defined in Section 12-206 of the Hinsdale Zoning Code ("Zoning Code"). Section 12-206 of the Zoning Code defines a Zoning Lot as follows:

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

In a Zoning Interpretation dated October 17, 2017 (the "October 17, 2017 Zoning Interpretation"), the Village Manager found that the 422 South Oak Property and 504 South Oak Property "have had, and continue to have, independent single family principal structures on them," and thus do not collectively constitute a single Zoning Lot as defined by the Zoning Code. Petitioners have appealed that decision.

**PROCEEDINGS:** The Properties are located in the R-1 Residential Zoning District in the Village of Hinsdale and consist of two (2) adjacent platted lots on Oak Street. There is currently one (1) single-family residence on the 422 South Oak Property. A second structure exists on the 504 South Oak Property, with the Parties in disagreement over whether the structure on the 504 South Oak Property, which was remodeled in 1993-1994 based on the revised plans submitted by the then-Owner, constitutes a separate single-family residential structure, or was instead merely an accessory structure to the 422 South Oak structure.

Robert O'Donnell, attorney for the Petitioners, presented the position of the Petitioners on appeal. Mr. O'Donnell asserted, among other things, that the previously existing pre-code structure on the 504 South Oak Property had been voluntarily demolished by the then-Owner in 1993-1994, and had subsequently been rebuilt in conformity with Zoning Code provisions other than with respect to a side yard setback. He further asserted that the structure on the 504 South Oak Property was by definition an accessory structure to

the 422 Property and that the 504 and 422 Properties together therefore constitute a single zoning lot. Mr. O'Donnell contended that the rebuilt structure on the 504 Property was a four-car garage with a two-bedroom apartment over it. According to Mr. O'Donnell, the 504 Property was accessory because it never received a certificate of occupancy as a single-family residence, and because it was consistently used by previous owners, since 1993-1994, as an accessory structure to the principal residence at the 422 South Oak Property, rather than as a separate residence. Mr. O'Donnell argued that the use of the structure on the 504 South Oak Property should control under the definition of Zoning Lot in the Zoning Code.

Michael Marrs on behalf of the Village noted that the Village would not have approved the structure on the 504 South Oak Property as an accessory structure when it was remodeled in 1993-1994, because the revised plans included all of the elements of a dwelling unit as defined by the Zoning Code. Mr. Marrs noted that a certificate of occupancy for a single-family residence on the 504 Property was applied for in 1994. Mr. Marrs reminded the ZBA that the Village staff does not focus on use as the determinative factor as to whether a zoning lot exists, as the Village does not conduct transfer inspections, and that the Village's contact with particular properties is driven by permit requests. The Village does not have resources to monitor how properties are used through time. Mr. Marrs noted that a separate principal single-family residential structure is not customarily found as an incident to another principal structure. Mr. Marrs asserted that the Village has continually considered and treated the 504 South Oak Property as hosting a separate single-family structure, not an accessory structure to the 422 Property.

Robb McGinnis, the Village's Director of Community Development, testified in response to a question from a ZBA member that the structure on the 504 South Oak Property continues to be a precode structure pursuant to the Village's Zoning Code as it was renovated/remodeled in 1993-1994, not completely demolished. That is how the nonconforming south wall of the structure on the 504 South Oak Property was allowed to be maintained.

Susan Overbey presented the position of the Current Owner of the 504 and 422 South Oak Properties. She asserted, among other things, that the structure on the 504 South Oak Property was altered, not demolished, in 1993-1994, that the structure remained a pre-code structure, and that the plans were altered by the then-Owner in 1993-1994 with the intent to have the structure remain a single-family residence. She argued against a "use" interpretation of the term Zoning Lot.

At the April 18, 2018 continued public hearing, the Parties made further arguments related to an application for certificate of occupancy form dated February 16, 1994 (the "Application for Certificate of Occupancy"). The document is marked, in an area reserved for building department use only, with the notation "ok" next to the line for conforming use. At the continued hearing, Mr. O'Donnell on behalf of Petitioners, argued that there was nothing on the Certificate of Occupancy document that reflects or indicates that a certificate of occupancy was approved. He further argued that the

structure on the 504 South Oak Property, regardless of whether it was a dwelling unit or accessory structure, would have required a certificate of occupancy. He reiterated his argument that the failure to use the structure on the 504 South Oak Property as a dwelling unit since 1993-1994 means that it is an accessory structure.

Ms. Overbey, on behalf of the Current Owner, argued at the continued hearing that it appeared to be the Village's practice to approve a certificate of occupancy by noting "ok" on the face of the document, as was done on the Application for Certificate of Occupancy document, and that stand-alone certificates were not issued. Ms. Overbey argued that Village records show the 504 South Oak Property had consistently been treated by the Village as a separate single-family residence.

Mr. McGinnis on behalf of Village Staff, indicated that he could not say with certainty what the practice or procedure of the Village was in the 1990's regarding certificates of occupancy. While formal certificates of occupancy were granted for new single-family homes in the 1980's and 1990's, he had not found evidence of formal certificates being issued for anything other than for new single-family homes, such as remodels, renovations and additions.

Mr. Marrs argued at the continued public hearing in support of the Village's position that while the Parties may not be able to definitively determine whether marking "ok" on the Application for Certificate of Occupancy document meant that the certificate of occupancy was approved, the application and related permits and inspections were evidence that the Village was treating the 504 South Oak Property as hosting a single-family home. The structure on the 504 South Oak Property has all of the elements necessary to be a dwelling unit: kitchen, bathroom, sleeping areas. The Village does not regulate design, or use. He reiterated that the Village has been consistent in treating the 504 South Oak Property as a separate single-family property, and that use is not dispositive, or an explicit determining factor under the definitions in the Zoning Code.

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

The record in this matter consists of the submissions of the Petitioners and Current Owners, for both public hearing dates, all as included in the two (2) ZBA Agenda Packets, and the transcript of the ZBA hearing and subsequent discussion in the current matter, all of which are attached hereto and made a part hereof as **Group Exhibit 1 (February 22, 2018 ZBA Packet Materials)**, **Group Exhibit 2 (April 18, 2018 ZBA Packet Materials)**, and **Group Exhibit 3 (February 22, 2018 and April 18, 2018 Transcripts)**, respectively.

**DECISION OF THE BOARD:** Following the close of the Public Hearing, the ZBA members discussed the positions of the Parties. The Village Manager's October 17, 2017 Zoning Interpretation had found that the structures on the Properties are capable of being separately maintained, altered, enlarged, rebuilt, restored, and repaired in conformance with the requirements of Section 10-104, and that therefore the 422 Property and 504



Property were separate lots rather than a single zoning lot. A majority of the ZBA members found the Village Manager's October 17, 2017 Zoning Interpretation was a reasonable interpretation of the Zoning Code and a reasonable interpretation of the facts. The Village's decision was not arbitrary, ill-considered, or erroneous. In the opinion of a majority of the ZBA members, there were two dwelling units on two lots in 1989, when the Zoning Code was adopted, in 1993-1994, when the structure on the 504 South Oak Property was remodeled, and when the Properties were sold in 2017. The majority felt that the structure on the 504 South Oak Property was remodeled in 1993-1994, not demolished and rebuilt, and is capable of being a single-family residence regardless of how it was used since 1994. The 504 South Oak Property and 422 South Oak Property each look like a single-family home, have their own access, their own billing for purposes of utilities, and are both capable of functioning as separate single-family residences.

