



MEETING AGENDA

ZONING BOARD OF APPEALS WEDNESDAY, October 16, 2019

6:30 P.M.

MEMORIAL HALL – MEMORIAL BUILDING *(Tentative & Subject to Change)*

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
 - a) Meeting of September 18, 2019
4. APPROVAL OF FINAL DECISIONS
 - a) V-03-19, 400 S. Pamela Circle
5. RECEIPT OF APPEARANCES
6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE
7. PRE-HEARING AND AGENDA SETTING
 - a) APP-01-19, 336 East Ogden Avenue
8. PUBLIC HEARING
 - a) V-02-19, 11 West Sixth Street *(continued from September 18, 2019)*
9. NEW BUSINESS
10. OLD BUSINESS
11. ADJOURNMENT

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

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VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
September 18, 2019

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, September 18, 2019 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Members Gary Moberly, Joseph Alesia, Keith Giltner, Kathryn Engel, and Chairman Bob Neiman

Absent: Members Tom Murphy and John Podliska

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

3. APPROVAL OF MINUTES

a) Meeting of August 21, 2019

There being no changes or corrections to the draft minutes, Member Moberly moved to **approve the minutes of the regular meeting of August 21, 2019, as presented.** Member Giltner seconded the motion.

AYES: Members Moberly, Alesia, Giltner and Chairman Neiman

NAYS: None

ABSTAIN: Member Engel

ABSENT: Members Murphy and Podliska

Motion carried.

4. APPROVAL OF FINAL DECISIONS – None

5. RECEIPT OF APPEARANCES

Court Reporter Kathy Bono administered the oath to all persons intending to speak at these proceedings.

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

7. PRE-HEARING AND AGENDA SETTING – None

8. PUBLIC HEARING

a) V-02-19, 11 West Sixth Street

Chairman Neiman opened the public hearing and clarified a procedural issue raised in a letter from Mr. Tom Panoff regarding the newspaper publication and certified mailing for this hearing. He checked with Village counsel, who confirmed

1 that although the notice for the hearing was published in July, it is not necessary
2 to republish the notice when the hearing is continued to a future date. With
3 respect to the notification, the mailing date of the notice must be within the
4 prescribed time frame, not the date the notice is received. Mr. Panoff wanted to
5 separate these issues and argue his point, but Chairman Neiman suggested
6 getting to the substance of the variation request. Mr. Panoff asked for the name
7 of the law firm the Village uses.

8 Ms. Mary Jawor, homeowner and applicant, approached the lectern to address
9 the Board. She explained that in 1994 when she and her husband purchased the
10 home, there was parking in front of the house. However, in 1999 a home in the
11 area was renovated, and as a result of neighbor complaints about construction
12 vehicles parking in the area, the Village eliminated the parking in front of her
13 home. The loss of spots due to Village error is about ten spaces. She pointed
14 out that hers is the only house that faces 6th Street between Washington and
15 Lincoln.

16 Chairman Neiman asked whether she would consider a parking pad, if the answer
17 is no to a circle driveway. She said the pad does not solve the problem because
18 cars will block others in. She added they would not have purchased this home if
19 parking had not been allowed.
20

- 21 1. Unique physical condition – Ms. Jawor explained that her property is a legal
22 non-conforming lot as it was subdivided years ago. She said 6th Street is very
23 busy. Member Moberly said he checked this on Friday at 3:00 p.m. and can
24 confirm it is very busy with lots of foot traffic, too. Ms. Jawor added her guests
25 do park on Lincoln and Washington, but then they are walking on a very busy
26 street with no sidewalks. This is a very narrow street.
- 27 2. Not self-created – When they purchased the home it had on-street parking,
28 and they assumed it would continue to have on-street parking.
- 29 3. Denied substantial rights – She feels her family and guests should have safe,
30 easy access to their cars; it is unsafe walking on 6th Street.
- 31 4. Not merely Special Privilege – She is trying to partner with the Village to
32 increase convenient parking on her property.
- 33 5. Code and Plan purposes – The driveway would not be dis-harmonious with the
34 current homes in the area. In addition, theirs is the only house facing the
35 street, and therefore has no visual impact to the neighboring residences.
- 36 6. Essential character of the area – Having more parking on her property is a
37 benefit to her neighbors as these additional cars will not be parked in front of
38 their homes. This will give her the ability to pull through, rather than back out
39 onto 6th Street. It will be safer to pull out instead of backing out, and there will
40 be fewer pedestrians in the street. They will not reduce vegetation; they have
41 already installed buried drainage to drain the water into the sewer. The
42 proposed driveway is within the code for percent of coverage. This will not
43 unduly tax a public utility.
44

45 Chairman Neiman referenced the code with respect to unique physical condition,
46 it must be a topographical feature and noted the personal situation or
47 inconvenience of the owner does not create a unique physical condition. Mrs.

1 Jawor commented it is dangerously inconvenient.

2 Member Giltner asked, with respect to the safety factor, do we know if there are
3 regular accidents in the area. Director of Community Development Robb
4 McGinnis reported he did not have that information.

5
6 **Mr. Tom Panoff, 518 S. Washington**, addressed the Board stating he and his
7 wife Christy live next door to the subject property. They have a six year-old and a
8 15 month old, and one on the way. Safety is a key concern as they lost a child
9 last year.

10 The Jawors currently have six available parking spots, two in the garage and four
11 in the driveway, to add more would be a mini-parking lot by his home, inches from
12 his property line. His children play in the side yard. Member Moberly pointed out
13 the code only requires one foot from the lot line. Mr. Panoff stated he has a lot of
14 issues with their circle driveway. He has a circle driveway and has spent a great
15 deal of money repairing the landscaping when people drive over it. He believes
16 hers would be a public safety issue because their driveway would empty out by
17 the alley. He pointed out seven other neighboring properties have signed his
18 petition opposing this variation. Member Moberly wondered why anyone else
19 would care about this. Mr. Panoff doesn't believe the Jawors are currently using
20 the spaces they have, but he believes adding spaces would increase vehicular
21 traffic. Further, they will have no front lawn, and the rainwater will go on his
22 property. He noted that 30% of the people who received the notice are opposed
23 to the variation. He refuted her testimony regarding the criteria for approval as
24 follows:

- 25
26 1. Unique physical condition – This is a personal situation for family parties, and
27 an inconvenience only.
28 2. Not Self-created – They are not using the existing spots. He provided pictures
29 taken of their driveway at various times to prove this.
30 3. Denied Substantial rights – The Jawors have lived with this situation for 20
31 years. It is only an issue not since their children started driving.
32 4. Code and plan purposes – They should preserve natural resources and he
33 provided pictures to illustrate the removal of 3-4 pine trees on their property
34 since 2016. There will be only concrete in the front of their house.
35 5. Public health – This will create additional egress by the alley and more traffic
36 creating a danger to pedestrians.
37 6. Essential character – He believes this will be detrimental to neighbor's
38 property values. Workers and snowplows will be within inches of their
39 property.
40 7. No alternative remedy – He believes their visitors should park on Lincoln and
41 Washington. The Jawors could petition for sidewalks, or have the Police
42 install a stop sign.

43
44 Mr. Panoff believes they have not proven all the criteria, and since they haven't it
45 is fatal to the variation. He added that a lot of the same concerns would apply to
46 the parking pad request.

47 Mrs. Jawor referenced the side-yard picture she provided the Board, noting the

Panoff's left 20' feet open in the side yard, but could have had the fence come forward to within 6' feet of the lot line, providing additional protection for his children if they were playing in the area. She pointed out her guests already park on Lincoln and Washington, but she would like them to be able to park in front of her house, a right enjoyed by other residents. She believes it is illogical to think there would be nine cars parked in her driveway all the time just because the spots were available. Member Giltner clarified that they are asking for the variation so that they can pull out of the driveway facing forward.

Before closing the hearing, Chairman Neiman suggested getting a consensus of the Board as to whether they would approve this request; the case can be continued. The Board commented they would like to see other alternatives explored, and for the applicant to focus on the safety issue. If there is another remedy, such as a turn-around, this should be explored. Chairman Neiman agreed, and asked Mrs. Jawor if she would like to continue the hearing and introduce information for the Board's consideration regarding a turn-around. She agreed; Chairman Neiman reminded her that additional documentation should be available to the public, and the neighbor should have the information.

