

VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
March 20, 2013

1. CALL TO ORDER

Chairman Debra Braselton called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, March 20, 2013 at 7:32 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

1. ROLL CALL

Present: Chairman Debra Braselton, Members Marc Connelly, Gary Moberly, Bob Neiman, Keith Giltner, and Roddy Biggert

Absent: Members John Callahan

Also Present: Village Attorney Michael Mars, Director of Community Development/Building Commissioner Robb McGinnis, Village Clerk Christine Bruton and Court Reporters Kathy Bono and Tara Zeno

2. APPROVAL OF MINUTES – February 27, 2013

Member Connelly made corrections to the draft minutes. Member Biggert moved to **approve the minutes of the Meeting of February 27, 2013, as amended.** Member Moberly seconded the motion.

AYES: Members Connelly, Moberly, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: Members Neiman and Giltner

ABSENT: Member Callahan

Motion carried.

3. APPROVAL OF FINAL DECISION – None

4. RECEIPT OF APPEARANCES - None

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

6. PRE-HEARING AND AGENDA SETTING - None

7. PUBLIC HEARINGS

a) V-02-13, 646 W. Maple Street

Mr. John Eyen, prospective owner and applicant, was sworn in by the court reporter. He addressed the Board stating the ZBA approved the request he is making in May 2012 for the current owner Mr. Nick Gilbert, present this evening. He noted that the neighbors to the east of the property are present this evening in support the proposal. Mr. Eyen explained that he will purchase the property subject to ZBA re-approval. He explained that the setbacks are restrictive, he is asking for a reduction from 10' to 7 'feet. He has done his due diligence, posted the sign, done the mailing and spoken to the neighbors.

Mr. Lou Holub of 642 W. Maple, was sworn in and addressed the Board stating that he owns the home to the east of the subject property. He stated he supported the Gilberts and also supports Mr. Eyen. He confirmed that his concern at the time of Mr. Gilberts request was water and possible effect on his property. Mr. Eyen has assured him that he will install appropriate drainage to alleviate these issues.

The Board had no further questions. Member Moberly **moved to close the public hearing on V-02-13, 646 W. Maple Street.** Member Biggert seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

D I S C U S S I O N

There being no further questions from the Board, Member Moberly **moved to approve the variation request known as V-02-13, 646 W. Maple Street.** Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

1 Motion carried.

2
3 **b) V-01-13, 26-32 East First Street**

4 Mr. David Kennedy, architect; Mr. Peter Coules, attorney; and Mr. Clay
5 Naccarato, owner were sworn in by the court reporter. Mr. Coules
6 addressed the Board on behalf of the applicant, Garfield Crossing, LLC.
7 He stated his client is requesting five different variances. He explained
8 that the front of the property is deemed Garfield because of the width on
9 First Street. Therefore, the back of the property is actually the west
10 side, which abuts the Chamber of Commerce.

11 The first variance requested is a waiver of the setback requirement for
12 landscaping on the west side of the property. The property sits over ten
13 feet below grade at that point. If we have the required 10' landscaping
14 buffer, nothing would grow, no one would see it and it would result in a
15 loss of parking.

16 The applicant is also requesting a 20' waiver of the setback from the
17 rear yard for parking. He believes the purpose of the code is to protect a
18 neighbor behind, but again, this abuts the Chamber of Commerce, which
19 sits very high on this property. As a result, they would not be affected
20 and a great deal of potential parking would be sacrificed.

21
22 Mr. Coules stated that the applicant requests that the ZBA recommend
23 a waiver of the island tree in the parking lot requirement. There
24 currently exists a tree in the drive in area, which will remain. However,
25 an island tree would receive inadequate light for healthy growth, would
26 not be seen by any of the streets and would eliminate additional
27 parking.

28
29 The applicant is requesting the Board recommend a waiver of the
30 loading dock buffer requirement. The purpose is not to have it be seen
31 from the street. One suggestion was a gate, but that could significantly
32 affect traffic in that vehicles would have to wait on First Street to enter.

33
34 Finally, they are requesting a recommendation to allow second story
35 signage because they believe it will help entice tenants to occupy the
36 second floor.

37
38 Chairman Braselton clarified which requests are recommendations to
39 the Village Board and which are final decisions of the Zoning Board.
40 Further, it was confirmed that the applicant has an application
41 concurrently in front of the Plan Commission. Mr. Coules explained
42 that no vote was taken at the Plan Commission meeting because they
43 have been asked to come back with slight changes to the elevation.

1 Mr. David Kennedy, Principal with PPK Architects in Glen Ellyn,
2 addressed the Board and highlighted his power point presentation,
3 noting by way of orientation that their parking lot will exist between the
4 middle school and the proposed building. He stated that the parking lot
5 currently has 41 spaces and they will increase that number with this
6 proposal. The existing building will be demolished in its entirety with
7 the exception of two walls which will become facing for the existing
8 retaining walls. They are updating the landscaping plan for the Plan
9 Commission, but overall they are building on most of the site. He
10 referenced the existing tree, commenting that the code does not state
11 that the island tree has to be in the middle of the parking lot, and they
12 believe that the existing tree satisfies the intent of the code.

13 They are requesting the use of the southwest corner of the site for
14 parking as opposed to a landscape setback. He addressed the
15 requirement of screening the loading dock, explaining that they have
16 determined it would be very impractical and they do not anticipate
17 vehicles parking there for any length of time. Upon questioning, he
18 stated that signage will be installed to try to control the area as loading
19 only and prevent tenants and customers from driving in this area. The
20 Garfield Street two-way entrance/exit will remain exactly where it is for
21 customer parking. The code calls for a 110' x 30' space, they have an 18'
22 wide drive land, so it's wider than it needs to be and it is much deeper
23 than it needs to be, by about 65'. So, it's possible that two trucks could
24 occupy the loading zone.

25
26 Mr. Kennedy described various other aspects of the building that do not
27 relate to the variance requests.