Member Murphy disagreed with the majority, finding that the fact that the 504 South Oak Property had been used as an accessory use was determinative. He abstained from the final vote.

A motion to deny the appeal of Petitioners and to affirm the October 17, 2017 Zoning Interpretation of the Village Manager was made by Member Alesia, and seconded by Member Podliska. The vote on the Motion was as follows:

**AYES:** Moberly, Alesia, Engel, Podliska, and Chairman Neiman.

**NAYS:** None

**ABSTAIN:** Murphy.

**ABSENT:** Member Giltner.

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

#### THE HINSDALE ZONING BOARD OF APPEALS

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Chairman Robert Neiman

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.

## FINAL DECISION

### VILLAGE OF HINSDALE ZONING BOARD OF APPEALS

**ZONING CALENDAR:** App 03-17

**PETITIONERS:** James and Nancy Dugan, Co-Petitioners

**HEARING HELD:** A Public Hearing on the Appeal was held before the Zoning Board of Appeals ("ZBA") on Wednesday, February 22, 2018, at 6:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois. The Hearing was continued to, and concluded on, April 18, 2018.

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**BACKGROUND:** Prior to 1993, the 504 South Oak Property and 422 South Oak Property were separately owned, improved with a single-family residence on each, and functioning as two (2) separate zoning lots. On August 11, 1993, the then-Owner of both Properties sent a letter to the Village (the "1993 Letter") inquiring whether a structure on the 504 South Oak Property then being used as a principal residence could be remodeled and converted to use as an accessory structure to the principal residence on the 422 South Oak Property. The Village responded that the principal residence on the 504 South Oak Property could be remodeled and thereafter used as an accessory structure to the principal residence to the 422 South Oak Property only if the Properties were combined into a single Zoning Lot. Specifically, the 1993 Letter stated "you may combine the two Lots of Record at 422 and 504 S. Oak into a single Zoning Lot for purposes of allowing the coach house at 504 to be used as an accessory structure to the residence at 422. However, once you combine the two Lots of Record into a single Zoning Lot, you will not be able to separate them in the future."

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The current owner and developer of the Properties, Avra Properties Fund II End-User, LLC, and Bayit Builders, LLC (collectively, the "Current Owner") applied for certain building permits in 2017. A question then arose as to whether a single zoning lot had been created in 1993-1994 by the actions of the then-Owner. A review of Village records revealed that after receiving the Village's response to his 1993 Letter, the then-Owner of the Properties in 1993-1994 did not proceed with his original plans, but

instead revised the plans to include multiple bedrooms, a living room, a kitchen, a dining room and loft living space. Those revised plans that included all necessary elements to create a dwelling unit under the Zoning Code were carried out. After some back and forth, the Village ultimately determined that the then-Owner in 1993-1994 had not proceeded with the plans that would have resulted in the creation of a single zoning lot, but instead took steps to maintain independent principal structures on each lot, presumably to ensure that the 504 South Oak Property and 422 South Oak Property could continue to be regarded by the Village as separate principal residences and separate zoning lots. The Village concluded that the Properties had been, and should continue to be, viewed as independent single-family lots, rather than a single zoning lot.

**SUBJECT PETITION:** In September, 2017, Petitioners, who own property adjacent to the 504 South Oak Property, requested an interpretation as to whether the 422 South Oak Property and 504 South Oak Property together constituted a single "Zoning Lot" as defined in Section 12-206 of the Hinsdale Zoning Code ("Zoning Code"). Section 12-206 of the Zoning Code defines a Zoning Lot as follows:

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

In a Zoning Interpretation dated October 17, 2017 (the "October 17, 2017 Zoning Interpretation"), the Village Manager found that the 422 South Oak Property and 504 South Oak Property "have had, and continue to have, independent single family principal structures on them," and thus do not collectively constitute a single Zoning Lot as defined by the Zoning Code. Petitioners have appealed that decision.

**PROCEEDINGS:** The Properties are located in the R-1 Residential Zoning District in the Village of Hinsdale and consist of two (2) adjacent platted lots on Oak Street. There is currently one (1) single-family residence on the 422 South Oak Property. A second structure exists on the 504 South Oak Property, with the Parties in disagreement over whether the structure on the 504 South Oak Property, which was remodeled in 1993-1994 based on the revised plans submitted by the then-Owner, constitutes a separate single-family residential structure, or was instead merely an accessory structure to the 422 South Oak structure.

Robert O'Donnell, attorney for the Petitioners, presented the position of the Petitioners on appeal. Mr. O'Donnell asserted, among other things, that the previously existing pre-code structure on the 504 South Oak Property had been voluntarily demolished by the then-Owner in 1993-1994, and had subsequently been rebuilt in conformity with Zoning Code provisions other than with respect to a side yard setback. He further asserted that the structure on the 504 South Oak Property was by definition an accessory structure to

the 422 Property and that the 504 and 422 Properties together therefore constitute a single zoning lot. Mr. O'Donnell contended that the rebuilt structure on the 504 Property was a four-car garage with a two-bedroom apartment over it. According to Mr. O'Donnell, the 504 Property was accessory because it never received a certificate of occupancy as a single-family residence, and because it was consistently used by previous owners, since 1993-1994, as an accessory structure to the principal residence at the 422 South Oak Property, rather than as a separate residence. Mr. O'Donnell argued that the use of the structure on the 504 South Oak Property should control under the definition of Zoning Lot in the Zoning Code.

Michael Marrs on behalf of the Village noted that the Village would not have approved the structure on the 504 South Oak Property as an accessory structure when it was remodeled in 1993-1994, because the revised plans included all of the elements of a dwelling unit as defined by the Zoning Code. Mr. Marrs noted that a certificate of occupancy for a single-family residence on the 504 Property was applied for in 1994. Mr. Marrs reminded the ZBA that the Village staff does not focus on use as the determinative factor as to whether a zoning lot exists, as the Village does not conduct transfer inspections, and that the Village's contact with particular properties is driven by permit requests. The Village does not have resources to monitor how properties are used through time. Mr. Marrs noted that a separate principal single-family residential structure is not customarily found as an incident to another principal structure. Mr. Marrs asserted that the Village has continually considered and treated the 504 South Oak Property as hosting a separate single-family structure, not an accessory structure to the 422 Property.

Robb McGinnis, the Village's Director of Community Development, testified in response to a question from a ZBA member that the structure on the 504 South Oak Property continues to be a precode structure pursuant to the Village's Zoning Code as it was renovated/remodeled in 1993-1994, not completely demolished. That is how the nonconforming south wall of the structure on the 504 South Oak Property was allowed to be maintained.

Susan Overbey presented the position of the Current Owner of the 504 and 422 South Oak Properties. She asserted, among other things, that the structure on the 504 South Oak Property was altered, not demolished, in 1993-1994, that the structure remained a pre-code structure, and that the plans were altered by the then-Owner in 1993-1994 with the intent to have the structure remain a single-family residence. She argued against a "use" interpretation of the term Zoning Lot.

