



# VILLAGE · OF · WINNETKA

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## WINNETKA ZONING BOARD OF APPEALS NOTICE OF MEETING

**May 9, 2016**

**7:00 p.m.**

The Winnetka Zoning Board of Appeals regular scheduled meeting will convene on Monday, May 9, 2016 in the Council Chamber at the Winnetka Village Hall, 510 Green Bay Road, Winnetka, Illinois, at 7:00 p.m.

### AGENDA

1. Approval of February 8, 2016 meeting minutes.
2. Approval of March 14, 2016 meeting minutes.
3. Case No. 16-07-V2:       277 Poplar St.  
                                  Joe and Lisa McGowan  
                                  Variations by Ordinance
  1. Rear Yard Setback
  2. Garages
4. Other Business

Note: Public comment is permitted on all agenda items.

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities, who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities contact the Village ADA Coordinator at 510 Green Bay Road, Winnetka, Illinois 60093, (Telephone (847) 716-3543; T.D.D. (847) 501-6041).

**510 Green Bay Road, Winnetka, Illinois 60093**

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# Memo

To: ZBA members  
From: Ann Klaassen, Planning Assistant  
Date: April 29, 2016  
Re: Application Updates

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- Case No. 16-02-SU: Faith, Hope and Charity, SUP and variations to allow a Parish Center addition and installation of a synthetic turf athletic field. Due to the positive recommendations from the advisory boards and commission, the Village Council waived introduction and adopted Ordinance M-6-2016 granting the request at its meeting April 5, 2016.
- Case No. 15-27-V2: 5 Indian Hill Rd., variation for minimum required lot depth for a proposed subdivision. Due to schedule conflicts, the applicant has requested the Village Council consider this case for policy direction at its meeting June 21, 2016.
- Case No. 16-05-SU: Crow Island School, SUP and variation to allow modular classrooms that would encroach the side yard setback. Due to the positive recommendations from the advisory boards and commission, the Village Council waived introduction and adopted Ordinance M-7-2016 granting the request at its meeting April 19, 2016.
- Case No. 16-06-V2: 719 Foxdale, maximum building size and side yard setback variations to allow a two-story addition. At the request of the applicant this case was continued at the April meeting. Revised plans have not been submitted to date.

**DRAFT**

**WINNETKA ZONING BOARD OF APPEALS  
FEBRUARY 8, 2016**

**Zoning Board Members Present:** Joni Johnson, Chairperson  
Chris Blum  
Mary Hickey  
Carl Lane  
Mark Naumann

**Zoning Board Members Absent:** Thomas Kehoe  
Kathleen Kumer

**Village Staff:** Michael D’Onofrio, Director of Community  
Development  
Ann Klaassen, Planning Assistant

**Agenda Items:** Approval of the excerpted minutes of the December  
14, 2015 meeting (One Winnetka, Case No. 15-10-  
PD).

Approval of the excerpted minutes of the January  
11, 2016 meeting (One Winnetka, Case No. 15-10-  
PD).

**Minutes of the Zoning Board of Appeals  
February 8, 2016**

**Call to Order:**

Chairperson Johnson called the meeting to order at 7:00 p.m.

**Approval of Minutes:**

Chairperson Johnson noted that Ms. Hickey is not present and that she submitted her changes to the minutes to Mr. D’Onofrio prior to the meeting. She stated that they have to get the changes to the Village Council and noted that Ms. Hickey had a letter that she wrote.

Mr. D’Onofrio stated that with regard to his thought on the letter, it is a representation of a summation of her considerations but noted that the record has been closed. He indicated that he did not think it would be appropriate to include it as part of the minutes and that he would ask the Village Attorney if they could add it to the documentation that they sent to everyone else.

Ms. Hickey arrived at the meeting at this time.

Mr. D’Onofrio informed Ms. Hickey that he is not sure that he could include the letter as part of

the minutes because the record is closed that they would include it as part of the packet that is sent to the Village Council.

A Board Member asked what the purpose of the letter is.

Ms. Hickey responded that she wanted to regroup her thoughts as to why she was opposing the One Winnetka development.

Mr. Lane stated that for a council or for the Board, when they have discussions at a meeting, he referred to creating a separate document by one Board member.