28
29 With respect to second story signage, he stated that he is unaware of
30 any currently in the downtown area. There are some window signs, but
31 no building mounted signs. Their thought in requesting this variance is
32 that if there is a single tenant on the second floor it will be a significant
33 business in the downtown and the proposed signage would help to
34 attract this tenant. He commented that some tenants may not want it
35 at all and explained that it would be visible as you traverse Garfield,
36 but not so much on First Street. He also noted that they are not specific
37 about the sign design yet. Director of Community Development Robb
38 McGinnis clarified that any requested signage would have to go to Plan
39 Commission for approval, the ZBA is only recommending whether they
40 would be permitted to install a sign above the second floor window line.
41 Mr. Kennedy described, via his illustrations, the locations of the signs,
42 the trees and the street cut-in for the loading area.
43

1 Mr. Coules pointed out that in the B-2 district the owner has a right to a
2 2.5% floor area ration coverage, his client is at .78%, they are not
3 utilizing the whole property for the structure because they are trying to
4 maximize the parking. The existing retaining walls will be repaired and
5 maintained. In terms of topography nothing is going to change. The
6 height of the building is within that which is permitted by code. He
7 believes the five variances before the Board are minor relative to the
8 scope and character of what currently exists. Discussion followed
9 regarding potential tenants and the size of the retail spaces. Upon
10 questioning, Mr. Coules stated that the ingress and egress will look
11 better than what currently exists in town because it will have a tree at
12 the end and will be wider than every other alley in town. He stated that
13 the garbage will be located in the middle back of the parking and will be
14 screened. He described the traffic flow in the parking lot, but stated
15 that it would be difficult to control truck traffic in terms of the middle
16 school activity. The Plan Commission suggested a speed bump on the
17 way out of parking to slow them up. Various safety solutions were
18 discussed.

19 It was confirmed that the island tree requirement was for aesthetics not
20 drainage. It was confirmed that the buffer zone requests do not affect
21 the truck zone, but potential customer and tenant parking only. Mr.
22 Coules reported that the Hinsdale Bank is on record as being in support
23 of the proposal and the school district and the Chamber of Commerce
24 have met with staff and are in support as well.

25
26 There being no further questions from the Board, Member Moberly
27 moved to close the public hearing for V-01-13, 26-32 East First
28 Street. Member Biggert seconded the motion.

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30 **AYES:** Members Connelly, Moberly, Neiman, Giltner, Biggert and
31 Chairman Braselton

32 **NAYS:** None

33 **ABSTAIN:** None

34 **ABSENT:** Member Callahan

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36 Motion carried.
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DISCUSSION

The Board elected to consider each request one at a time as follows:

#1 – Loading Dock, recommendation to the Village Board

Member Biggert thought the proposal is a creative way to handle the issue. He doesn't believe that it not being sheltered on First Street is that significant. There is a tree there and it is a one-way entrance. Member Neiman commented that he was initially concerned about it not being screened, but given the other alleyways in town that don't cause a problem he is less concerned. Member Moberly commented that it will be well-lit and safe. Chairman Braselton commented that it will be like the alley by Zazu, and **moved to recommend to the Village Board to allow a loading space that would open onto a building façade facing a public right-of-way.** Member Neiman seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

#2 – Landscape Buffer, 10' on the west side

The Board commented that a compelling case has been made that nothing would grow there; it is a function of aesthetics not drainage and would cost parking spaces. Member Moberly moved to **approve the variance requesting the waiver of the 10' foot required landscape buffer on the rear west side of the proposed lot.** Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

#3 – Peninsula island tree, recommendation to the Village Board

Member Biggert commented that the same considerations apply as in the first one. There being no further comments, Member Biggert moved to **recommend to the Village Board that the requirement for an interior parking lot tree be waived.** Member Moberly seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

#4 – Wall signs higher than 20', recommendation to the Village Board

Chairman Braselton opened discussion by stating that initially she had some concerns, but listening to the presentation and knowing that the signs would have to be approved by the Plan Commission, she is ok with this request. Member Neiman still has a problem with this request, despite the fact that this Board's recommendation has no binding precedent. However, no other building in town has this privilege and it gives this owner unfair advantage over everyone else in town who owns a two-story building. He expressed concern that the town would look different if everybody got second floor exterior signs. Discussion followed and members of the Board offered their viewpoint. Member Biggert moved to **recommend to the Village Board of Trustees to approve the request for second story signage.** Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Biggert and Chairman Braselton

NAYS: Members Neiman and Giltner

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

#5 – Eliminate required 20' rear yard setback

Member Moberly began discussion stating the applicant made a compelling case for the use of the space. Member Biggert commented this is similar to the buffer. Member Moberly moved to **approve the variation to allow a (0) zero foot rear yard setback.** Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Neiman, Giltner, Biggert and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

8. NEW BUSINESS - None

9. UNFINISHED BUSINESS

10. ADJOURNMENT

With no further business coming before the Zoning Board of Appeals, Member Connelly made a motion to **adjourn the meeting of the Zoning Board of Appeals of March 20, 2013.** Member Moberly seconded the motion.

AYES: Members Connelly, Moberly, Callahan, Biggert, Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Members Giltner and Neiman

Motion carried.

Chairman Braselton declared the meeting adjourned at 7:43 p.m.

Christine M. Bruton
Village Clerk

Approved: _____

FINAL DECISION

VILLAGE OF HINSDALE ZONING BOARD OF APPEALS PETITION FOR VARIATION

Zoning Calendar: V-03-13

Petitioner: John and Kimberly Eyen

Meeting held: Public Hearing was held on Wednesday, March 20, 2013 at 7:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on March 7, 2013.

Premises Affected: Subject Property is commonly known as 646 W. Maple, Hinsdale, Illinois and is legally described as:

THE WEST 52' OF THE NORTH ½ OF BLOCK 18 IN
ESTABROOK'S ADDITION TO THE TOWN OF HINSDALE, IN
SECTION 2, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE
THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS

Subject: In this application for variation, the applicant requests relief from the interior side yard requirements set forth in section 3-110 (D)(2)(a)(ii) for the construction of a new single family home. The request is for 3' of relief to the required 10' interior side yard setback.