Member Moberly moved to continue the hearing on **V-02-19, 11 West Sixth Street to the October meeting of the zoning Board of Appeals**. Member Giltner seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Members Murphy and Podliska

Motion carried.

b) V-03-19, 400 S. Pamela Circle

Chairman Neiman opened the public hearing. Ms. Karen Eck, homeowner and applicant, addressed the Board and explained the purpose for the variation is to install a sport court to replace an existing playset. She explained that because theirs is a through lot, it has two front yards, one of which functions as a back yard. The front yard faces Pamela Circle; the back yard faces Oak Street. Oak School and the Safety Village are behind her property. A through lot requires a 35' foot setback for the sport court. A regular property only requires 10' feet. Their yard can accommodate the 10' foot requirement, but not the 35' foot requirement. She referenced pictures to illustrate her yard. In 2003, she got a variation to approve a 6" foot fence on her property. She added the yard is highly landscaped along the fence. She submitted a letter from their next door neighbor who is in support of their request.

1. Unique physical condition – Mrs. Eck stated theirs is one of only three houses where the back yard faces the street.
2. Not self-created – They didn't create the through lot.

3. Denied substantial rights- If not granted, they would be denied their substantial rights, as other people have sport courts. They are only asking for the same 10' foot regulation of a regular lot. Additionally, their children would be safer in their fenced yard than on the street; and their backyard is screened by a fence and landscaping.
4. Not merely special privilege – They only want to utilize their property as others do.
5. Code and plan purposes – Not a problem because the code protects the front yard. It is already confirmed this is a unique situation by the previous ZBA approval for the fence.
6. Essential character of the area – They are installing a smaller, attractive court.
7. No other remedy – The only way to fit the court in the yard is with the requested variation. She added the court will not be illuminated at night, and this is one of the smallest courts available. She doesn't want to take up any more green space.

Member Giltner moved to close the public hearing known as **V-03-19, 400 S. Pamela Circle**. Member Engel seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Members Murphy and Podliska

Motion carried.

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

Member Moberly began deliberation stating he has no issue with the request, and believes the criteria for approval has been met. Additionally, there are no issues with the neighbors. Members Alesia and Giltner agree, and added the 2003 ZBA case ruling indicates this is a back yard; the applicant has the right to use the back yard as they see fit. Member Engel agreed. Chairman Neiman agrees the unique two front yard aspect sways him to treat this as a back yard.

Member Alesia moved to **approve the variance known as V-03-19, 400 S. Pamela Circle**. Member Giltner seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Members Murphy and Podliska

Motion carried.

9. NEW BUSINESS – None

10. OLD BUSINESS – None

1
2 **11. ADJOURNMENT**

3 With no further business before the Zoning Board of Appeals, Member Moberly made
4 a motion to **adjourn the meeting of the Zoning Board of Appeals of September**
5 **18, 2019.** Member Giltner seconded the motion.
6

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

8 **NAYS:** None

9 **ABSTAIN:** None

10 **ABSENT:** Members Murphy and Podliska
11

12 Motion carried.
13

14 Chairman Neiman declared the meeting adjourned at 8:02 p.m.
15
16
17

18 _____
19 Christine M. Bruton
20
21

Approved: _____

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

- Zoning Calendar:** V-03-19
- Petitioner:** Richard and Karen Eck
- Meeting held:** Public Hearing was held on Wednesday, September 18, 2019 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 August 29, 2019.
- Premises Affected:** Subject Property is commonly known as 400 Pamela Circle, Hinsdale, Illinois and is legally described as:
- LOT 12 IN A. E. FOSSIER & CO.'S PAMELA CIRCLE, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 8, 1960 AS DOCUMENT 978787, IN DUPAGE COUNTY, ILLINOIS
- Subject:** In this application for variation, the applicant requests relief from the setback requirements set forth in 3-110(l)(8) for the construction of a sport court. As this is a through-lot, it has two front yards; a principal front and a secondary front. In this case, the secondary front yard is on Oak Street. The Code requires that the secondary front (the back yard) have a setback of at least 35'. The specific request is for a 25' reduction of the secondary front yard for the construction of a sport court.
- Facts:** This property is located in the R-1 Single family Residential District in the Village of Hinsdale and is located at the end of Pamela Circle west of County Line Road. The property has a frontage of approximately 65', an average depth of 148.45', and a total square footage of approximately 17,424. The maximum FAR is approximately 5,381 square feet, the maximum allowable building coverage is 25% or approximately 1,345 square feet, and the maximum lot coverage is 50% or 8,712.

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 fact that a request to treat this area as a back yard with the addition of a 6' fence was previously approved by the ZBA in 2003, as well as the fact that the area would be well screened from neighboring properties.

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

AYES: Members Moberly, Alesia, Giltner, Engel, Chairman Neiman

NAYS: None

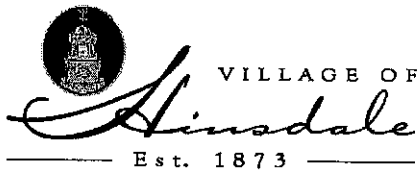
ABSTAIN: None

ABSENT: Members Murphy, Podliska

THE HINSDALE ZONING BOARD OF APPEALS

Chairman Robert Neiman

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



7a
MEMORANDUM

DATE: October 1, 2019
TO: Chairman Neiman & Members of the Zoning Board of Appeals
CC: Christine Bruton, Village Clerk
FROM: Robert McGinnis, MCP
Director of Community Development/Building commissioner
RE: **Formal Appeal – APP-01-19; 336 E. Ogden Avenue**

In this application for appeal, the applicants are appealing the issuance of a Certificate of Zoning Compliance issued for the construction currently underway at 336 E. Ogden Avenue (Bill Jacobs Land Rover).

The specific action being appealed is the Village Manager's issuance of the Certificate of Zoning Compliance for the subject property on or about 8/8/19; the Village Manager's approval and inclusion of a Letter of Agreement dated 8/8/19; the Village Manager's failure to enforce the ordinance approving Site Plan and Exterior Appearance Plan for an auto dealership-Bill Jacobs Land Rover- 336 E. Ogden Avenue approved 2/8/2018; and the Village Manager's failure to act the enforce Title 7, Chapter 2 of the Village Code.

This property is located in the B-3 Business District in the Village of Hinsdale and is located on the south west corner of Ogden Avenue and Oak Street.

cc: Kathleen Gargano, Village Manager
Zoning file APP-01-19

7a



RECEIVED
9/23/19

19 E. Chicago Avenue, Hinsdale, IL 60521

APPLICATION FOR ZONING APPEAL

COMPLETE APPLICATION CONSISTS OF (10) COPIES

(All materials to be collated)

FILING FEES: \$1,100.00

Name of Applicant(s): Michael Stick on behalf of himself, Pontus Mattsson, Ulrika Mattsson, Danv Bassil, Christina Girois, Brian Gambla, Amber Gambla, Rob Hopkins, Debbie Hopkins and Mary Beth King (all residents of north Franklin Street)

Address of Subject Property: 336 E. Ogden Avenue, Hinsdale, IL 60521
(if applicable)

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

Applicants are all residential property owners on north Franklin Street, adjacent to the subject property.

FOR OFFICE USE ONLY

Date Received: 9/23/19 Zoning Calendar No. APP-01-19

PAYMENT INFORMATION: Check # _____ Check Amount \$ _____

SECTION I

1. **Owner.** Name, mailing address, telephone number and email address of owner:

Legal owner of subject property is unknown to appeal applicants. Underlying applicant for the project is variously Peter Nagel, Project Designer on behalf of the Bill Jacobs Group, The Redmond Company, Jacobs Auto Group, Bill Jacobs Land Rover and others. The Applicant for Certificate of Zoning Compliance is The Redmond Group. Pursuant to said application, the Owner's name is stated to be Bill Jacobs Group. The Certificate of Zoning Compliance was issued to Jesse Treuden.

2. **Trustee Disclosure.** In the case of a land trust provide the name, address, telephone number and email address of all trustees and beneficiaries of the trust:

Unknown to appeal applicants

3. **Applicant.** Name, address, telephone number and email address of applicant, if different from owner:

Michael Stick (MStick@PorterWright.com, 630-373-1141) on behalf of himself, Pontus Mattsson, Ulrika Mattsson, Dany Bassil, Christina Girgis, Brian Gambla, Amber Gambla, Rob Hopkins, Debbie Hopkins and Mary Beth King (all residents of north Franklin Street)

4. **Subject Property.** (If applicable) Address and legal description of the subject property, use separate sheet for legal description if necessary.

336 E. Ogden Avenue, Hinsdale, IL 60521

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

a. Attorney: _____

- b. Engineer: _____
c. Architect: _____
d. Contractor: _____

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. **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.