At the April 18, 2018 continued public hearing, the Parties made further arguments related to an application for certificate of occupancy form dated February 16, 1994 (the "Application for Certificate of Occupancy"). The document is marked, in an area reserved for building department use only, with the notation "ok" next to the line for conforming use. At the continued hearing, Mr. O'Donnell on behalf of Petitioners, argued that there was nothing on the Certificate of Occupancy document that reflects or indicates that a certificate of occupancy was approved. He further argued that the

structure on the 504 South Oak Property, regardless of whether it was a dwelling unit or accessory structure, would have required a certificate of occupancy. He reiterated his argument that the failure to use the structure on the 504 South Oak Property as a dwelling unit since 1993-1994 means that it is an accessory structure.

Ms. Overbey, on behalf of the Current Owner, argued at the continued hearing that it appeared to be the Village's practice to approve a certificate of occupancy by noting "ok" on the face of the document, as was done on the Application for Certificate of Occupancy document, and that stand-alone certificates were not issued. Ms. Overbey argued that Village records show the 504 South Oak Property had consistently been treated by the Village as a separate single-family residence.

Mr. McGinnis on behalf of Village Staff, indicated that he could not say with certainty what the practice or procedure of the Village was in the 1990's regarding certificates of occupancy. While formal certificates of occupancy were granted for new single-family homes in the 1980's and 1990's, he had not found evidence of formal certificates being issued for anything other than for new single-family homes, such as remodels, renovations and additions.

Mr. Marrs argued at the continued public hearing in support of the Village's position that while the Parties may not be able to definitively determine whether marking "ok" on the Application for Certificate of Occupancy document meant that the certificate of occupancy was approved, the application and related permits and inspections were evidence that the Village was treating the 504 South Oak Property as hosting a single-family home. The structure on the 504 South Oak Property has all of the elements necessary to be a dwelling unit: kitchen, bathroom, sleeping areas. The Village does not regulate design, or use. He reiterated that the Village has been consistent in treating the 504 South Oak Property as a separate single-family property, and that use is not dispositive, or an explicit determining factor under the definitions in the Zoning Code.

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

The record in this matter consists of the submissions of the Petitioners and Current Owners, for both public hearing dates, all as included in the two (2) ZBA Agenda Packets, and the transcript of the ZBA hearing and subsequent discussion in the current matter, all of which are attached hereto and made a part hereof as **Group Exhibit 1 (February 22, 2018 ZBA Packet Materials)**, **Group Exhibit 2 (April 18, 2018 ZBA Packet Materials)**, and **Group Exhibit 3 (February 22, 2018 and April 18, 2018 Transcripts)**, respectively.

**DECISION OF THE BOARD:** Following the close of the Public Hearing, the ZBA members discussed the positions of the Parties. The Village Manager's October 17, 2017 Zoning Interpretation had found that the structures on the Properties are capable of being separately maintained, altered, enlarged, rebuilt, restored, and repaired in conformance with the requirements of Section 10-104, and that therefore the 422 Property and 504

Property were separate lots rather than a single zoning lot. A majority of the ZBA members found the Village Manager's October 17, 2017 Zoning Interpretation was a reasonable interpretation of the Zoning Code and a reasonable interpretation of the facts. The Village's decision was not arbitrary, ill-considered, or erroneous. In the opinion of a majority of the ZBA members, there were two dwelling units on two lots in 1989, when the Zoning Code was adopted, in 1993-1994, when the structure on the 504 South Oak Property was remodeled, and when the Properties were sold in 2017. The majority felt that the structure on the 504 South Oak Property was remodeled in 1993-1994, not demolished and rebuilt, and is capable of being a single-family residence regardless of how it was used since 1994. The 504 South Oak Property and 422 South Oak Property each look like a single-family home, have their own access, their own billing for purposes of utilities, and are both capable of functioning as separate single-family residences.

Member Murphy disagreed with the majority, finding that the fact that the 504 South Oak Property had been used as an accessory use was determinative. He abstained from the final vote.

A motion to deny the appeal of Petitioners and to affirm the October 17, 2017 Zoning Interpretation of the Village Manager was made by Member Alesia, and seconded by Member Podliska. The vote on the Motion was as follows:

**AYES:** Moberly, Alesia, Engel, Podliska, and Chairman Neiman.

**NAYS:** None

**ABSTAIN:** Murphy.

**ABSENT:** Member Giltner.

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

#### THE HINSDALE ZONING BOARD OF APPEALS

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Chairman Robert Neiman

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.

8a

## 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.

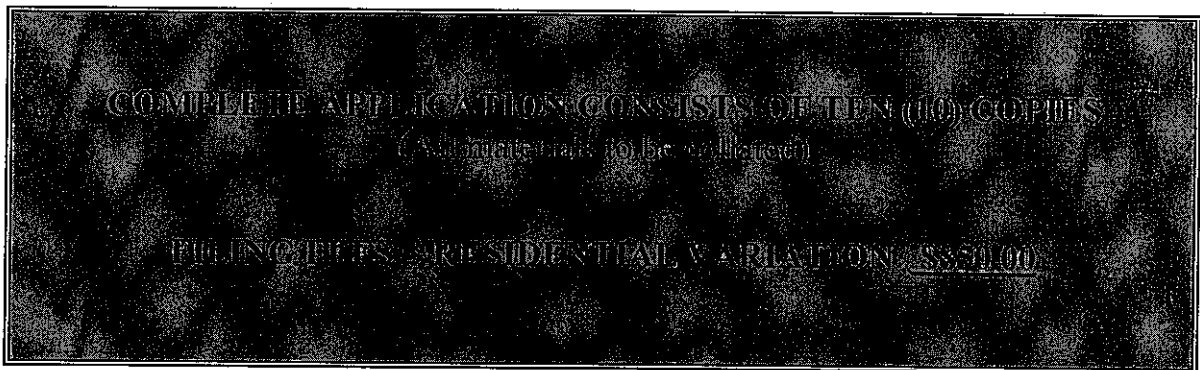
It should be noted that the Zoning Board of Appeals does not have express authority on this request. As such, it will move on to the Village Board as a recommendation provided that four affirmative votes are received.

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. V-0418

**VILLAGE OF HINSDALE**  
**APPLICATION FOR VARIATION**



NAME OF APPLICANT(S): Hinsdale Partnership, LLC / MORGAN HARTSON CONSTRUCTION

ADDRESS OF SUBJECT PROPERTY: 550 West Odgen Hinsdale IL 60521

TELEPHONE NUMBER(S): 630-917-0972 / 630-818-5401  
Andy MacLennan - 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 7/22/18



## 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 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.)

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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

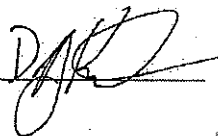
1. Application Fee and Escrow. Every application must be accompanied by a non-refundable application fee of \$250.00 plus an additional \$600.00 initial escrow amount. The applicant must also pay the costs of the court reporter's transcription fees and legal notices for the variation request. A separate 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.