Facts: This property is located in the R-2 single-family zoning district in the Village of Hinsdale and is located on the southeast corner of Maple and Adams. The property has a frontage of approximately 52', a depth of approximately 181.5', and a total square footage of approximately 9,438. The maximum FAR is 25% +1,100 square feet or approximately 3,459.5 square feet. The maximum building coverage is 25% or approximately 2359.5 square feet. The Total Lot Coverage is 60% or approximately 5,663 square feet.

Action of the Board: Members discussed the request and agreed that the standards for variation set forth in 11-503 (F) of the Hinsdale Zoning Code had been met and recommended approval. The primary reason was tied to the fact that this lot was one of the smallest lots in the R-2 zoning district. Its size was more in line with that of a lot in the R-4 zoning district. Because it was located in the R-2 district, the minimum required interior sideyard was 10' rather than 6'; the minimum in the R-4 district. The fact that this request was

identical to an approval granted to the prior owner was also considered.

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

AYES: Connelly, Moberly, Neiman, Biggert, Giltner, and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

THE HINSDALE ZONING BOARD OF APPEALS

Chairman Debra Braselton

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

FINAL DECISION
VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
PETITION FOR VARIATIONS

ZONING CALENDAR NO. V-01-13

APPLICATION: For Certain Variations Relative to a Proposed Commercial Development at 26-32 E. 1st Street, Hinsdale, Illinois.

PETITIONER: PPK Architects, P.C. (Agent)

PROPERTY OWNER: Garfield Crossing, LLC

PROPERTY: 26-32 E. 1st Street, Hinsdale, Illinois (the "Property")

Lots 1 and 4, together with the east half of vacated alley lying west and adjoining said lots, in block 5 of the town of Hinsdale being a subdivision of the northwest quarter (except railroad lands) of section 12, township 38 north, range 11 east of the third principal meridian, according to the plat thereof recorded August 14, 1866 as document 7738, in Du Page County, Illinois

HEARING HELD: A Public Hearing was held on Wednesday, March 20, 2013 at 7:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on January 31, 2013.

SUMMARY OF REQUEST AND FINAL DECISION: The Village of Hinsdale has received a request from PPK Architects, P.C., on behalf of Property owner Garfield Crossing, LLC (collectively, "Applicant") for certain variations relative to a proposed two-story commercial development at the Property, located in the B-2 Central Business Zoning District at 26-32 E. 1st Street. The Applicant has requested variations to the following Sections of the Zoning Code of the Village of Hinsdale ("Zoning Code"):

- Section 9-107(A)(1) of the Zoning Code, to allow no landscape buffer, in lieu of the 10 foot landscape buffer required to be provided along the rear (west) of the proposed parking lot; and
- Section 9-101E of the Zoning Code, to allow the proposed parking lot to have a 0 foot rear (west) yard setback, in lieu of the 20 foot rear yard setback required (collectively, these two variation requests shall be referred to herein as the "requested variations").

Following a public hearing held on March 20, 2013, the Zoning Board of Appeals of the Village of Hinsdale ("ZBA") approved the requested variations on unanimous votes of 6-0 as detailed below.

In addition to the requested variations, three additional variations over which the Village President and Board of Trustees have final authority were sought and recommended for approval by the Zoning Board of Appeals. Those variations were to 9-105(C)(1) to allow a loading space that would open onto a building façade facing a public right-of-way, Section 9-107(A)(2) to allow a parking lot with no interior parking lot tree, in lieu of the one parking lot tree, as required, and to Section 9-106J(5)(b) to allow two wall signs higher than 20 feet or the bottom of the second story window, as required (collectively, the "additional variations"). The recommendation on those variations is detailed in a separate Findings and Recommendation from the ZBA to the Board of Trustees in this matter.

PUBLIC HEARING: At the public hearing on Applicant's requested variations held on March 20, 2013, representatives of Applicant described their proposed development of the Property. The Property is currently improved with a vacant structure and related on-site parking, and is located in the B-2 Central Business Zoning District. The Owner proposes to demolish the existing commercial structure and to construct a new two-story commercial building (the "proposed commercial building") in its place. On-site parking is proposed to be expanded from its current total of 41 spaces to a total of 47 spaces.

Applicant seeks a variation from Section 9-107(A)(1) of the Zoning Ordinance to allow no landscape buffer, in lieu of the 10 foot landscape buffer required to be provided along the rear (west) of the proposed parking lot. At the Public Hearing, the Applicant noted, among other things, that at the rear (west end) of the Property, the Property is ten (10) feet below grade, making it difficult to maintain any landscaping. In addition, the landscaping would have limited visibility to customers or others, and would therefore be of limited aesthetic value, and would negatively impact the ability of the Applicant to provide on-site parking.

Applicant is also seeking a variation from Section 9-101E to allow the proposed parking lot to have a 0 foot rear (west) yard setback, in lieu of the 20 foot rear yard setback required. The rear of the Property abuts the Chamber of Commerce, another commercial property where the building sits up high. The requirement of the rear yard setback therefore provides limited benefit to the adjacent neighbor and will negatively impact the ability of Applicant to provide on-site parking.

During questioning by the Members, it was noted that should the requested setback variations not be granted, trucks could still turn into the parking area from the loading access drive. There would, however be a loss of three (3) to four (4) parking spots at the southwest corner of the lot, and it would be more difficult for vehicles to turn around to exit the parking area.

During the course of the Public Hearing, members of the Zoning Board of Appeals questioned the Applicant regarding a number of subjects, including but not limited to the First Street loading drive access area and entrance, on-site traffic flow, second floor signage issues, the location of the proposed garbage storage area, and the safety of pedestrians as vehicles exit the parking area onto Garfield. There was also extensive testimony and discussion regarding the additional variations.