See application for Site Plan and Exterior Appearance Review submitted by Peter Nagel on behalf of Bill Jacobs Group, on file with Village of Hinsdale

Provide information responsive to Items 8-11 only if applicable:

8. **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.
9. **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.
10. **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.
11. **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 an appeal to the Hinsdale Zoning Board of Appeals, provide the data and information required in Section I, and in addition, the following:

1. **Action Appealed.** The specific order, decision, determination, or failure to act from which an appeal is sought: (Attach copy of any documents evidencing the action appealed.)

Village Manager's issuance of Certificate of Zoning Compliance for subject property on or about 8/8/2019; Village Manager's approval and inclusion of purported Letter of Agreement dated 8/8/2019; Village Manager's failure to act to enforce Ordinance Approving Site Plan and Exterior Appearance Plan for an Auto Dealership – Bill Jacobs Land Rover – 336 E. Odgen Avenue approved 2/8/2018 and Village Manger's failure to act to enforce Title 7, Chapter 2 of the Village Code.

2. **Facts.** The facts of the specific situation giving rise to the original order, decision, determination, or failure to act and to the appeal therefrom:

See attached Addendum

3. **Relief Sought.** The precise relief sought:

See attached Addendum

4. **Statement of Errors.** A statement of your position regarding each alleged error in the order, decision, determination, or failure to act being appealed and why the relief sought is justified and proper:

See attached Addendum

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 \$500.00 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, which are deducted from the original escrow payment. A separate invoice will be sent if these expenses exceed the original escrow amount.
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 or her 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 be suspended or terminated.

3. **Establishment of Lien.** The owner of the Subject Property, and if different, the Applicant, are jointly and severally liable for the payment of the application fee. By signing the applicant, the owner has agreed to pay said fee, and to consent to the filing and foreclosure of a lien against the Subject Property for the fee plus costs of collection, if the account is not settled within 30 days after the mailing of a demand for payment.

SECTION V

By signing below, the applicants state 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: _____

Signature of Owner: _____

Name of Applicant: Michael Stick on behalf of himself, Pontus Mattsson, Ulrika Mattsson, Dany Bassil, Christina Girgis, Brian Gambla, Amber Gambla, Rob Hopkins, Debbie Hopkins and Mary Beth King (all residents of north Franklin Street)

Signature of Applicant: Michael Stick

Date: September 22, 2019

EXHIBIT A

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

PARCEL 1:

LOTS 14, 15, 16 AND LOT 71 (EXCEPT THE SOUTH 60 FEET AND EXCEPT THE WEST 30 FEET THEREOF) IN HINSDALE HIGHLANDS, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 8, 1922 AS DOCUMENT 155000, IN DUPAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 09-01-211-002

PARCEL 2:

A PART OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING ON THE EAST LINE OF SAID NORTHEAST 1/4 279 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 79 DEGREES 48 MINUTES WEST 938.41 FEET TO THE NORTHWEST CORNER OF LOT 16 IN HINSDALE HIGHLANDS, FOR A POINT OF BEGINNING; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID QUARTER 300 FEET; THENCE SOUTH 79 DEGREES 48 MINUTES WEST 200 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID NORTHEAST 1/4 300 FEET TO AN IRON STAKE ON THE SOUTH LINE OF OGDEN AVENUE; THENCE NORTH 79 DEGREES 48 MINUTES EAST 200 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

PERMANENT INDEX NUMBER: 09-01-211-001

PARCEL 3:

LOT 13 AND THE SOUTH 60 FEET OF LOT 71 (EXCEPT THE WEST 30 FEET THEREOF TAKEN FOR A PUBLIC STREET) IN HINSDALE HIGHLANDS, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 SECTION 1, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 8, 1922 AS DOCUMENT 155000, IN DUPAGE COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 09-01-211-003 = LOT 13

PERMANENT INDEX NUMBER: 09-01-211-004 = SOUTH 60 FEET OF LOT 71

Addendum to Application for Zoning Appeal

1. The Certificate of Zoning Compliance is Deficient and was Issued in Error Because it Fails to Address the Location of the Barrier Fence

The 2/8/2018 Ordinance Approving a Site Plan and Exterior Appearance Plan for an Auto Dealership – Bill Jacobs Land Rover – 336 E. Ogden Avenue (hereafter “the Ordinance”) requires Bill Jacobs Group (hereafter “Jacobs”) to install an eight foot tall, five inch thick, five hundred foot long AFTEC barrier along the south property line “at the highest available point along the property perimeter”. On May 6, 2019, Jacobs and the Village Arborist met with Appeal Applicants at the site and viewed the stakes placed by Jacobs indicating its proposed location of the barrier fence. Appeal Applicants immediately objected to Jacobs’s proposed location of the barrier, which Jacobs intended to locate several feet down from the top of the berm located on the south side property perimeter. Appeal Applicants immediately advised Jacobs and the Village of their objection, indicating that locating the barrier fence down the slope of the berm is detrimental to the adjacent neighbors because it increases the noise and light emanating from the site, reduces the size of the buffer they were promised, reduces the greenspace between their homes and the barrier fence, and necessitates the removal of several mature trees that the neighbors believed could be preserved if the barrier fence were located where all parties agreed it would be placed – at the top of the berm. Appeal Applicants further notified Jacobs and the Village that the reduction in greenspace due to Jacobs’s proposed location of the fence limits the species and number of additional plantings in the cul de sac that are to be selected by the neighbors (see Landscaping below). Appeal Applicants advised Jacobs and the Village that if Jacobs attempted to gain approval for this major adjustment to the site plan, it would be strongly opposed. Jacobs and the Village agreed to have the Village Attorney review the file and provide an interpretation of the Ordinance as relates to the location of the barrier fence. On June 4, 2019, the Village Manager advised that “the Village Attorney is in agreement with the residents regarding the location of the fence.” On June 7, 2019, Kevin Jacobs informed Appeal Applicants by email that he was “happy to agree and comply with [the Village attorney’s] findings that the barrier should be placed for its entirety along the top of the berm.” There followed months during which Jacobs failed to communicate with Appeal Applicants despite their repeated requests that he do so. During the week of September 16, 2019, Appeal Applicants learned that Jacobs persists in its plan to install the barrier at a location below the top of the berm and closer to the cul de sac on the north end of Franklin Street.

The August 8, 2019 Certificate of Zoning Compliance (hereafter “COZC”) (which Appeal Applicants became aware of on September 19, 2019) states that it is issued for site work, which would include construction of the barrier. See **Exhibit A**, Certificate of Zoning Compliance and application for Certificate of Zoning Compliance. The COZC states that work under the certificate is limited to that authorized under permit No. P18-7515 and an August 8, 2019 Letter of Agreement. See **Exhibit B**, Letter of Agreement. Permit No. P18-7515 is not appended to the application for COZC, the Letter of Agreement or the COZC. Appeal Applicants have been unable to locate Permit No. P18-7515 on the Village website and have issued a Freedom of Information Act request for additional documents not available to Appeal Applicants as of the date of filing of this appeal.

The Letter of Agreement addresses the installation of the barrier, but the only restriction on barrier installation is that “[s]tamped and sealed structural drawing from precast concrete wall manufacturer required prior to installation.” The COZC is deficient and issued in error because it does not require Jacobs to install the barrier along the top of the berm or provide that the Village shall supervise, inspect and approve Jacobs’s proposed location of the barrier.

2. The Certificate of Zoning Compliance is Deficient and was Issued in Error Because it Fails to Properly Address Landscaping

The Ordinance requires that Jacobs provide landscaping along the south property perimeter “consistent with” its plan to provide eighty-three, ten-foot-tall, Hetz Wintergreen Arborvitae. The Ordinance incorporates Jacobs’s Landscape Plan dated 2/2/2018 as approved by the Plan Commission. The Ordinance uses the “consistent with” language because the adjacent neighbors stated a preference for a mix of Arborvitae and other trees. Indeed, the Ordinance requires that Jacobs “shall work with the Village Arborist and the adjacent neighbors to achieve a budget-neutral mix of arborvitae and evergreen trees along the south wall.” Jacobs and the Appeal Applicants agreed that Jacobs would provide Appeal Applicants with a budget for eighty-three, ten-foot-tall arborvitae, and the Appeal Applicants would then propose a budget-neutral mix of arborvitae and other trees to be planted along the south property perimeter. Jacobs has never provided Appeal Applicants with a budget for eighty-three, ten-foot-tall arborvitae. When Appeal Applicants requested such a budget, Kevin Jacobs responded in a June 21, 2019 email that he intended to “work through all of the details with you all (tree removal, alternative budget and plant selection, installation timing, maintenance, Etc.)” Between June 21, 2019 and the week of September 16, 2019, Jacobs failed to communicate with the Appeal Applicants about any of the above issues despite their multiple requests for a meeting to resolve these outstanding issues as required under the Ordinance. Because Jacobs has failed to provide a budget, Appeal Applicants are unable to propose a budget-neutral mix of arborvitae and other trees for the south perimeter of the subject property. Because Jacobs has failed to provide a budget, Appeal Applicants have been deprived of the opportunity to work with the Village Arborist and Jacobs to achieve agreement regarding a budget-neutral mix of Arborvitae and other trees along the south property perimeter.