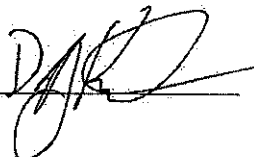
Name of Owner: Hinsdale Partnership, LLC

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:

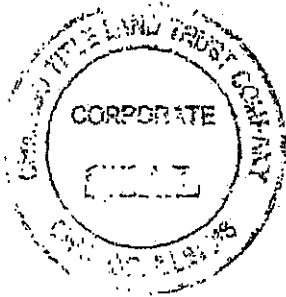
Permanent Tax Number: 09-02-212-007-0000

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: *Idia 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 \_\_\_\_\_

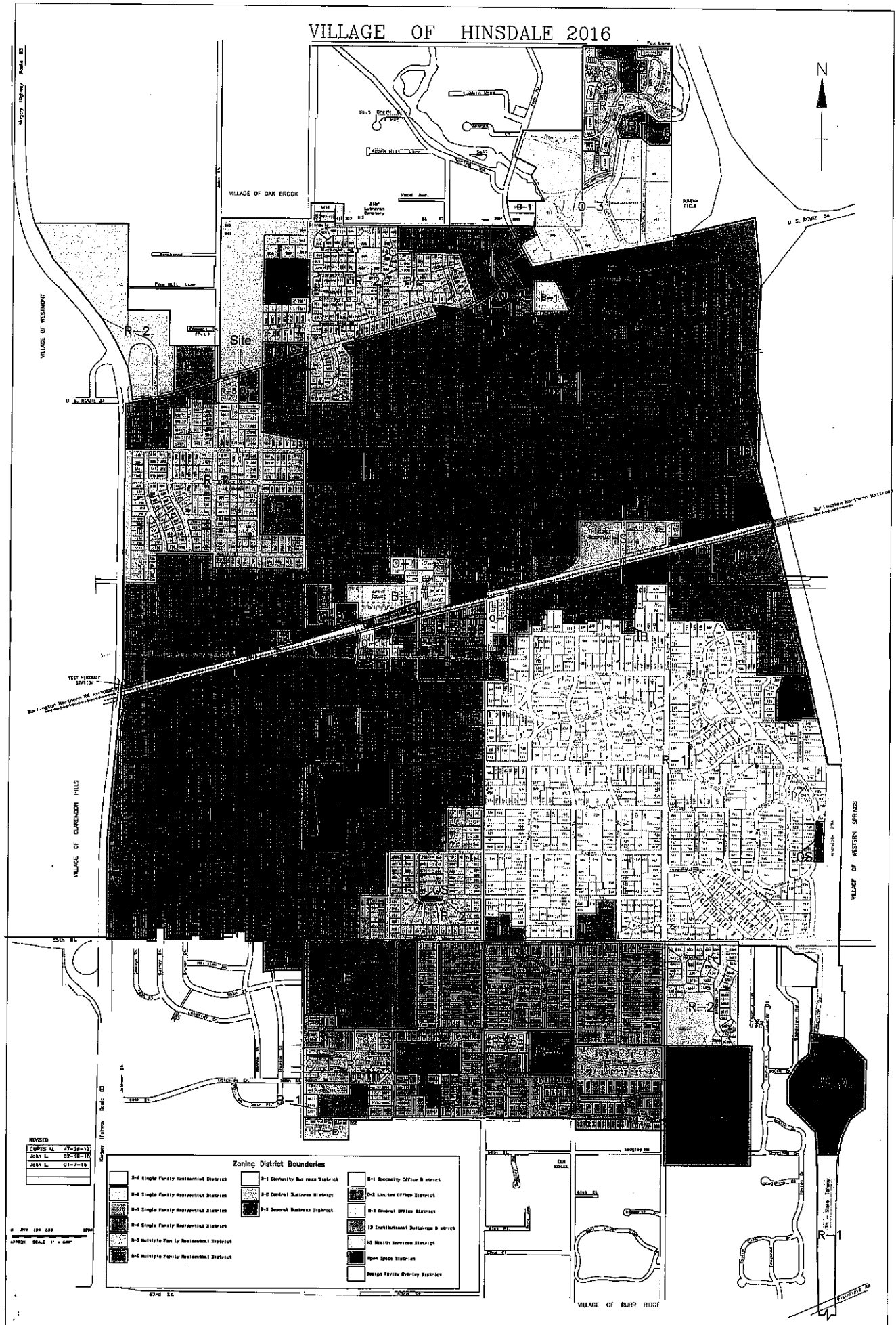
SEND TAX BILLS TO: \_\_\_\_\_

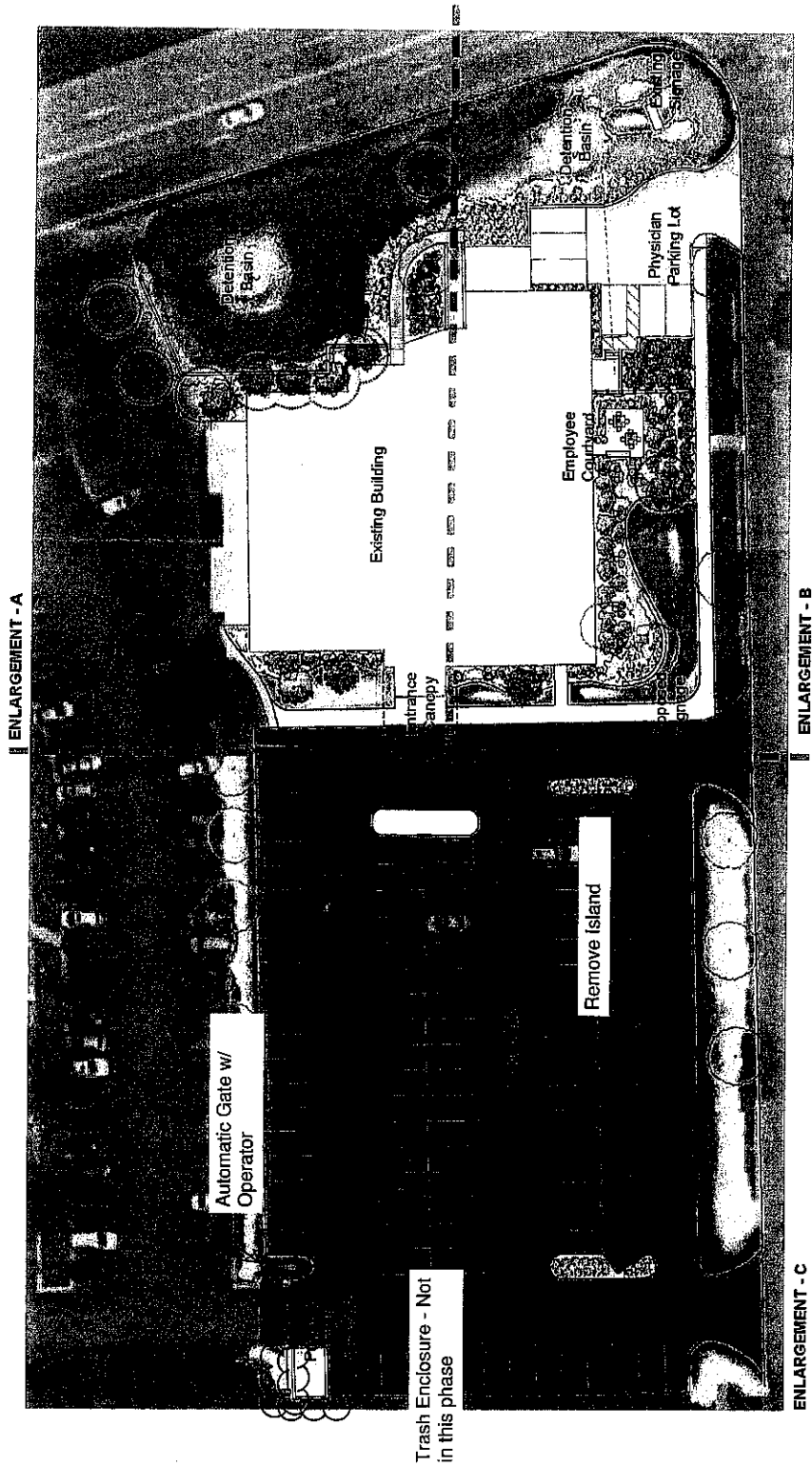
## EXHIBIT A

A parcel of land in the Northeast corner of Block 2 in Estabrooks Addition to the Town of Hinsdale, described as follows: Beginning at the Northeast corner of said Block 2; thence Southwesterly along the Northerly line of said Block 2 (Southerly 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 Hinsdale, 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





# **SITE PLAN**

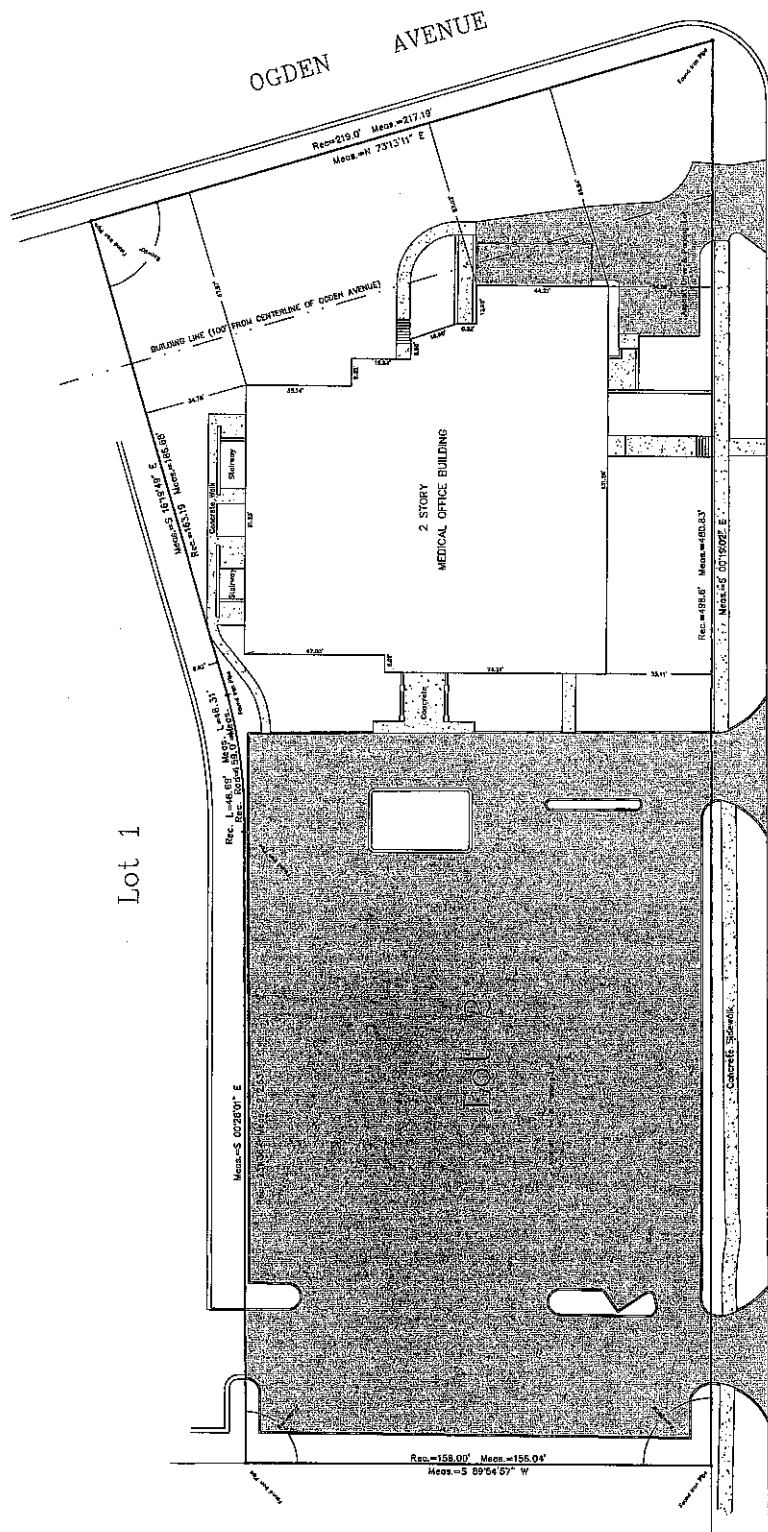
Hinsdale Orthopaedic Associates REMODEL of OGDEN AVENUE FACILITY

schematic design 7/25/2017

Wright

LOT 2 IN HINDSDALE PARTITION ASSESSMENT PLAT OF THAT PART OF BLOCK 2 N. TO S. ESTABLISHED ADDITION, TO HINDSALE PARK, IN SECTION 28, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT IN THE EAST LINE OF SAID BLOCK 2 WHICH IS 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE RUNNING WEST 45.0 DEGREES, THENCE NORTH PARALLEL, WITH THE EAST LINE OF SAID BLOCK 2 TO THE NORTHERLY LINE THEREOF; THENCE SOUTH 67.9 DEGREES WESTERLY ALONG THE NORTHERLY LINE OF SAID BLOCK 2 TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH TO THE PLACE OF BEGINNING, ACCORDING THE PLAT HEREIN RECORDED JULY 2, 1888 AS DOCUMENT NO. 9719 IN OUR PUBLIC COUNTY RECORDS.

SCALE: 1" = 20'



STATE OF ILLINOIS )  
 ) S.S.  
 )  
COUNTY OF DUPAGE )

THIS IS TO CERTIFY THAT WE, RYNEAR & 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.