Applicant's attorney noted that the CEO of Hinsdale Bank had appeared at the Plan Commission in favor of the proposed development, and that the school district's administration had expressed support in a meeting between the Developer and administrators. The Chamber of Commerce has also expressed support.

There being no further questions or members of the public wishing to speak on the application, the Public Hearing was closed.

FINAL DECISIONS:

1. Variation to Section 9-107(A)(1) of the Zoning Code to allow no landscape buffer, in lieu of the 10 foot landscape buffer required to be provided along the rear (west) of the proposed parking lot: During discussion, members noted that Petition had made a compelling case that nothing could be grown in the area where the buffer is required. Drainage is not affected, and because of the location in the back of the lot, aesthetics would not really be affected. Members were not familiar with other alley areas in the downtown area with landscaping. The negative impact of the buffer requirement on on-site parking was also a consideration. Following a motion from Member Moberly and a second from Member Connelly, **the ZBA approved this variation on a vote of 6-0.**

2. Variation to Section 9-101E of the Zoning Code to allow the proposed parking lot to have a 0 foot rear (west) yard setback, in lieu of the 20 foot rear yard setback required: During discussion, members noted again that Applicant had made a compelling case for a variation, and that the same factors that were noted in the Variation to Section 9-107(A)(1) applied here (nothing could be grown in the area where the buffer is required, drainage is not affected, and because of the location in the back of the lot, aesthetics would not really be affected. The fact that requiring strict compliance with the Zoning Code would also result in a corresponding loss of on-site parking was also a consideration. Following a motion from Member Biggert and a second from Member Connelly, **the ZBA approved this variation on a vote of 6-0.**

FINDINGS: The following are the Findings of the ZBA in approving the requested variations:

1. General Standard: Carrying out the strict letter of the provisions of the Zoning Code would create a particular hardship or a practical difficulty, based on satisfaction of the standards below:

2. *Unique Physical Condition:* The Subject Property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot. In this case, the property at the rear (west end) of the lot sits, for the most part, approximately ten feet below grade, with the result that landscaping of any kind would be extremely difficult to maintain. Maintenance of a 20 foot setback at the rear (west end) of the yard is impractical and unnecessary on this corner lot that is configured in a way that allows the west end, which is designated as the rear, to abut a commercial property that is oriented the same direction as the building on the Property. Further, given the unique configuration of the Property, the required 20 foot setback would essentially eliminate a portion of the proposed parking on the site.

3. *Not Self-Created:* The 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 the Zoning Code, for which no compensation was paid. In this case, the site conditions cited above are pre-existing and were not caused by the Applicant.

4. *Denied Substantial Rights:* The carrying out of the strict letter of the provisions 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. In this case, the Applicant will be denied a significant amount of on-site parking if the provision regarding rear yard setback is enforced, and would be required to maintain a landscape buffer in a location where it is impractical to maintain one.

5. *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. The ability to maintain additional on-site parking rather than landscaping which would be impractical to maintain will not provide a special privilege or additional right to the Applicant.

6. *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 the Zoning Code and the provision from which a variation is sought were enacted or the general purpose and intent of the official comprehensive plan. Specifically, the proposed development of the Property by Applicant, including maintenance of on-site parking for the proposed development, is consistent with the purposes of the Zoning Code.

7. *Essential Character Of The Area:* The variation would not result in a use or development on the subject property that:

(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or (b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or (c) Would substantially increase congestion in the public streets due to traffic or parking; or (d) Would unduly increase the danger of flood or fire; or (e) Would unduly tax public utilities and facilities in the area; or (f) Would endanger the public health or safety.

Specifically, the granting of the setback variations will benefit the proposed development and surrounding area by facilitating additional on-site parking on the Property, thereby decreasing parking congestion in the area.

8. *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 property.

Signed: _____
Debra Braselton, Chair
Zoning Board of Appeals
Village of Hinsdale

**FINDINGS OF FACT AND RECOMMENDATION OF THE
VILLAGE OF HINSDALE ZONING BOARD OF APPEALS TO
THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES**

ZONING CALENDAR NO. V-01-13

APPLICATION: For Certain Variations Relative to a Proposed Commercial Development at 26-32 E. 1st Street, Hinsdale, Illinois.

APPLICANT: PPK Architects, P.C. (Owner's Agent)

PROPERTY OWNER: Garfield Crossing, LLC

PROPERTY: 26-32 E. 1st Street, Hinsdale, Illinois (the "Property")

HEARING HELD: A Public Hearing was held on Wednesday, March 20, 2013 at 7:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on _____, 2013.

SUMMARY OF REQUEST AND RECOMMENDATION: The Village of Hinsdale has received a request from PPK Architects, P.C., on behalf of Property owner Garfield Crossing, LLC (collectively, "Applicant") for certain variations relative to a proposed two-story commercial development at the Property, located in the B-2 Central Business Zoning District at 26-32 E. 1st Street. The Applicant has requested variations to the following Sections of the Zoning Code of the Village of Hinsdale ("Zoning Code"):

- 9-105(C)(1) to allow a loading space that would open onto a building façade facing a public right-of-way;
- 9-107(A)(2) to allow a parking lot with no interior parking lot tree, in lieu of the one parking lot tree, as required;
- 9-106J(5)(b) to allow two wall signs higher than 20 feet or the bottom of the second story window, as required (collectively, this and the two preceding variation requests will be referred to herein as the "requested variations").

Following a public hearing held on March 20, 2013, the Zoning Board of Appeals of the Village of Hinsdale ("ZBA") recommended approval of the requested variations on varying votes as detailed below.

In addition to the requested variations, two additional variations that were within the scope of authority of the ZBA to approve have been granted by the ZBA. Those variations are to Section 9-107(A)(1) to allow no landscape buffer, in lieu of the 10 feet

landscape buffer required to be provided along the rear (west) of the proposed parking area, and to Section 9-101E to allow the proposed parking area to have a 0 foot rear (west) yard setback, in lieu of the 20 foot rear yard setback required. The approval of those additional variations is detailed in a separate Final Decision of the ZBA in this matter.