The COZC states that it is issued for site work, which would include landscaping. The August 8, 2019 Letter of Agreement which sets forth authorized work under the COZC specifically mentions landscaping and states that “this permit is being granted with conditional approval as to the final location of the eighty-three ‘Hetz Wintergreen Arborvitae.’” The COZC is deficient and issued in error because it does not specify the required ten foot height of the Arborvitae, does not require Jacobs to provide Appeal Applicants with a budget for eighty-three, ten foot tall arborvitae, and does not require that Jacobs work with the Village Arborist and the adjacent neighbors to achieve a budget-neutral mix of arborvitae and other trees along the south wall.

3. The Certificate of Zoning Compliance is Deficient and was Issued in Error Because it Fails to Properly Address Tree Removal

In May 2019, Jacobs, the Village Arborist and Appeal Applicants met on the site to discuss tree removal, landscaping and placement of the barrier wall. Appeal Applicants objected to Jacobs's and the Village Arborist's plan to remove a large number of mature trees in the cul de sac on the north end of Franklin Street that abuts Jacobs's site. Appeal Applicants immediately sought to and did obtain an opinion from an expert from the Morton Arboretum regarding which trees were necessary to be removed and which trees could be preserved. Appeal Applicants notified Jacobs and the Village Arborist on June 20, 2019 that they had received said opinion and requested a meeting to discuss tree removal and other outstanding issues. Kevin Jacobs acknowledged receipt of Appeal Applicants' email the following day and indicated he would be back in touch to work through all of the details. Appeal Applicants heard nothing further from Jacobs or the Village Arborist until the week of September 16, 2019, when Appeal Applicants were informed that, in conjunction with the barrier installation, Jacobs intends to remove all but three mature trees from the cul de sac area. It is not clear whether Jacobs intends to remove trees on public property, private property or both.

The August 8, 2019 Letter of Agreement which sets forth authorized work under the COZC provides as follows: "No permission is given to remove any public tree. Notify the Village 24 hours prior to the start of work within the drip line of the public trees to the south of the property for fence installation. All tree work conducted in conjunction with the installation of the fence should be determined with Village staff prior to work being started."

Title 7, Chapter 2 of the Hinsdale Village Code requires that Jacobs provide fourteen days prior written notice if it proposes to remove a Landmark Tree (defined as a tree 8 or more inches in diameter measured at 4-1/2 feet above ground) located on Jacobs's own property.

The COZC is vague, deficient and issued in error because it appears to suggest that Jacobs is authorized to remove public trees with 24 notice to the Village and is authorized to remove Landmark Trees without restriction, in violation of Title 7, Chapter 2 of the Hinsdale Village Code and because it does not adequately provide that the Village shall supervise, inspect and approve Jacob's proposed tree removal sufficiently in advance of the proposed removal.

4. The Certificate of Zoning Compliance was issued in violation of the Hinsdale Zoning Code and is therefore void ab initio.

Section 11-401 of the Hinsdale Zoning Code provides in pertinent part:

- A. Authority: The village manager shall have authority to issue certificates of zoning compliance, but only in accordance with the provisions of this section.

. . .

D. Relation To Other Applications: No application filed pursuant to part III of this article with respect to a specific use or development proposal shall be processed unless an application for a certificate of zoning compliance shall first have been received, processed, and approved, or denied solely on one or more grounds that form the basis for the application filed pursuant to part III of this article. It is the intent of this section that no application filed pursuant to part III of this article with respect to a specific use or development proposal shall be processed until the village manager is satisfied that the proposed use or development complies with the provisions of this code in all respects except those within the scope of such application.

E. Procedure:

1. **Application:** Applications for certificate of zoning compliance shall be filed in accordance with the requirements of section 11-301 of this article.
2. **Action On Application:** Within thirty (30) days following receipt of a completed application for a certificate of zoning compliance, the village manager shall cause the application and related submissions to be reviewed for compliance with this code and shall inform the applicant whether the application has been granted or denied.

. . . .

3. **Contents Of Certificate:** Each certificate of zoning compliance issued pursuant to this section shall state the specific use of the subject property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this code.

. . . .

H. Void Certificates: Any certificate of zoning compliance issued in violation of the provisions of this code, whether intentionally, negligently, or innocently, shall be void ab initio and shall give rise to no rights whatsoever. (1991 Code; Ord. O2006-82, § 2, 11-28-2006; Ord. O2015-09, 3-17-2015)”

The Certificate of Zoning Compliance provides that [w]ork under this certificate shall be limited to that authorized under the above listed permit and Letter of Agreement only.” Although it fails to mention that the Ordinance requires Jacobs to work with Appeal Applicants to achieve a budget-neutral mix of arborvitae and other trees (see Landscaping above), the August 8, 2019 Letter of Agreement does recognize that the Ordinance requires a landscaping plan consistent with eighty-three arborvitae. The Letter of Agreement also acknowledges that the the February 5, 2019 landscaping plan submitted in conjunction with Jacob’s request for a Certificate of Zoning Compliance indicated only fifty-three arborvitae. Jacob’s landscaping plan was clearly not in compliance with the Ordinance and the request for a COZC should have been denied on this basis alone.

Instead, the Letter of Agreement states that “this permit is being granted with conditional approval as to the final location of the eighty-three ‘Hertz Wintergreen Arborvitae. A revised landscape plan (LSP1.1) is to be provided for review and approval.” In essence, the Village Manager determined that Jacob’s landscaping plan was not in compliance with zoning requirements, but granted the COZC anyway on the condition that Jacobs at some undisclosed date in the future submit a revised landscaping plan for further review and potential approval by the Village. The obvious problem is that the Hinsdale Zoning Code requires that the Village Manager not issue a COZC until an approved landscape plan is actually submitted.

The Village Manager’s authority in determining whether to issue a Certificate of Zoning Compliance is clearly set forth in Section 11-401(E)(2) and is limited to only two options: grant or deny the application. The Village Manager does not have authority to issue a Certificate of Zoning Compliance on the condition that a deficient landscape plan be remedied and submitted for further review and potential approval at some undisclosed date in the future. The Village Manager had authority to issue the COZC only if Jacob’s landscape plan complied with the Ordinance and the remainder of the Zoning Code. In the Letter of Agreement, the Village Manager and Jacobs both acknowledged that the landscape plan submitted by Jacobs did not comply the Ordinance. And, there is no guarantee that Jacobs will ever submit a landscape plan that complies with the Ordinance. Until a landscape plan that complies with the Ordinance is submitted by Jacobs, the Village Manager has no authority to issue a COZC. The COZC was issued in violation of Section 11-401(E)(2) and is therefore void *ab initio*.

5. Relief Requested

The COZC is vague, deficient and issued in error because it does not sufficiently restrict Jacob’s construction activities as required under the Ordinance, the Village Code and the Zoning Code and does not adequately provide for inspection and supervision by the Village of Jacobs’s construction activities. In addition, the COZC is void *ab initio* because it was issued even though the landscape plan submitted for review was not in compliance with the Ordinance. These deficiencies are material because, although Appeal Applicants have endeavored to work cooperatively with Jacobs for two years, Jacobs has since June 2019 apparently decided to stop communicating with Appeal Applicants and ceased any effort to work cooperatively with Appeal Applicants to resolve outstanding issues as required under the Ordinance. As a result, Appeal Applicants are now almost wholly dependent upon stringent oversight by the Village to protect against unilateral and detrimental actions by Jacobs in violation of the Ordinance. Appeal Applicants respectfully request that the Zoning Board of Appeals grant the following relief:

- A. Issue a temporary restraining order staying all work in furtherance of the August 8, 2019 COZC and the purported Letter of Agreement of the same date.
- B. Find that the Village Manager’s issuance of the August 8, 2019 COZC was erroneous and void *ab initio*.