Ms. Hickey stated that she could submit the letter on her own.

Mr. Lane commented that it seemed inappropriate to him and that it would mean that everyone else would have to do the same thing.

Chairperson Johnson stated that this did raise an issue and that only once in her recollection that a member of the Board went to the Village Council meeting to discuss a matter. She commented that she felt that was very inappropriate and referred to the subdivision request they just finished. Chairperson Johnson stated that was before she was on the Board and that she read it in the minutes. She then stated that she would not be happy if anyone on the Board appeared before the Village Council on something that the Board has discussed. Chairperson Johnson stated that the Board member appeared before the Village Council stating that he was adamantly opposed to the subdivision and that the Board recommended approval. She also informed the Board that the applicant was very upset.

A Board Member noted that Louise Holland and Jan Bawden came before the Board and spoke.

Mr. Lane stated that they spoke to the Board as individuals. He commented that although it was a little weird, they disclosed that they were on the Plan Commission but made it clear that they were speaking on their views.

Chairperson Johnson stated that part of the problem was that they were not allowed to present that information at the meeting. She stated that they are also taxpayers and residents and that if Ms. Hickey wants to submit the letter as a resident, she indicated that it would be difficult to take out the fact that she is on the Board.

Ms. Hickey confirmed that she would disclose that fact in a revised letter.

Chairperson Johnson then stated that they have all had the opportunity to submit changes and that she submitted changes. She asked for a motion to approve the excerpted minutes from the December 14, 2015 meeting on the One Winnetka case. A motion was made by Mr. Lane and seconded by Ms. Hickey. A vote was taken and the motion was unanimously passed.

Chairperson Johnson then asked for a motion to approve the excerpted minutes from the January 11, 2016 meeting on the One Winnetka case. A motion was made by Mr. Lane and seconded by

Ms. Hickey. A vote was taken and the motion was unanimously passed.

Chairperson Johnson stated that there are a couple of other items she would like to discuss with the Board.

A Board Member asked if One Winnetka would be making any changes based on the Board's findings.

Chairperson Johnson noted that they went before the DRB after the Board's last meeting.

Mr. D'Onofrio stated that they are scheduled to be before the DRB on February 18, 2016 and that they are hoping that the DRB would finish their discussion and wanted a couple more minor modifications that they felt that they could vote on.

Chairperson Johnson stated that pursuant to the guidelines which were in front of the DRB and referred to at the December meeting, they are to go through all of the findings and vote either yes or no. She asked if they did not have one vote overall.

Mr. D'Onofrio responded that they would have one vote and would go through all of the items. He stated that overall they may not meet certain things but would meet other things. Mr. D'Onofrio stated that they would have a vote and that there would be a recommendation to the Village Council. He added that the Board's recommendation along with the Plan Commission's and DRB's recommendations would go to the Village Council meeting which is tentatively scheduled for March 17, 2016. Mr. D'Onofrio noted that the DRB meeting is scheduled for February 18<sup>th</sup>.

Ms. Hickey asked if they would be taking public comment at that meeting.

Mr. D'Onofrio stated that they have always taken public comment and that they are not required to have a formal hearing similar to this Board.

Chairperson Johnson then stated that some of you may have heard that the Village Council approved the hiring of a real estate economic consultant to start work on looking at the financial aspects of the One Winnetka project as it pertained to the Village's contribution which she assumed would include the garage costs, the retail taxes that would be garnered from it and the selling of the right-of-way on Lincoln and other financial aspects. She stated that she presumed that they are to report by the first meeting.

Mr. D'Onofrio confirmed that is correct.

Chairperson Johnson stated that is ongoing and asked if there were any other questions with regard to One Winnetka.

Ms. Hickey asked what the date of the first Village Council meeting is.

Mr. D'Onofrio responded that it would be March 17, 2016.

Chairperson Johnson then stated that she presumed that the DRB agenda packet would be up on Monday.

Ms. Hickey asked if the minutes were up from that meeting.

Mr. D'Onofrio responded not yet. He noted that AJ is working on the minutes from all of these cases.

Chairperson Johnson stated that with regard to other issues that she wanted to discuss, she referred to Mr. Blum and his new baby and work schedule and stated that he is going to step down from the Plan Commission as liaison. She stated that Ms. Hickey expressed some interest before in doing it and could take Mr. Blum's place but that she wanted to give the rest of the Board the opportunity to express interest.