BY: WILLIAM E. DAVIDSON, JR., ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-002984

GIVEN UNDER MY HAND AND SEAL AT MAPERVILLE, ILLINOIS, THIS 20 DAY OF NOVEMBER 20 20

A TITLE COMMITMENT WAS NOT FURNISHED TO STEINER & SON, INC. FOR USE IN THE PREPARATION OF THIS SURVEY. THEREFORE THERE MAY BE ADDITIONAL ENCUMBRANCES OR INTERESTS AFFECTING THE PROPERTY AND OR INTERESTS OF THE PROPERTY DESCRIBED ON THIS PLAN WITH YOUR DEED. ABSTRACT 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 LICENSED E&P-104437

PREPARED FOR: VOLT ELECTRIC  
PROJECT NO: 10-7353

95 BUTTWOOD CIR., NAPERVILLE, IL 6054  
 H: (630) 355-8889 FAX: (630) 355-5062

**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 Strovski

Name of Applicant:

DANIEL J. ROBERTS

Signature of Applicant:

Daniel J. Roberts

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



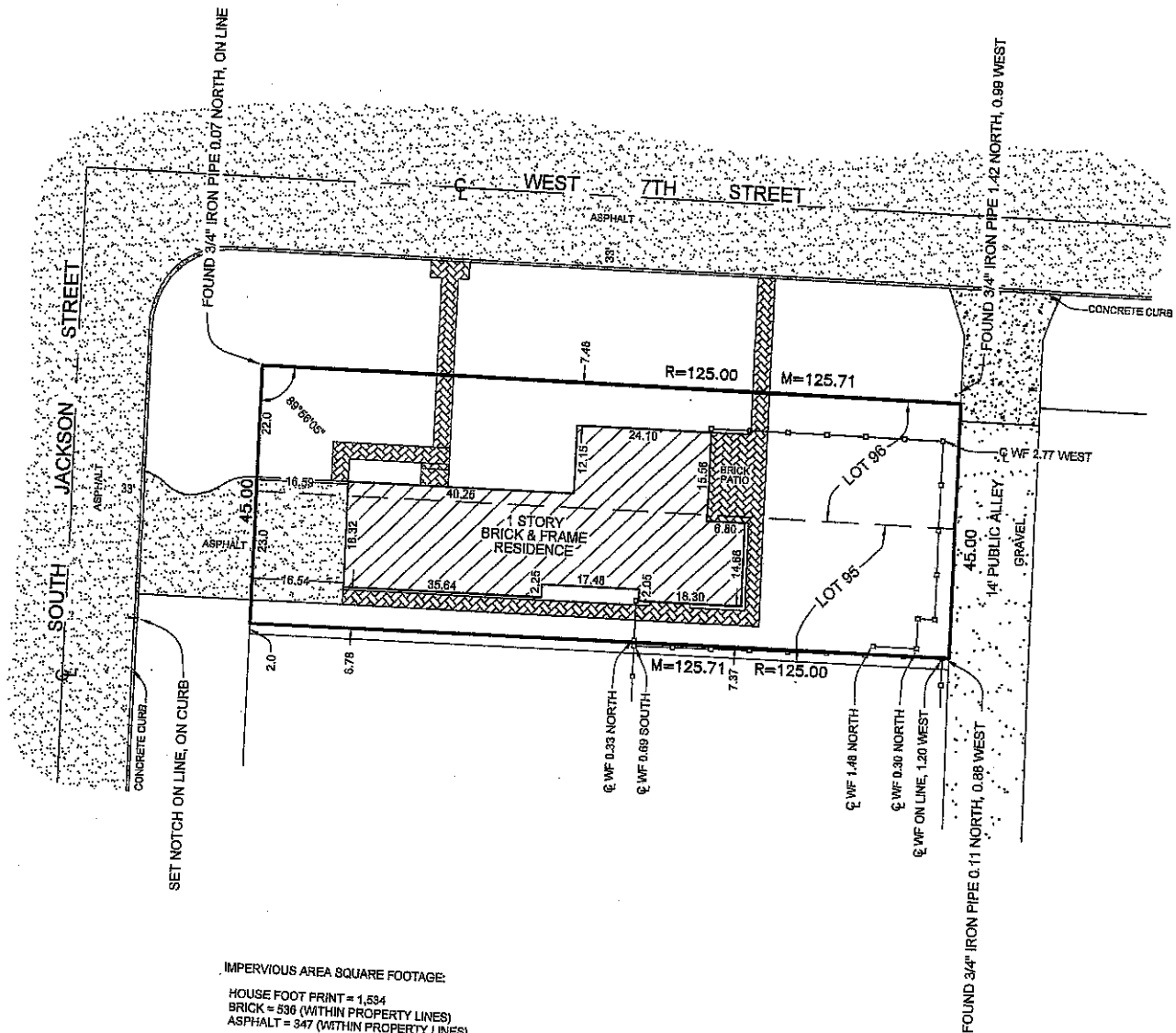
• BOUNDARY • TOPOGRAPHICAL • SUBDIVISIONS • ALTA/ACSM • CONDOMINIUMS • SITE PLANS • CONSTRUCTION • FEMA CERTIFICATES •

# SCHOMIG LAND SURVEYORS, LTD. PLAT OF SURVEY

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

LOTS 98 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.

DO NOT SCALE DIMENSIONS FROM THIS PLAT. THE LOCATION OF SOME FEATURES MAY BE EXAGGERATED FOR CLARITY. NO EXTRAPOLATIONS MAY BE MADE FROM THE INFORMATION SHOWN WITHOUT THE WRITTEN PERMISSION OF SCHOMIG LAND SURVEYORS LTD. ONLY PLATS WITH AN EMBOSSED SEAL ARE OFFICIAL DOCUMENTS. FIELD WORK WAS COMPLETED PER SURVEY DATE LISTED BELOW. © COPYRIGHT, ALL RIGHTS RESERVED.

SURVEY DATE: MARCH 9TH, 2017.

BUILDING LOCATED: MARCH 9TH, 2017.

IMPERVIOUS AREA ADDED: MARCH 16TH, 2017.

ORDERED BY: MARIA SPIROVSKI

PLAT 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 } ss.  
COUNTY OF COOK }

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



LICENSE EXPIRATION  
11-30-2018

[illegible]