PUBLIC HEARING: At the public hearing on Applicant's requested variations held on March 20, 2013, representatives of Applicant described their proposed development of the Property. The Property is currently improved with a vacant structure and related on-site parking, and is located in the B-2 Central Business Zoning District. The Applicant proposes to demolish the existing commercial structure and to construct a new two-story commercial building (the "proposed commercial building") in its place. On-site parking is proposed to be expanded from its current total of 41 spaces to a total of 47 spaces.

Applicant is seeking a variation relative to the Zoning Code requirement that a tree be placed on a landscape island in the parking area. Sunlight in many portions of the parking area would be limited, and an island in the middle of the parking area would negatively impact the amount of on-site parking that could be provided. While no island is provided under the proposed site plan, a tree is instead provided on a peninsula in the site plan adjacent to the parking area at the northwest corner of the parking area. Staff noted during the course of the Public Hearing that the sole purpose of the landscaping island requirement is aesthetics and that while a tree was being provided in the parking area, the variation was being requested because it was unclear whether the tree, being on a peninsula extending into the parking area, technically met the island requirement.

Applicant is seeking a variation from the Zoning Code requirement that the loading area not be visible from the front of the proposed commercial building. Applicant noted during the Public Hearing that the option of erecting a gate for access from First Street to the loading drive access to create Zoning Code compliance had been considered, but it had been determined that such a gate would negatively impact traffic on First Street. Signage will be erected at the loading drive access from First Street to deter customer traffic from utilizing the entrance. The customer and tenant entrance will be from Garfield. Staff supports the requested variation relative to the loading area access, as installation of a gate at the First Street loading drive access to create compliance with the Zoning Code would potentially create traffic problems.

Applicant is also seeking two signs on the second story to promote businesses that will potentially locate in the proposed commercial building. The signs will be located on the south and north faces of the proposed commercial building, at the east end of the structure, above the second floor windows, and will primarily be visible on Garfield rather than First Street. The signage may or may not be necessary, depending on the ultimate tenants of the proposed commercial building. Staff noted that the specifics of any future signage would need to be approved by the Plan Commission, and that the only issue before the ZBA was the location of the signage above the second floor

window line. No one present at the hearing could recall other buildings with second floor signage downtown.

Applicant's attorney also noted for the record that although Applicant has a right to floor area ratio coverage of up to 2.5, their plan leaves them at .78. Part of the reason for this is that the Applicant is trying to maximize on-site parking for the benefit of the development as well as for the business district as a whole. They are not touching the existing retaining wall at the west end that abuts the Chamber of Commerce building, or the wall at the south end that abuts the middle school. No height variation is sought. It is anticipated that the retail and office uses within the proposed commercial building will be smaller uses, rather than a large use. The demand for tenant spaces in the downtown area is for spaces 1,200 to 1,800 square feet in size. Approximately six (6) spaces of that size could be accommodated in the proposed first floor sites.

The loading area access drive will be eighteen (18) feet wide, and there will be an additional five feet (5) of sidewalk next to the building.

During the course of the Public Hearing, members of the ZBA questioned the Applicant regarding a number of subjects, including but not limited to the First Street loading drive access area and entrance, on-site traffic flow, second floor signage issues, the location of the proposed garbage storage area, and the safety of pedestrians as vehicles exit the parking area onto Garfield.

Applicant's attorney noted that the President of Hinsdale Bank had appeared at the Plan Commission in favor of the proposed development, and that the school district's administration had expressed support for the development in a meeting between the Applicant and administrators. The Chamber of Commerce has also expressed support.

There being no further questions or members of the public wishing to speak on the application, the Public Hearing was closed.

RECOMMENDATIONS:

1. Variation to 9-105(C)(1) of the Zoning Code to allow a loading space that would open onto a building façade facing a public right-of-way: Members noted during deliberations that the loading drive access along the west end of the proposed site, with access from the front of the building on First Street, was a creative solution to the ingress and egress of truck traffic, the lack of screening from Front Street was not important under the facts present here, requiring screening in the form of a gate would be less aesthetically pleasing than having no screening, other alleys in the downtown area were not screened or gated, the width of the alley helped alleviate safety concerns, and that no neighbors had expressed concerns. Following a motion from Chairman Braselton and a second by Member Neiman, **the ZBA recommended approval of this variation on a vote of 6-0.**

2. Variation to Section 9-107(A)(2) of the Zoning Code to allow a parking lot with no interior parking lot tree, in lieu of one parking lot tree, as required: During discussion, members noted that Applicant had made a pretty compelling case that it would be difficult to grow a tree in the rear lot, that drainage is not affected, and that aesthetics would not really be affected by the loss of the tree, but that on-site parking would be affected without the variation. Following a motion from Member Biggert and a second by Member Moberly, **the ZBA recommended approval of this variation on a vote of 6-0.**

3. Variation to Section 9-106J(5)(b) of the Zoning Code to allow two wall signs higher than 20 feet or the bottom of the second story window, as required: During discussion, it was noted that the ZBA was considering only the height of the proposed signs, and not what the signs would look like. Members noted that any signage eventually proposed would need to be separately approved by the Plan Commission. The fact that the variation was requested for only two signs, on the north and south facades was noted. Certain members expressed concern that granting the variation as to sign height would give the owner an unfair advantage over other owners of two-story buildings in the downtown area, and would result in additional similar requests by other owners. Chairwoman Braselton noted that the recommendation of the ZBA on this request would be unique to this particular property. Following a motion from Member Biggert and a second by Member Connelly, **the ZBA recommended approval of this variation on a vote of 4-2.**

In conclusion, based on the Findings set forth below, the ZBA recommends to the President and Board of Trustees that the following requested variations relative to a proposed two-story commercial development at the Property, located in the B-2 Central Business Zoning District at 26-32 E. 1st Street, be **GRANTED**:

- Variation to Section 9-105(C)(1) of the Zoning Code to allow a loading space that would open onto a building façade facing a public right-of-way;
- Variation to Section 9-107(A)(2) of the Zoning Code to allow a parking lot with no interior parking lot tree, in lieu of the one parking lot tree, as required; and
- Variation to Section 9-106J(5)(b) of the Zoning Code to allow two wall signs higher than 20 feet or the bottom of the second story window, as required.