The Board members agreed that would be fine.

Chairperson Johnson suggested that they try to have the appointment start in March or April since they cannot have a temporary appointment and that it would have to be Ms. Hickey or Mr. Blum. She then thanked Ms. Hickey for offering to serve as liaison and thanked Mr. Blum for all of his work. Chairperson Johnson stated that the importance for the liaison is especially when they have heard cases before the Plan Commission does, is to present issues that might come up at their meeting. She stated that unfortunately, Mr. Blum was not at the last Plan Commission meeting when they heard the Saints Faith Hope and Charity request and that at the meeting, there were some changes that they hoped would be made for the playfield which were not in the written materials. Chairperson Johnson informed the Board that the applicant is proposing to put a small concrete pad next to the rubberized playground equipment and that some members of the public noted that was different than what the Board had looked at and that both Boards had continued the Saints Faith Hope and Charity case before a final recommendation was made on it. She then asked Mr. D'Onofrio typically, the Board does not get a case back and that it is not uncommon for there to be changes as a case makes its way through to the different boards. Chairperson Johnson stated that she personally had some issues with the playground as well as Ms. Hickey and that the question is whether they want to look at it again after the other boards look at it in order to discuss their opinion about it. She stated that her understanding is that the applicant was told to meet with the neighbors and come up with a consensus.

Chairperson Johnson stated that Mr. Norkus is the liaison for both the Plan Commission and the DRB as opposed to Mr. D'Onofrio and that there is sort of a disconnect in terms of who knows what their boards were discussing and the fact that the minutes were not yet available and that all the Plan Commission saw was that the Board recommended unanimous approval.

Mr. D'Onofrio informed the Board that it is not unusual when a case goes through a process like this for changes to be made as it goes through the approval process by the Boards and the Plan Commission and referred to the One Winnetka application as an example. He noted that all of that would go to the Village Council so that they are aware of what each advisory body recommended based on what plan was there. Mr. D'Onofrio stated that he is not sure that once the Board makes its recommendation, if they have the jurisdiction to say that they want to look at

it again which is a legal question that he would have to ask the Village Attorney.

Mr. Lane asked if the plans had changed before it got to them.

Mr. D'Onofrio confirmed that it changed after.

Chairperson Johnson noted that the written materials that both Boards received were the same and that it was only in the oral presentation that a difference in the materials was noted.

A Board Member asked if they got the same copies as the Board and if it was submitted as such.

Chairperson Johnson stated that when the applicant made their presentation, they announced that the plans had changed and added that it was not in the agenda packet. She then stated that Mr. D'Onofrio is correct in that there may be some legal issues in the request coming back before the Board and stated that her concern is that hopefully, once the Plan Commission and the DRB have completed their presentation and if the playground plan is still different than what the Board saw, then maybe Mr. D'Onofrio in the agenda report can note the difference in what was submitted to the other boards.

Chairperson Johnson then stated that the entire synthetic turf portion of the field is 206 feet x 154 feet.

Ms. Hickey asked what the size of the concrete portion is.

Chairperson Johnson stated that she did not have that information with her. She then stated that with regard to something that has been on her mind for a while, when the Board approved special use requests, sometimes there are questions as to whether the applicant would display retail products in the window, etc. and that when she shopped and walked around the Village, she noticed things that did not seem to be in compliance with what was represented. Chairperson Johnson stated that it is not her responsibility to address those things and referred to Mrs. Greens as an example and noticed that for the parking lot, traffic is only supposed to go east and that it went in both directions. She also stated that there is a painted arrow on the pavement pointing east but that she did not see any signs indicating one-way traffic.

Mr. D'Onofrio informed the Board that they have been in touch with the applicant.

Chairperson Johnson then referred to the special use which was approved for the physical therapy location in the courtyard building on Lincoln and that she asked them if they are going to have people lie on tables and that the applicant stated that they would be put in private rooms. She questioned should they care and that as residents, they have neighbors who say things and that she felt that when the Board is very well informed about these issues, she described it as frustrating when there is no compliance and asked if there is some way to check on it.