C. In the alternative, modify the COZC to require Jacobs to perform under the Ordinance, the applicable sections of the Zoning Code and the applicable titles of the Village Code as follows:

1. Install the barrier fence along the top of the berm along the entirety of the south property perimeter;
2. Require that at least 72 hours prior to performance of any work to install the barrier fence, Jacobs shall call a meeting of the Village and the Appeal Applicants to inspect and approve the proposed location of the barrier fence; require that said meeting also include Jacobs's fence contractor and general contractor; require that, upon agreement of the location of the fence, the location to be noted on an updated site plan to be provided to the Village for approval prior to installation of the barrier fence, and require pre-pour inspection for all barrier fence footings and fence section installation.
3. Require Jacobs to immediately provide the Village and Appeal Applicants with a budget for eighty-three, ten-feet-tall Hetz Wintergreen arborvitae and, within 7 days, call a meeting of the Village Arborist and Appeal Applicants to agree upon a budget-neutral mix of arborvitae and trees to be placed along the south barrier wall, and to submit an updated Landscaping Plan properly describing the type and location of each planting;
4. Require Jacobs to provide 14-day notice to the Village and Appeal Applicants regarding which specific trees it proposes to remove prior to any such removal; require Jacobs to obtain Village approval for any proposed removal of public trees and Landmark trees on private property; require Jacobs to replace any removed trees with new Landmark Trees; and during the period of construction of the barrier fence, require Jacobs to place such guards around all nearby trees standing within the lines of any street, parkway or other public place as shall effectively prevent injury to such trees in accordance with the Village's design for mandatory tree protection during construction policy, as amended.

Appeal Applicants reserve the right to amend and supplement this Application as needed prior to the hearing of this matter.

VILLAGE OF HINSDALE

Certificate of Zoning Compliance

Subject to the statements below, the Village has determined that, based on the information included in Application #P18-7515 for a Certificate of Zoning Compliance, the proposal described in this certificate appears to comply with the standards made applicable to it by the Hinsdale Zoning Code.

This certificate is issued to:

Jesse Treuden

Address or description of subject property:

336 E. Ogden

Use or proposal for subject property
For which certificate is issued:

Building Shell & Sitework

Plans reviewed, if any: *See attached plans, if any.*

Conditions of approval of this certificate:

Work under this certificate shall be limited to that authorized under the above listed permit and Letter of Agreement only.

Note: other conditions may be attached to approval of any pending zoning application.

NOTE ALL OF THE FOLLOWING CAREFULLY:

This approval granted in this certificate has been granted based on the information provided to the Village and the Village's understanding of the facts and circumstances related to the proposal at this time. If (a) any information provided to the Village changes, (b) any new information is becomes available or is discovered, or (c) the Village's understanding of the facts and circumstances otherwise changes, then this certificate may be rescinded.

This certificate does not signify Building Code Review or approval and is not authorization to undertake any work without such review and approval where either is required. See the Hinsdale Building Code for details.

Before any structure to which this certificate is applicable may be occupied or used for any purpose, a Certificate of Occupancy must be obtained. See Section 11-402 of the Hinsdale Zoning Code and the Hinsdale Building Code for details.

Subject to an extension of time granted pursuant to the Hinsdale Zoning Code, this certificate shall become null and void six months after the date on which it was issued unless construction, reconstruction, remodeling, alteration, or moving of a structure is commenced or a use is commenced.

If this certificate is issued in violation of the provisions of the Hinsdale Zoning Code, whether intentionally, negligently, or innocently, then it shall be void *ab initio* and shall give rise to no rights whatsoever.

By:


Village Manager

Dated:

8/8, 2019

3611015_v1

VILLAGE OF HINSDALE
COMMUNITY DEVELOPMENT DEPARTMENT
19 East Chicago Avenue
Hinsdale, Illinois 60521-3489
630.789.7030

Application for Certificate of Zoning Compliance

You must complete all portions of this application. If you think certain information is not applicable, then write "N/A." If you need additional space, then attach separate sheets to this form.

Applicant's name: The Redmond Co.
Owner's name (if different): Bill Jacoby Group
Property address: 336 Ogden Ave
Property legal description: [attach to this form]
Present zoning classification: ~~IB, Institutional Buildings~~ B3 General Business
Square footage of property: 157,687 (3.62 acres)
Lot area per dwelling: N/A
Lot dimensions: 432 x 435
Current use of property: former GM training facility (vacant)
Proposed use: ☐ Single-family detached dwelling
☒ Other: auto dealership
Approval sought: ☐ Building Permit ☒ Variation
☐ Special Use Permit ☐ Planned Development
☒ Site Plan ☒ Exterior Appearance
☐ Design Review
☐ Other: _____

Brief description of request and proposal:

Convert building on site to Land Rover branded facility. Project is mostly interior remodel with new exterior materials. Seek permission to maintain existing variation of building setback that already exists.
Plans & Specifications: [submit with this form]

Provided: Required by Code:

Yards:

front:	<u>5' (existing)</u>	<u>15'</u>
interior side(s)	<u>10' avg (existing)</u>	<u>10'</u>

Provided:

Required by Code:

corner side
rear

5' (existing)
6' avg. (existing)

25'
20'

Setbacks (businesses and offices):

front:
interior side(s)
corner side
rear

NA
63' min. (existing)
150' min. (existing)
40' min. (existing)

NA
10'
25'
20'

others:
Ogden Ave. Center:
York Rd. Center:
Forest Preserve:

60' (existing)
NA
NA

100'
NA
NA

Building heights:

principal building(s):
accessory building(s):

20'
NA

30'
NA

Maximum Elevations:

principal building(s):
accessory building(s):

20'
NA

30'
NA

Dwelling unit size(s):

NA

NA

Total building coverage:

23.4%

NA

Total lot coverage:

88.9%

90%

Floor area ratio:

0.23

0.5

Accessory building(s):

NA

Spacing between buildings: [depict on attached plans]

principal building(s):
accessory building(s):

NA
NA

NA
NA

Number of off-street parking spaces required: 263

Number of loading spaces required: 111

Statement of applicant:

I swear/affirm that the information provided in this form is true and complete. I understand that any omission of applicable or relevant information from this form could be a basis for denial or revocation of the Certificate of Zoning Compliance.

By:


Applicant's signature

Peter Nagel
Applicant's printed name

Dated: 8/10/17, 20

VILLAGE OF HINSDALE

Certificate of Zoning Compliance

Subject to the statements below, the Village has determined that, based on the information included in Application #P18-6780 for a Certificate of Zoning Compliance, the proposal described in this certificate appears to comply with the standards made applicable to it by the Hinsdale Zoning Code.

This certificate is issued to:

Land Rover Hinsdale LLC

Address or description of subject property:

336 E. Ogden Ave.

Use or proposal for subject property

For which certificate is issued:

Commercial Occupancy

Plans reviewed, if any: *See attached plans, if any.*

Conditions of approval of this certificate:

Work under this certificate shall be limited to that authorized under the above listed permit only.

Note: other conditions may be attached to approval of any pending zoning application.

NOTE ALL OF THE FOLLOWING CAREFULLY:

This approval granted in this certificate has been granted based on the information provided to the Village and the Village's understanding of the facts and circumstances related to the proposal at this time. If (a) any information provided to the Village changes, (b) any new information is becomes available or is discovered, or (c) the Village's understanding of the facts and circumstances otherwise changes, then this certificate may be rescinded.

This certificate does not signify Building Code Review or approval and is not authorization to undertake any work without such review and approval where either is required. See the Hinsdale Building Code for details.

Before any structure to which this certificate is applicable may be occupied or used for any purpose, a Certificate of Occupancy must be obtained. See Section 11-402 of the Hinsdale Zoning Code and the Hinsdale Building Code for details.

Subject to an extension of time granted pursuant to the Hinsdale Zoning Code, this certificate shall become null and void six months after the date on which it was issued unless construction, reconstruction, remodeling, alteration, or moving of a structure is commenced or a use is commenced.

If this certificate is issued in violation of the provisions of the Hinsdale Zoning Code, whether intentionally, negligently, or innocently, then it shall be void *ab initio* and shall give rise to no rights whatsoever.