FINDINGS: In making its recommendations of approval, the ZBA makes the following Findings as to the requested variations:

1. *General Standard:* Carrying out the strict letter of the provisions of the Zoning Code would create a particular hardship or a practical difficulty, based on satisfaction of the additional standards that follow.

2. *Unique Physical Condition:* The Subject Property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or

nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot. In this case, the property is a corner lot, with an existing structure on site, retaining walls, and a structural party wall at the west side of the site. All of those conditions must be addressed in site design. There is no practical method to provide a loading space that is not visible from the front of the proposed building without negatively impacting on-site parking or traffic on First Street (in the event that a gate from First Street to the loading area is installed). The slope of the lot and existing retaining wall at the south end of the Property would make it difficult to maintain a tree on a landscape island due to a lack of sunlight. Two members felt that this uniqueness standard was not met as to the sign height variation request. Others disagreed, finding the location of the Property and nature of the proposed development was unique.

3. *Not Self-Created:* The 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 the Zoning Code, for which no compensation was paid. In this case, the slope of the lot and the existence of the retaining wall make a design with a landscape island in the parking area impractical. The existing slope, physical orientation, layout, and other physical aspects of the lot favor locating the proposed commercial building along the First Street frontage, and the Applicant will be denied a significant amount of on-site parking if the loading area were required to be in the rear and a landscaping island were required.

5. *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. The ability to address the site difficulties through design solutions, and to maintain additional on-site parking in lieu of a landscape island that would be impractical to maintain due to a lack of sunlight are not providing special privileges or additional rights to the Applicant. A tree is provided in the site plan adjacent to the parking area on a landscape peninsula instead of on a landscape island. Two members felt that granting the variation for sign height would constitute a special privilege. Others disagreed, finding the location of the Property and nature of the proposed development was unique, and that the granting of a sign variation would not therefore constitute a special privilege.

6. *Code And Plan Purposes:* The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which the Zoning Code and the provision from which a variation is sought were enacted or the general purpose and intent of the official comprehensive plan.

Specifically, the requested variations and proposed development of the Property by Applicant, including maintenance of on-site parking for the proposed development and ability to provide adequate signage for potential tenants, is consistent with the purposes of the Zoning Code.

7. *Essential Character Of The Area:* The variation would not result in a use or development on the subject property that:

(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; (b) would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; (c) would substantially increase congestion in the public streets due to traffic or parking; (d) would unduly increase the danger of flood or fire; (e) would unduly tax public utilities and facilities in the area; or (f) would endanger the public health or safety. Among other things, the granting of the landscaping island and loading dock variations will benefit the proposed development and surrounding area by facilitating additional on-site parking on the Property, thereby decreasing parking congestion in the area. Two members, however, expressed concern that the granting of the sign variation would result in precedent that would be detrimental to downtown.

8. *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 property.

Signed: _____
Debra Braselton, Chair
Zoning Board of Appeals
Village of Hinsdale

FILE COPY

Zoning Calendar No. APP-01-13

VILLAGE OF HINSDALE
APPLICATION FOR APPEAL

COMPLETE APPLICATION CONSISTS OF FIVE COPIES
(ORIGINAL AND FOUR COPIES)

NON-RESIDENTIAL APPEAL \$1,100.

NON-RESIDENTIAL APPEAL \$1,100.

NAME OF APPLICANT(S): Ruth Barsky

ADDRESS OF SUBJECT PROPERTY: 739 Phillippa, 735 Phillippa
(if applicable)

TELEPHONE NUMBER(S): 630 915 5697

If Applicant is not property owner, Applicant's relationship to property owner
(if applicable).

DATE OF APPLICATION: April 5, 2013

RECEIVED
4/24/13

SECTION I

Please complete the following, if applicable:

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

Ruth Barsky, 1250 Jones St Unit 1103, San Francisco CA 94109

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

3. **Applicant.** Name, address, and telephone number of applicant:

Same as Owner

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

739 Phillippa, 735 Phillippa

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

a. **Attorney:** Matthew Klein 322 W Burlington LaGrange IL 630 533 3290

b. **Engineer:** _____

c. **Architect:** _____

d. **Designer:** _____

e. **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. NONE

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.

Provide information regarding 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 above, and in addition, the following:

1. **Action Appealed.** The specific order, decision, determination, or failure to act from which an appeal is sought: _____

Village determination 735 and 739 consolidated and became one zoning lot with out plat of consolidation
and with out full conformance with zoning requirements

(Attach copy of any writing evidencing the action appealed.)

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:

Ms Barsky purchased 739 Phillippa so as to avoid living adjacent to run down structure.

She demolished house per permit and constructed fence per Village permit.

Village position is two lots became one, not with standing such consolidation would make house non-conforming

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

Determination the 735 and 739 each remain as a distinct legal non-conforming lots of record

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:

Fence Permit issued to enclose 739 N Phillippa did not by itself result in consolidation of lots.

Purported consolidation would have created a new non-conformity in the S side yard of the 735 lot

If Fence permit was not properly issued in the absence of consolidation and full conformity,

fence can easily be removed

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 Applications	
Appeal to the Zoning Board of Appeals	\$1,075.
Variation	\$825.
Fence Variation	\$825.
Commercial Applications	
Appeal to the Zoning Board of Appeals	\$1,075.
Variation	\$825.
Fence Variation	\$825.