**ROBERTS**  
**DESIGN & BUILD**  
4808  
HOSLYN ROAD  
DOWNERS GROVE, IL 60516  
OFFICE 630.587.1226  
FAX 630.214.4048



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

**SITE PLAN**

Date 04/09/2018

DATE

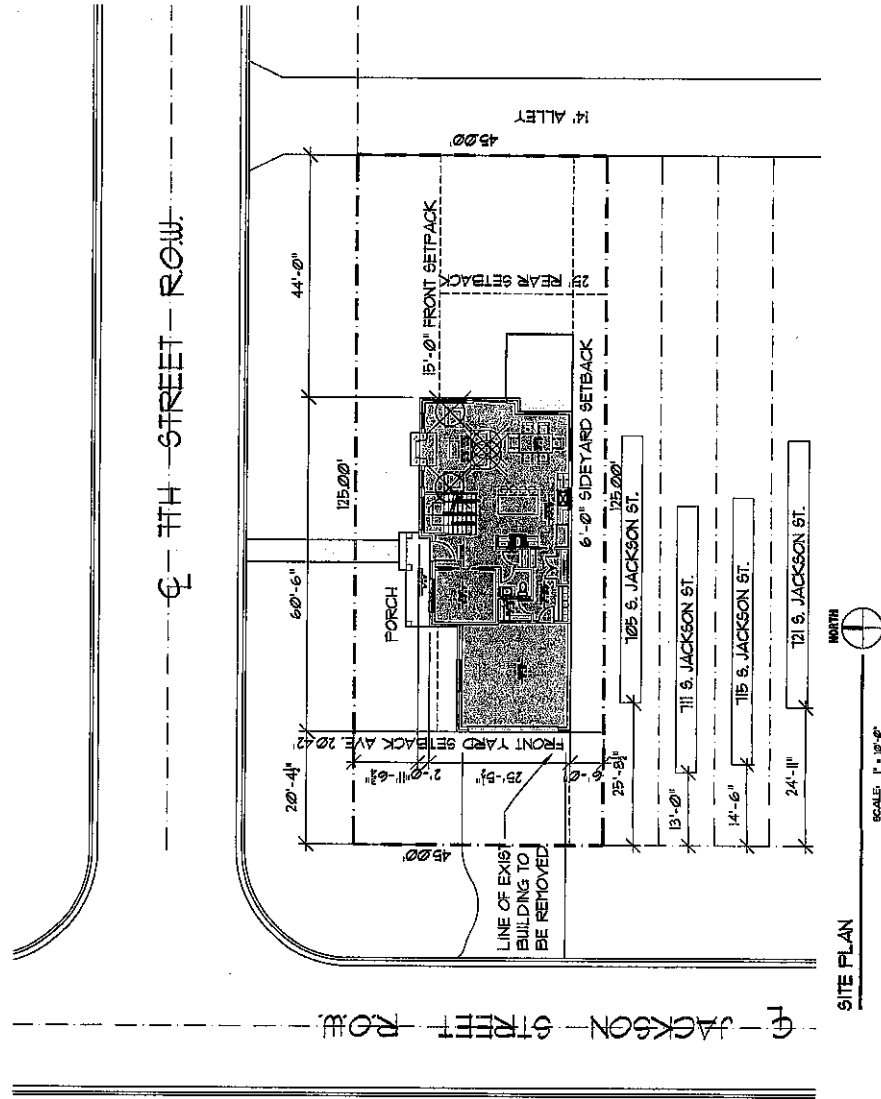
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Job No 1722

Sheet

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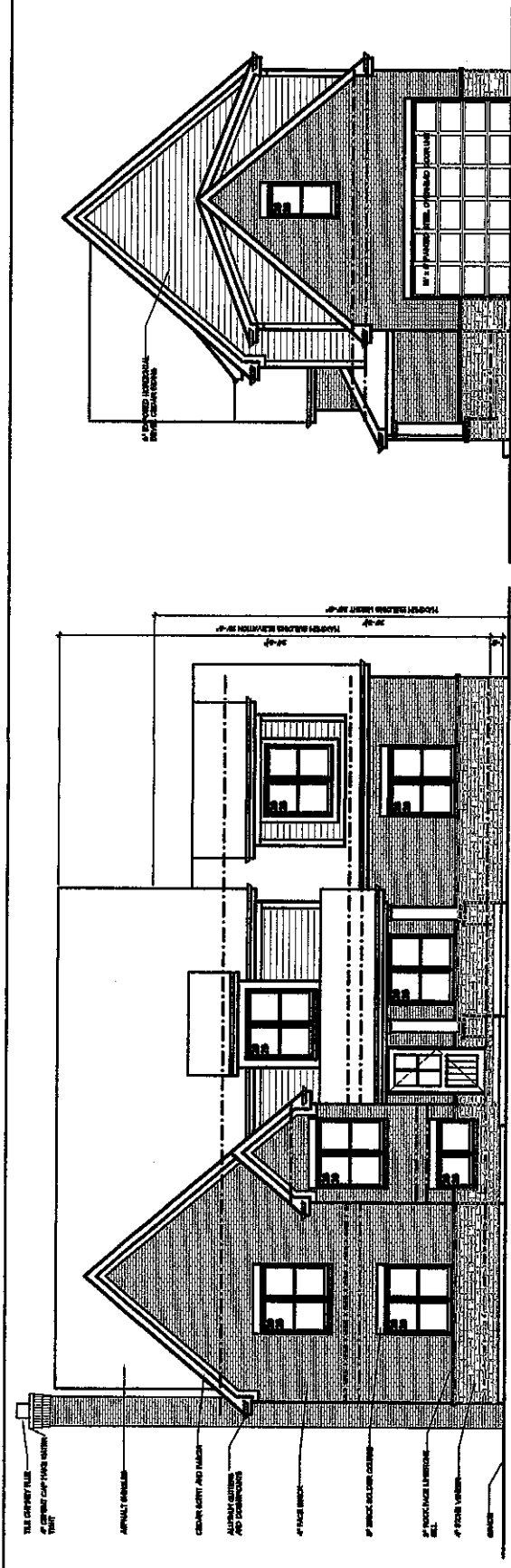
<b>SITE SUMMARY:</b>	
1401 WEST 14 <sup>TH</sup> STREET, NENGADE, ILLINOIS	
PPN 003-1-008-001	
ZONED: R-4 SINGLE-FAMILY	
LOT AREA (PER PLAT OF SURVEY)	5625 SF.
(14.00 ± 0.00)	2000 SF.
ALLOWABLE F.A.R.	1400 G.R.
(1024 ± 5025) / 0800 OR 2000	
ALLOWABLE BUILDING COVERAGE:	
(0.75 ± 15.6%)	
<b>VARIANCE REQUEST:</b>	
BASED ON LOT AREA (14.00 ± 0.00)	1469 SF.
(0.25 ± 50.7%)	
<b>COVERAGE</b>	
A • FIRST FLOOR AREA:	1045 SF.
B • TWO-CAR GARAGE AREA:	461 SF.
C • SECOND FLOOR AREA:	1301 SF.
<b>PROPOSED F.A.R.</b>	2000 SF.
A • 13	
B • 10	
<b>PROPOSED BUILDING COVERAGE:</b>	1469 SF.
A • 10	

Job No.	1722
Sheet	A-1
Date	04/04/2016
Drawn	DAK
Checked	DAK
Project	PROPOSED NEW RESIDENCE
Address	842 WEST 7TH STREET
City	MINNEAPOLIS, MN
State	MINN.
Zip	55405
Client	MIKE AND MARIA SPIROVSKI
Architect	ROBERTS DESIGN & BUILD
Address	1000 ROBERTS DRIVE
City	MINNEAPOLIS, MN
State	MINN.
Zip	55405

**ROBERTS**  
DESIGN & BUILD  
1000 ROBERTS DRIVE  
MINNEAPOLIS, MN 55405  
TEL: 612.338.1000  
FAX: 612.338.1001  
WWW.ROBERTSDDBUILD.COM

**ELEVATIONS**  
MIKE AND MARIA SPIROVSKI  
PROPOSED NEW RESIDENCE  
842 WEST 7TH STREET  
MINNEAPOLIS, MN  
DATE: 04/04/2016  
DRAWN: DAK  
CHECKED: DAK  
PROJECT: PROPOSED NEW RESIDENCE  
ADDRESS: 842 WEST 7TH STREET  
CITY: MINNEAPOLIS, MN  
STATE: MINN.  
ZIP: 55405

Job No. 1722  
Sheet A-1  
Date 04/04/2016  
Drawn DAK  
Checked DAK  
Project PROPOSED NEW RESIDENCE  
Address 842 WEST 7TH STREET  
City MINNEAPOLIS, MN  
State MINN.  
Zip 55405