By: _____
Village Manager

Dated: _____, 20__

3611015_v1

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



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

LETTER OF AGREEMENT

336 E. Ogden Avenue

**Site Only Permit: Site Revisions including Parking Lot Pavement Revisions,
Parking Lot Restriping, Installation of Light Poles, Landscaping and Utilities**

August 7, 2019

By signing and dating below, I acknowledge that I understand that the following comments are conditions and/or code requirements for the building permit being issued for the above referenced work:

1. The February 2018 In-Site Landscape Design submittal indicated eighty-three arborvitae. Eighty-three 'Hertz Wintergreen' Arborvitae are to be provided. As the submitted LSP1.1 02/05/19 plan indicates only 53 'Hertz Wintergreen' arborvitae, this permit is being granted with conditional approval as to the final location of the eighty-three 'Hertz Wintergreen' Arborvitae. A revised landscape plan (LSP1.1) is to be provided for review and approval. No installation of landscaping can begin without the landscape plan approval. Project may not be finalized without landscaping approval.
2. No permission is given to remove any public tree. Notify the Village 24 hours prior to the start of work within the drip line of the public trees to the south of the property for fence installation. All tree work conducted in conjunction with the installation of the fence should be determined with Village staff prior to work being started.
3. Inspection shall be required as follows: light pole base pre-pour.
4. Engineering and Public Works Inspections shall be required as follows: Proof roll of pavement sections, any connections to the storm or sanitary sewers or to the water mains, street patches for sewer and main connections, driveways, sidewalks & curbs in the parkway and Final Grade Survey. These will be carried out in accordance with the text provided on the attached Engineering Inspections check list.
5. Suppression and Detection under separate permit.
6. Stamped and sealed structural drawings from precast concrete wall manufacturer required prior to installation.
7. The lighting of the parking lot will be reduced to security levels one hour after closing but no later than 9 p.m. Security levels are defined as 15,000 lumens per fixture. The adjacent neighbors, Village and Applicant agree to meet, if deemed necessary by any party, thirty (30) days after the lights are first in use in order to evaluate and assess the impact of the lights and to determine whether modifications are necessary.
8. Per ordinance 2014-15; "Projects receiving a permit will be required to submit an updated completion schedule and/or progress update to the Director of Community Development at three (3) month intervals until project completion. Lack of diligent and continuous progress toward completion as determined by the village through either inspections or written updates will result in permit expiration."
9. Construction rules shall be strictly adhered to. No work or deliveries before 8:00 a.m. (Monday – Saturdays) No work after 8:00p.m. (Monday – Friday) or after 4:00p.m. on Saturdays. No work allowed on Sundays.

NAME Jack Bowton 

COMPANY The Redmond Company

DATE 8/8/2019

*Exhibit B to
Addendum to
Application for
Zoning Appeal*



8a

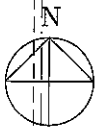
MEMORANDUM

DATE: October 11, 2019
TO: Chairman Neiman and Members of the Zoning Board of Appeals
CC: Robb McGinnis, Director of Community Development
FROM: Christine Bruton, Village Clerk
RE: V-02-19, 11 West Sixth Street

Attached please find a drawing submitted by the applicant in this case, in response to the Board's request that an alternative remedy be explored.

Thank you.

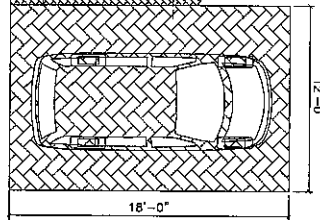
C:\SHARED DATA\Project\Residential\Remodels\Jawor\Drawings\Jawor-D2.dwg



FIRST FLOOR PLAN

SCALE: 3/16" = 1'-0"

REVISED -/-/-
REVISED -/-/-
REVISED -/-/-



D2

JAWOR RESIDENCE



BRYAN ASSOCIATES INC. ARCHITECTS

433 SOUTH BRUNER STREET
HINSDALE, IL 60521 PH.630.920.0777

PROJ # 2018-11
DRN BY DWB
DATE 10-8-19
SHEET

2 OF 2

8a

MEMORANDUM

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

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

DATE: July 5, 2019

RE: Zoning Variation – V-02-19; 11 W. 6th Street

In this application for variation, the applicant requests relief from the driveway requirements set forth in 9-104-F(3)(e)(ii)(A) for the construction of a circular driveway. The code requires that lots be a minimum of 75' wide to be allowed a circular driveway and two curb cuts. The subject lot is 67.26' wide and the specific request is for 7.75' of relief.

This property is located in the R-4 Single family Residential District in the Village of Hinsdale and is located on the north side of Sixth Street between Lincoln and Washington. The property has a frontage of approximately 67.26, an average depth of 125', and a total square footage of approximately 9,533.25. The maximum FAR is approximately 3,483 square feet, the maximum allowable building coverage is 25% or approximately 2,383 square feet, and the maximum lot coverage is 60% or 5,719.

cc: Kathleen Gargano, Village Manager
Zoning file V-02-19

Zoning Calendar No. V-02-19

VILLAGE OF HINSDALE
APPLICATION FOR VARIATION

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

VARIATION FILING FEE: \$850.00

NAME OF APPLICANT(S): Mary & Michael Jawor

ADDRESS OF SUBJECT PROPERTY: 11 West Sixth St.

TELEPHONE NUMBER(S): Home: 630. 887. 7364
Mary cell 630. 291. 7364
Mike cell 312. 860. 5750

If Applicant is not the property owner, Applicant's relationship to the property owner: N.A.

DATE OF APPLICATION: 7/3/2019



RECEIVED
CB 7/3/19

SECTION I

Please complete the following:

1. Owner. Name, address, and telephone number of owner: Mary & Michael Jawor
11 West Sixth St., Hinsdale 630-291-7364
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.) 11 West Sixth St.
Please see attached Survey for legal
description.
5. Consultants. Name and address of each professional consultant advising applicant with respect to this application:
 - a. Attorney: N.A.
 - b. Engineer: N.A.
 - c. Laslo Landscaping James Laslo 630-852-8849
 - d. laslolandscaping@gmail.com 115 Woodland Dr.
Oak Brook, IL 60523
 - d. Daniel Bryan 630-920-0777
Bryan Associates Inc. Architects
433 South Bruner St., Hinsdale
bryanrktec@sbcglobal.net

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:

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.)

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.)

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.)

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 nonfundable application fee of \$25.00 plus an additional amount based on the specific relief sought as follows:

RESIDENTIAL PROPERTIES	
Appeal to the Zoning Board of Appeals	\$1,075
Variation	\$825
Fence Variation	\$825
NONRESIDENTIAL PROPERTIES	
Appeal to the Zoning Board of Appeals	\$1,075
Variation	\$825
Fence Variation	\$825

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:

Mary L. Jawor Michael J. Jawor

Signature of Owner:

Mary L. Jawor Michael J. Jawor

Name of Applicant:

N.A.

Signature of Applicant:

N.A.

Date:

July 3, 2019

Neighboring Owners

Mr. & Mrs. Gerald Moore
515 South Lincoln St.

Mr. & Mrs. William Blomquist
22 West Fifth Street

Mr. & Mrs. John Magnan
16 West Fifth Street

The Diamantakos
504 South Washington Street

Mr. & Mrs. James Vogts
510 South Washington Street

Mr. & Mrs. Thomas Panoff
518 South Washington Street

Mr. & Mrs. Airhart
434 South Washington Street

Mr. & Mrs. Allen
433 South Lincoln Street

Mrs. Dorothy Ernest
4 East Fifth Street

Mr. & Mrs. Scott Pjesky
507 South Washington

The Martin Family
513 South Washington Street

Ms. Susan Ruge
517 South Washington Street

Mr. & Mrs. Scott Fryzel
602 South Washington Street

Resident/"Chicago Title 8002370328"
606 South Washington Street

Mr. & Mrs. Mark Konieczka
610 South Washington Street

Mr. & Mrs. Robert Brown
614 South Washington Street

Mr. & Mrs. Neil McMonagle
618 South Washington Street

Ms. Colleen Healy
4 East Sixth Street

Mr. & Mrs. Regis Kenna
607 South Washington Street

Mr. & Mrs. Brent Shephard
601 South Lincoln Street

Mr. & Mrs. John Anos
605 South Lincoln Street

Mr. & Mrs. Steve Treadwell
609 South Lincoln Street

Mr. & Mrs. Wilson
615 South Lincoln Street

Mr. Jonathan Springer
504 South Lincoln Street

Mr. & Mrs. Jeff Meredith
508 South Lincoln Street

Mr. & Mrs. Peter Rush
512 South Lincoln Street

Mr. & Mrs. Gregory Cameron
518 South Lincoln Street

Mr. & Mrs. Awad
602 South Lincoln Street

Application for Variance
Section I

7. List is attached.
8. Survey is attached.
9. Exiting zoning is residential zone R4 similar to all neighboring owners.
10. Conformity statement. We are requesting a variance of the zoning standard that requires a minimum 75 feet frontage in order to install a semi-circular driveway. Our property is 67.26 feet, a variance of about 10%. As an alternative, we would request the ability to put in a 12' x 18' parking pad adjacent to the east side of the driveway but forward of the front yard setback.