The appellant must also pay the costs of the court reporter's transcription fees for the appeal. 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: Ruth Barsky

Signature of Owner: 

Name of Applicant: Ruth Barsky by Matthew Klein, as attorney

Signature of Applicant: 

Date: 4/5/2013

Ruth N. Barsky
735 and 739 N. Phillippa

Section I

7. Survey. Survey is enclosed.
8. Existing Zoning. The surrounding area is zoned R-4 and developed with single family homes. Lots on the east side of Phillippa are uniformly approximately 60 feet in width, as are nearly all the lots on the west side of Phillippa. Very few lots with in the several surrounding blocks conform to the R-4 district requirements.
9. Conformity. The existing condition, two legal non-conforming lots of record, is in conformity with the Comprehensive Plan and Map. Each of the 735 and 739 N. Phillippa lots is a "Legal non-conforming lot of record", as is every lot on the east side of Phillippa, and every lot on the west side of Phillippa.

The basis the Village asserts for the two existing "Legal non-conforming lot[s] of record" having become one lot is inconsistent with established Village precedent in the interpretation of the ordinance. The well established Village position is that one can not modify the boundaries of a non-conforming lot or Legal non-conforming lot of record, with out bringing the lot into full conformity or obtaining a variation for the remaining non conformity. Here, combining the two lots results in an impermissible 11.02 foot side yard on the south side of 735 N. Phillippa (as part of a 120' wide lot). Perhaps the Village erroneously issued a permit for a fence on 739 Phillippa, but that can be readily cured by modification or removal of part or all of the fence. No action of either the owners nor the Village consolidated the two lots in full conformity with the requirements of R-4 zoning.

10. Zoning Standards. The proposed appeal, requesting that 735 and 739 N. Phillippa each be determined to be a "Legal non-conforming lot of record" is in conformance with the purposes of the ordinance, and the consistent interpretation of the Code by this Board and the Village. Denial of the appeal will impermissibly take Ms Barsky's property with no benefit to the Village nor neighboring properties. Allowing each of 735 and 739 N. Phillippa to be a "Legal non-conforming lot of record" will allow uniform lot size for homes on this block of Phillippa, a primary goal of the ordinance in preserving Hinsdsale as a primarily single family home community.

5

DuPage Coun

Cook Coun

2012

ZONING MA

DUNCAN
FIELD



VILLAGE
OF HINSDALE
DU PAGE AND COOK COUNTIES, ILLINOIS

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Tollway

County Line Road

Justine Street

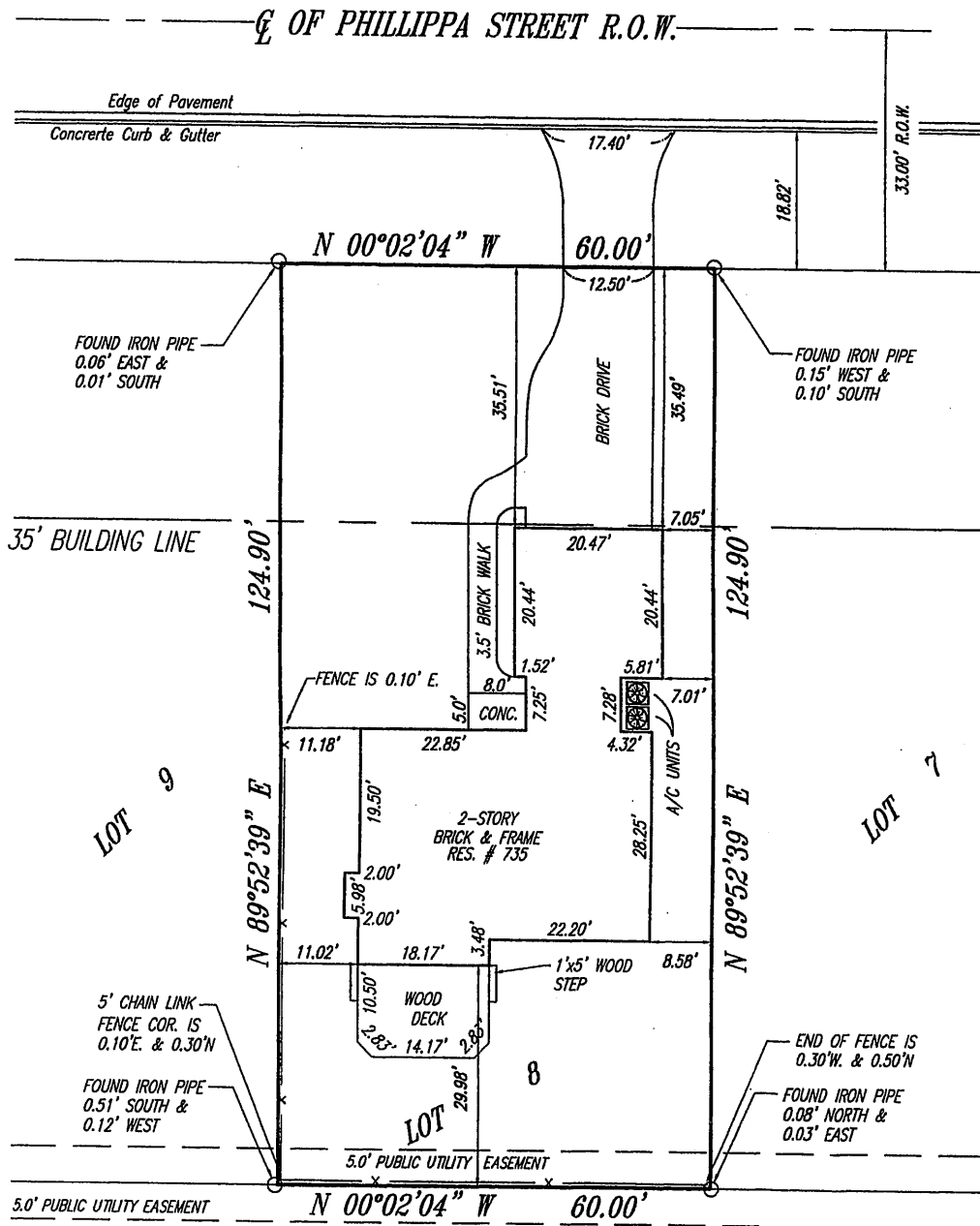
Mill Street

PLAT OF SURVEY

OF

BLOCK 5 IN JEFFERSON GARDENS SUBDIVISION, BEING A SUBDIVISION OF A PART OF THE WEST HALF OF SECTION 6, TOWNSHIP 38 N 2, EAST OF THE THIRD PRINCIPAL MERIDIAN; RECORDED AUGUST 17, 1929 AS DOCUMENT No. 10457275 IN COOK COUNTY, ILLINOIS.