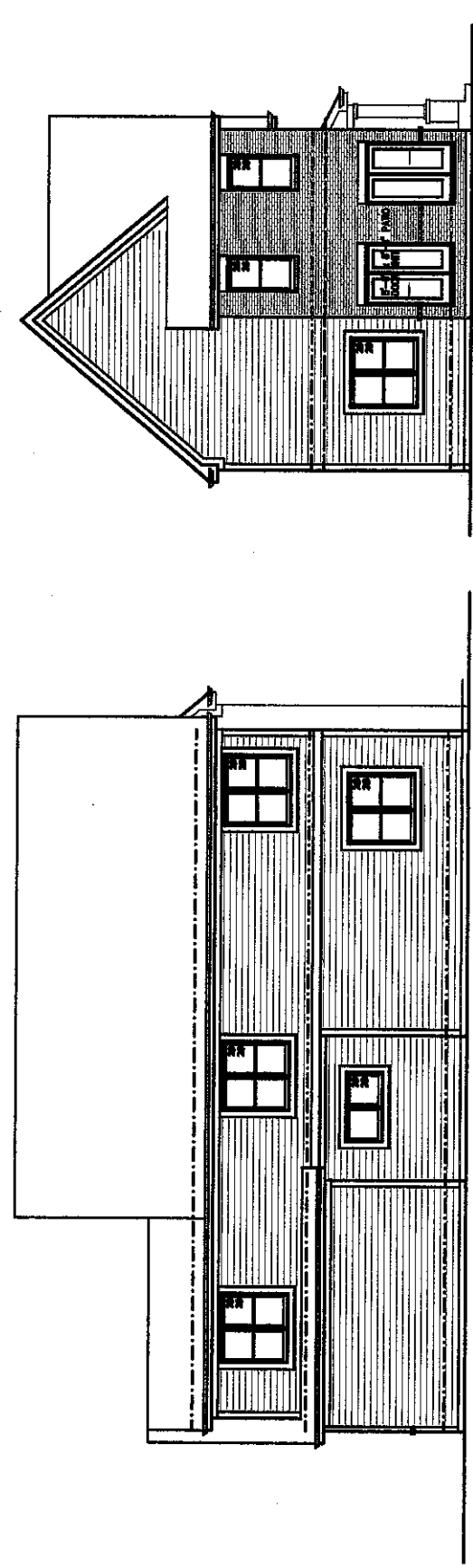


**FRONT (NORTH) ELEVATION**

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

**RIGHT (WEST) ELEVATION**

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

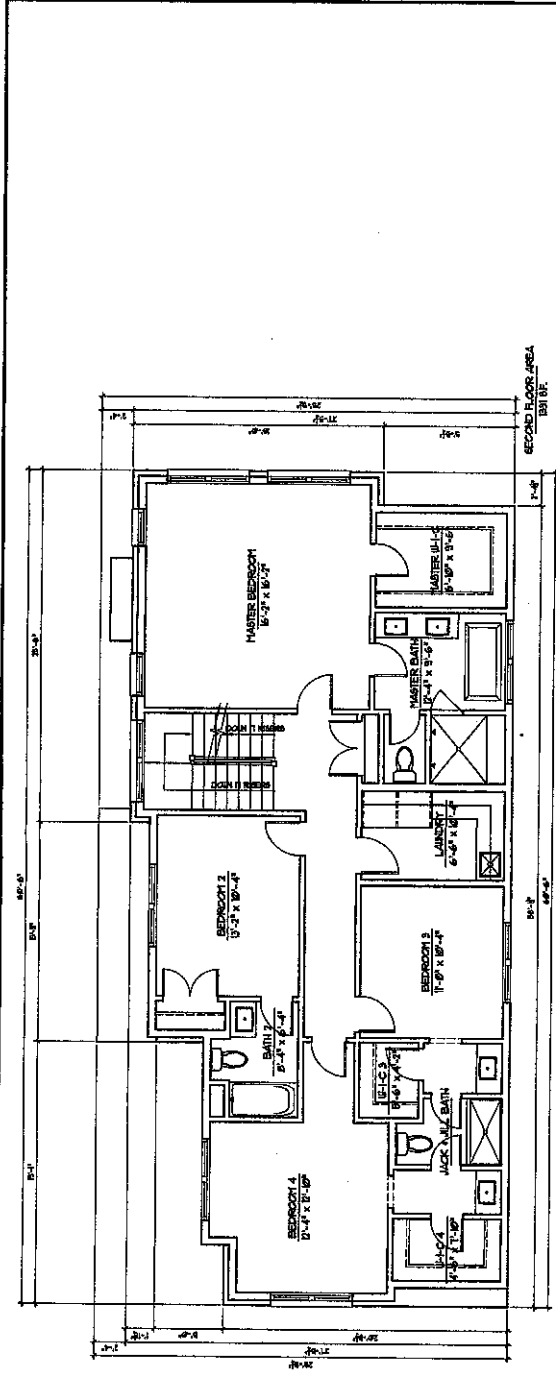


**REAR (SOUTH) ELEVATION**

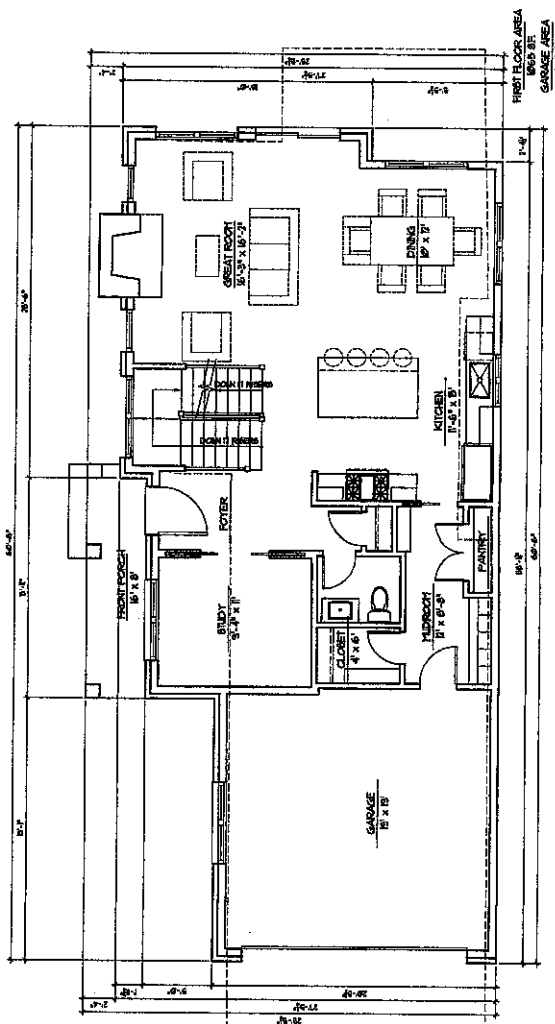
SCALE: 1/4" = 1'-0"

**LEFT (EAST) ELEVATION**

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



## SECOND FLOOR PLAN



**FIRST FLOOR PLAN**