Our request is based on the following reasons, unique to our situation:

1. When we contracted to purchase our home at 11 West Sixth street in July of 1994, there was street parking in front of the property and parking had been allowed since its construction in 1987. This was very important because there were no sidewalks and the street is extremely narrow on our block between Washington and Lincoln streets.
2. In the fall of 1998, with the redevelopment of the property at 518 South Washington, the northwest corner of Washington and Sixth and a property that runs along the east side of our property, problems arose. The extensive truck traffic that marks the demolition, foundation excavation and subsequent cement delivery, all managed from the more convenient access off Sixth street, caused residents exiting the alley supporting the 600 block of Washington and Lincoln streets to voice compromised visibility issues to the Village and the police. Upon investigation of these complaints, the Village posted "No Parking" signs from Washington west to Grant street, a latent realization that the narrowness of Sixth street prohibited parking.
3. Sixth street is the first street to run from Jackson to County Line south of the tracks, generating considerable traffic. Sixth is the emergency vehicle route to the large Madison school section of the Village that is west of our home. This in addition to being the street on the southern border of Robbins park, the Village's second largest park but arguably the busiest hosting soccer, flag football & baseball practices and games seasonably as well as the crucial snow hill at Madison school. Sixth also hosts Madison school and St. Isaac Jogues at the northern end of one-way northbound Clay street, entered from Sixth. Mornings and evenings are filled with train commuters making their way to the Metra. With The Community House, Hinsdale Middle School and Hinsdale Central in the greater neighborhood, the traffic is robust with cars, professionals, students and athletes.
4. In the fall of 1999 and early 2000, we worked diligently with neighbors and trustees to get a sidewalk installed on the north/our side of the street, from Washington to Grant. Concurrent to our appearances at Village meetings was the group ultimately responsible for kickstarting the Master sidewalk program but, at this time, there was no effort to complete the sidewalk infrastructure within the Village. The plan we put forth with the backing of a trustee was turned down in January of 2000. One irrefutable point was the narrow street would be completely utilized to properly stage the largest firetrucks in the event of a house fire. Due to personal health challenges that arose at that time, we reluctantly accepted our defeat.

5. The Master sidewalk program was subsequently implemented but contains nearly insurmountable requirements for us to think one will ever get installed. Among the issues are:
 1. No trees will be cut down to make way for the sidewalks. What this requirement doesn't realize is that the 5 feet of un-sidewalked parkway on the extremely narrow stretch of Sixth street between Washington and Grant have been effectively treated as private property by many of the homeowners, resulting in trees and landscaping having been planted over the last 20-plus years. These trees likely should never have been planted as they compromise pedestrians' ability to get out of the street safely when traffic doesn't yield to them, which is often.
 2. A sidewalk will not be installed unless all homeowners along both blocks of Sixth between Washington and Grant streets agree to its installation. This stipulation effectively gives any one homeowner rights over public property, namely the 5 feet of parkway the Village owns from the curb north. For many of the homes along this stretch, the homeowners have effectively privatized the parkways. We privately hope the Village will realize the hazards inherit on Sixth street, a major east-west street so close to the center of the downtown business area, schools, etc. and exercise its responsibility to public safety by installing a sidewalk on the north side of the street. The traditional process burdens safety minded homeowners with having to confront neighbors to put forth and support an unfavorable proposal, namely de-privatizing the parkway.
6. Given Sixth street's narrowness, as the popular larger cars, SUVs and innumerable service trucks make right turns onto the street, the required turning radius is greater than 50% of the street's width, creating a treacherous situation for pedestrians that is exasperated when there is traffic in the opposite lane. There is effectively little safe haven given the parkway is downward slopping on much of the street as well as the compromising private landscaping on the parkway.
7. The combination of no sidewalks and no parking along Sixth street in front of our home presents an untenable situation to our frequent guests. As long time Chicagoans from larger families, many of our guests must walk in the street after parking on either Washington or Lincoln once our driveway fills up. This situation is dangerous given the busy, narrow street and guests not necessarily expecting so much traffic. This is only amplified during the winter months when longer nights and snow-covered, dimly lit, icy streets make this walk especially perilous.
8. During the day, to allow for service workers' access to our home, we either park our cars in front of our neighbors' houses or have the service trucks park there, limiting their ability to quickly retrieve different tools, etc. As incidences of car/service truck thefts persists, we would prefer to have our cars on our property.
9. In addition to the busy pedestrian and vehicular traffic on Sixth, when we and our service providers exit our driveway we must also contend with traffic from the alley as well as obscured visibility due to our westerly neighbor's fence (which is entirely to code). The narrowness of the street gives us basically no room to maneuver. A semi-circular drive with a second, easterly exit would allow a safer exit.

It would be fair to think: why did they ever purchase the home? As working professionals coming from the city, we viewed the home in the later evening and on a Sunday before we contracted to purchase it. We experienced this relative 'quiet street' characteristic during the 4 years we remained childless, city working professionals. Walking in the street to catch the train before 7:00 a.m. and generally after 6/6:30 p.m. those years was no big deal as we always assumed it would be an easy affair to get a sidewalk since the home is surrounded by a network of sidewalks on all but the western block (Sixth from Lincoln to Grant), we paid a premium and still do in our property taxes to live in close, walkable proximity to the Village business district and library, Metra & schools serving the preschool to high school population. To have had the frontage parking taken away and no sidewalks installed feels wrong and unexplainable when during the weekdays and Saturdays, Sixth street is a main artery for all things Hinsdale. Seeing the distain of drivers' faces as we walk to school, town, the train and numerous daily dog walks, seeming to say "Get out of the street", we smile to say "if only".

While this situation has been brewing a very long time, we did not want to remove two large river birch on our property that effectively 'stood in our way'. Unfortunately, they aged out in the last year at 30 years old and were taken out this spring after we were exhausted from cleaning up their constant branch dropping. With the river birch gone, we are looking for the variance approval to allow us to amend our parking and safety issues as well as re-landscape our front property.

11. The issue of zoning standards is addressed on the subsequent pages in Section II following.

Section II

1. Title is attached.
2. Ordinance 9-104F(3)(e)(ii)(A) requires a interior lot to have a frontage greater than or equal to 75 feet to install a semi-circular driveway.
3. We seek relief from provision 9-104F(3)(e)(ii)(A) requiring an interior lot to have a frontage greater than or equal to 75 feet to install a semi-circular driveway.
4. Minimum Variation requested is a reduction to 67.26 feet for the permit to install a semi-circular driveway. This is just about a 10% variation and the only one requested. Our alternative would be for approval for a parking pad, extending east from our driveway approximately 12 x 18' forward of the front yard setback.

Item 5. Standards for Variation

- (a) Unique Physical Condition would refer to our lot having been subdivided in 1987 for the specific purpose of construction of a separate home from the original, larger property located at 16 West Fifth street. While it is a legal, nonconforming lot in the R4 zone, the lack of Village infrastructure on this important street so close to town in the form of frontage parking, traffic amelioration and sidewalks makes daily errands, dog walks and the in and out of the driveway of a typical suburb family dangerous.

When we contracted in July 1994 and subsequently purchased the home in November 1994, there was parking allowed on the street in front of our home. In 1998, as the property at 518 South Washington was being redeveloped with truck traffic obscuring visibility, residents pulling out of the alley serving the 600 block of Lincoln and Washington streets voiced concern to the Village. The Village realized parking should not have been allowed on Sixth street, due to its narrowness and immediately posted it "No Parking". Our block is also without sidewalks and unlikely to get them, given the Village imposed dynamics of consent that must prevail in order to secure them.