P.I.N. 18-06-108-008



PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS STANDARDS FOR A BOUNDARY SURVEY.
THIS SURVEY IS NOT VALID WITHOUT THE SURVEYORS SEAL
THE DESCRIPTION ON THIS PLAT WITH YOUR DEED. ABSTRACT

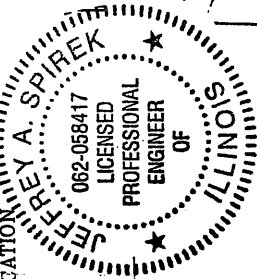
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UNLAWFUL

OF

ENGINEER'S SEAL

PROFESSIONAL DESIGN FIRM, HEREBY
MISSION WAS PREPARED ON
ARSKI, BY GENESIS SURVEY, P.C.
DED TO BE USED AS AN INTEGRAL
THE PROJECT SPECIFICATION



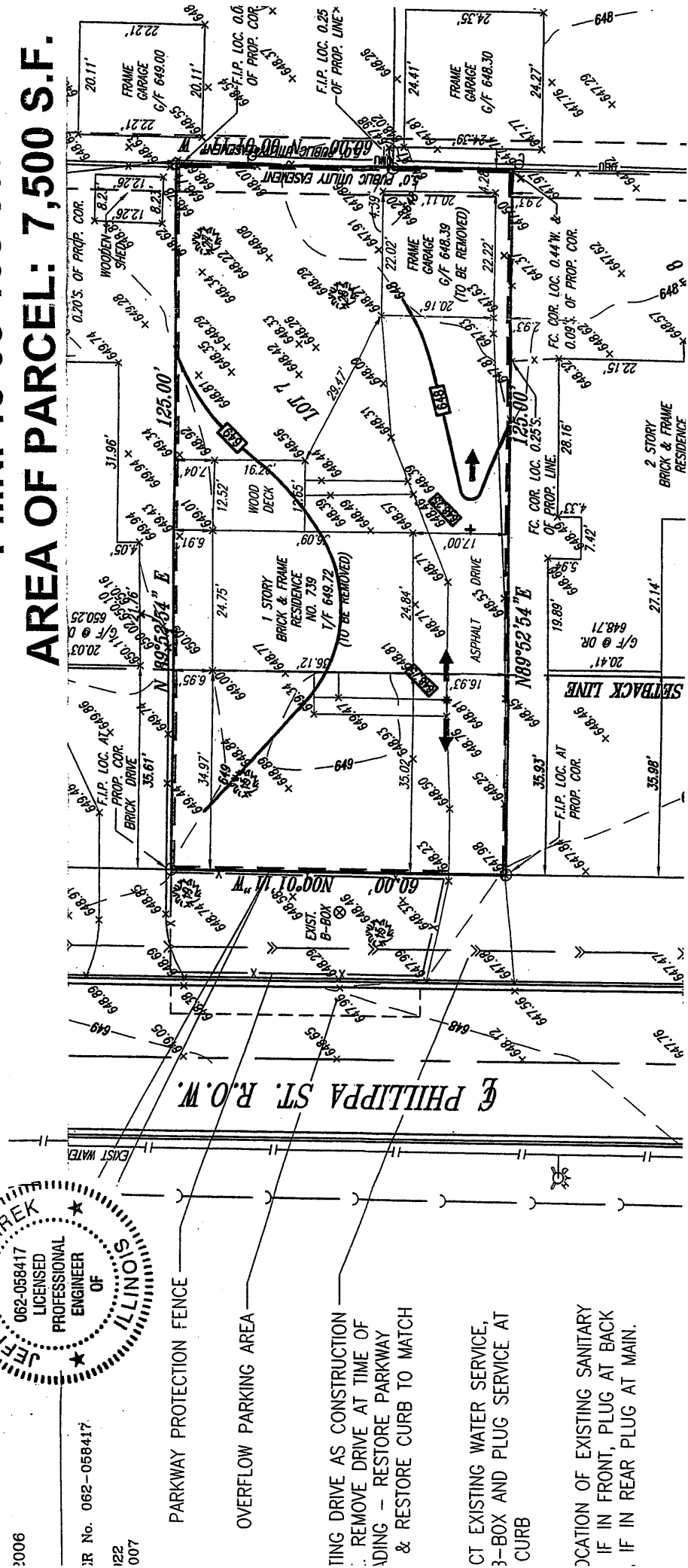
2006

IR No. 062-058417

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LOT 7 IN BLOCK 5 IN JEFFERSON GARDENS SUBDIVISION, BEING A SUBDIVISION OF A PART OF THE WE
NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN RECORDED AUGUST 17, 1929 AS DOCUMENT

P.I.N. 18-06-108-007
AREA OF PARCEL: 7,500 S.F.



PARKWAY PROTECTION FENCE

OVERFLOW PARKING AREA

TING DRIVE AS CONSTRUCTION
REMOVE DRIVE AT TIME OF
DING - RESTORE PARKWAY
& RESTORE CURB TO MATCH

CT EXISTING WATER SERVICE,
3-BOX AND PLUG SERVICE AT
CURB

LOCATION OF EXISTING SANITARY
IF IN FRONT, PLUG AT BACK
IF IN REAR PLUG AT MAIN.

RD

COUNTY LINE RD