- (b) Not self-created as we did not develop the property, rather are the second owners of the home. As stated, the Village did not have the street marked "No Parking" before the property was Village-approved for division/redevelopment or for the 11 years thereafter.
- (c) Denied Substantial Rights refers to our inability to have safe, easy access to our cars when there is a need to have them parked off property, say for service calls or workers' trucks who need ready access to tools, etc. The loss of parking in front of our home, combined with no sidewalks, creates unsafe passage for ourselves, family, friends and service people as the street is extremely narrow. The narrowness creates a dangerous passage for those in the street, especially when 2 cars are travelling in opposite directions, cars turning onto Sixth (impossibly tight turning radius), poor weather, icy and/or snowy streets or at night, which from November to mid-March, extends from 4:30/5:00 p.m. onward and is the part of the year which includes the social Christmas and New Year's holidays. The general distain shown on drivers' faces says "Get out of the street", there being little recognition that there are no sidewalks to escape to. Most of the rest of the Village, with similar or less vehicular and foot traffic with proximity to the downtown business area and/or schools generally enjoys wider streets with at least one sidewalk for safe passage. We would actually urge the Village to override the sidewalk guidelines and install them to get the many pedestrians out of the dangerously narrow but busy street.
- (d) Not Merely Special Privilege as, stated previously, the Village had approved property division and home construction without marking the street as a "No Parking" zone. This change after our purchase, combined with no sidewalks despite a nearly complete network of sidewalks surrounding us to support foot traffic to the four schools, commuter trains, downtown business area and active Robbins park belies the inherent premium values homes in this area enjoy and pay property taxes on.
- (e) Code & Plan Purposes: Granting of the Variance is in no way disharmonious with the current residential homes surrounding ours. We are the only home fronting Sixth street on our block and a few of the homes in our neighboring owner's area also have semi-circular driveways. The existence of the alley removes the need for driveways for many.

(f) Essential Character of the Area

- (1) It could be said providing more parking on our property is a benefit to our neighbors who would not have our cars, our guests' cars or service trucks parked in front of their homes. Not having 4 cars parked in our driveway but spread out on the semi-circle would allow more maneuvering room as we exited.
 - (2) We have never landscaped the parkway so nothing will have to be removed or changed, resulting in no changes for our neighbors. Stated previously, we removed two large but dying river birch earlier this spring as they had aged out.
 - (3) With expanded on-property parking, we would actually be pulling in and out fewer times on days when service people were expected and would get more of our guests out of the street in the evening when it can be hard to see pedestrians.
 - (4) Our drainage is already buried and flows directly into the sewer on the west side of our home so there is no risk of increased flood. No fire issues; no street parking allows all lanes to be clear at all times.
 - (5) No unduly taxing of public utilities or facilities.
 - (6) At the risk of repetition, more on-property parking reduces our pulling in and out as we jockey the cars around to make room for service providers and guests as well as reducing pedestrians in the street who must park and walk from either Washington or Lincoln streets.
- (g) To provide us with comparable conveniences our neighboring owners enjoy and allow us the maximum flexibility with respect to parking, and in and out flexibility, etc. the semi-circular drive is the only remedy. We have suggested the parking pad as a poor alternative only because it offers another spot but does not really allow any in and out capability; an entire lane of the driveway must be open to achieve that.

Section III

See attached Byran Associates drawing for requested information.

DEED IN TRUST

R98-078369

98 APR 27 PM 2:15

RECORDER
DU PAGE COUNTY

Blaney

THE GRANTORS

Michael J. Jawor and Mary
Baumann, n/k/a Mary L. Jawor,
Husband and Wife
11 W Sixth St
Hinsdale, IL 60521-4400

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of the Village of Hinsdale, County of DuPage, and State of Illinois, in consideration of the sum of Ten and no/100's Dollars, and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby conveys and quit claims to Michael Jay Jawor and Mary L. Jawor, as Co-Trustees, under the terms and provisions of a certain Trust Agreement dated the 19th day of February, 1998, as amended from time to time, and designated as the Michael Jay Jawor Post Marital Trust, and to any and all successors as Trustee appointed under said Trust Agreement, or who may be legally appointed, an undivided ½ interest in the following described real estate:

Permanent Real Estate Index Number: 09-12-126-010

Address of Real Estate: 11 W Sixth St, Hinsdale, IL 60521-4400

[Transfer Exempt Under Provisions of Section 4, Paragraph (e) Illinois Real Estate Transfer Tax Act.]

By: *J. J. Jawor* Atty. Date: March 6, 1998

TO HAVE AND TO HOLD the said real estate and appurtenances thereto upon the trusts set forth in said Trust Agreement and for the following uses:

1. The Trustee (or Trustees, as the case may be), is invested with the following powers: (a) to manage, improve, divide or subdivide the trust property, or any part thereof, (b) To sell on any terms, grant options to purchase, contract to sell, to convey with or without consideration, to convey to a successor or successors in trust, any or all of the title and estate of the trust, and to grant to such successor or successors in trust all the powers vested in the Trustee. (c) To mortgage, encumber or otherwise transfer the trust property, or any interest therein, as security for advances or loans. (d) To dedicate parks, street, highways or alleys, and to vacate any portion of the premises. (e) To lease and enter into leases for the whole or part of the premises, from time to time, but any such leasehold or renewal shall not exceed a single term of 99 years, and to renew, extend or modify any existing lease.
2. Any party dealing with the Trustee with regard to the trust property, whether by contract, sale, mortgage, lease or otherwise, shall not be required to see to the application of the purchase money, loan proceeds, rental or other consideration given, nor shall be required to see that the terms of the trust

have been compiled with, or to enquire into the powers and authority of the Trustee, and the execution of every contract, option, deal, mortgage or other instrument dealing with the trust property, shall be conclusive evidence in favor of every person relying upon or claiming under such conveyance or other instrument; that at the time of the execution and delivery of any of the aforesaid instruments, the Trust Agreement above described was in full force and effect; that said instrument so executed was pursuant to and in accordance with the authority granted the Trustee, and is binding upon the beneficiary or beneficiaries under said Trust Agreement; and if said instrument is executed by a successor or successors in trust, that he or they were duly appointed and are fully invested with the title, estate, rights, powers and duties of the preceding Trustee.

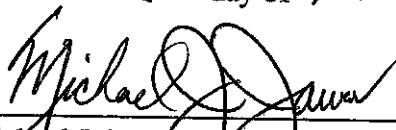
3. The interest of each and every beneficiary under said Trust Agreement and hereunder, and of all persons claiming under any of the beneficiaries, shall be only in the earnings, avails and proceeds arising from the sale or other disposition of the trust property, and such interest is hereby declared to be personal property only, and the beneficiary or beneficiaries of the trust shall not have any title or interest therein, legal or equitable, except as stated.

All of the covenants, conditions, powers, rights and duties vested hereby, in the respective parties, shall inure to and be binding upon their heirs, legal representatives and assigns.

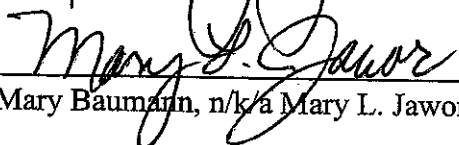
If the title to any of the above real estate now is or hereafter shall be registered, the Registrar of Titles is directed not to register or note in the Certificate of Title, duplicate thereof, or memorial, the words "in trust" or "upon condition", or "with limitation", or words of similar import, in compliance with the statute of the State of Illinois in such case made and provided.

The Grantors hereby waive and release any and all right and benefit under and by virtue of the Statutes of the State of Illinois providing for the exemption of homestead from sale or execution or otherwise.

DATED this 6th day of MARCH, 1998



Michael J. Jawor (SEAL)



Mary Baumann, n/k/a Mary L. Jawor (SEAL)

State of Illinois, County of Cook ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael J. Jawor and Mary Baumann, n/k/a Mary L. Jawor, Husband and Wife personally known to me to be the same persons whose name subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this *6th* day of *March*, 1998

Commission expires ~~July 3, 1999~~ *bb*

Barbara Blacharczyk
Notary Public



LEGAL DESCRIPTION

LOT 2 IN MCGUIRE'S SUBDIVISION, BEING A RESUBDIVISION OF LOT 11 (EXCEPT THE EAST 2 FEET OF THE NORTH 88 FEET OF SAID LOT 11) AND THE EAST 45 FEET OF LOT 12 (EXCEPT THE SOUTH 100 FEET OF SAID LOT 12) IN BLOCK 14 IN TOWN OF HINSDALE, BEING A SUBDIVISION OF THE NORTHWEST 1/4 (EXCEPT THE RAILROAD LANDS) OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID MCGUIRE'S SUBDIVISION RECORDED JULY 28, 1987 AS DOCUMENT R87-111756, IN DUPAGE COUNTY, ILLINOIS.

This instrument was prepared by: Jay Zabel & Associates, Ltd. 55 W. Monroe, Suite 3950, Chicago, Illinois 60603

Mail to:

Jay Zabel
Jay Zabel & Associates, Ltd.
55 W Monroe Suite 3950
Chicago, IL 60603

Name & Address of Taxpayer:

Michael Jay Jawor
11 W Sixth St
Hinsdale, IL 60521-4400

Grantee's Address