Mr. D'Onofrio stated that compliance is what is in the ordinance and if an applicant says "A" and it is not "B", they can only enforce what is in the ordinance. He then stated that if an applicant represented something and it is not part of the condition, it gets into a gray area. Mr. D'Onofrio

stated that if they are granting a special use for a health club and there are special conditions, that are what they are granting the special use for and that those have to be reflected in the ordinance and are enforceable. He added that if it is a health club, there is no requirement that there had to be a certain amount of retail which is one of the issues that was brought up.

Mr. Lane stated that the Board sometimes makes recommendations or conditions on an approval and asked what the process for it to get incorporated is.

Mr. D'Onofrio stated that is the responsibility of the Village Council.

Chairperson Johnson stated that was done with the Amoco renovation and that various specific conditions were included.

Ms. Hickey asked if the Board made conditions on the health club approval.

Chairperson Johnson responded that they did not and indicated that it is unfortunate that when an applicant says things in order to get through the process. She stated that the Board is only an advisory body and that she is happy to hear that for Mrs. Greens that signs would be put up.

Mr. Blum stated that if there is a condition that actually is, that maybe the strategy is that there should be a negative recommendation but that if they did this, they would be behind it and that it would be covered and if there was ever a case where it was actually that clear.

Mr. D'Onofrio stated that the Board has done that before and referred to Conlon Real Estate as an example where limitations were put in with regard to on-street parking. He indicated that it is not unusual and that if the Board thought that it was raised to the point that there should be a condition.

Chairperson Johnson stated that the last item is that she spoke to a previous applicant and referred to a specific instance is that the architects are told that they are going to be coming by and that they seem to be surprised and that they do not know. She stated that she always went to a property at a time which is convenient and then referred to those that do know that the Board members are coming by and are gracious. Chairperson Johnson stated that you sometimes cannot understand an application if you do not visit the property. She then asked the Board members if they had any ideas as to how that could work and that Ms. Kumer had an idea that there could be a schedule but that would lead to the Open Meetings Act.

Mr. D'Onofrio stated that they could redouble their efforts to let the architects and the homeowners know.

Chairperson Johnson then stated that the applicant's contact information is redacted on the application and asked if it would be possible for the Board members to have that information.

Ms. Klaassen stated that she has been emailing the applicants to let them know directly that Board members may be stopping by. She stated that she told them that it would be generally the week prior to the meeting. Ms. Klaassen also stated that the architects know that is the standard

practice and that she has taken the next step to warn the homeowner.

Ms. Hickey suggested that the Board be gracious in visiting the homeowners.

Chairperson Johnson stated that there are clearly cases where it is not necessary and that there are other cases where it is necessary. She then referred to one commercial owner who asked for her card which was a long time ago. Chairperson Johnson then asked if there were any other comments.

Mr. D'Onofrio stated that with regard to the downtown master plan, they are moving along and referred to the website for information on the master plan. He stated that they finished the vision statement and that in March; they are looking at four potential redevelopments. Mr. D'Onofrio described it as a quick way to download information and make it available. He then referred to the post office site and stated that there may be development there that might apply to another site since it is publicly owned property. Mr. D'Onofrio also referred to picking a spot which is a gateway and whether there would be gateway improvements and whether those improvements can be used in another part of town. He stated that there may be principles that could be transferable to other locations. Mr. D'Onofrio informed the Board that there would be a meeting on the 27<sup>th</sup>.

Chairperson Johnson asked what happened with Domino's.

Mr. D'Onofrio informed the Board that it has been approved by the Plan Commission and would be going before the Village Council.

Chairperson Johnson asked Mr. D'Onofrio if they worked with businesses to make sure that their employees are not taking up parking spaces.

Mr. D'Onofrio stated that the police department sent a letter to the Chamber that they are passing out to their members. He stated that they issue parking passes and that people can park in timed spaces. Mr. D'Onofrio then stated that some business owners are the biggest violators of that. He then stated that they are working on a way-finding signage program for the business districts and that one of the goals is to identify the Hubbard Woods parking deck so that people know it is there. Mr. D'Onofrio also informed the Board that at their last downtown master planning meeting, they had a presentation by a traffic engineering sub-consultant who took a look at all of their parking and identified a lot that is 7% occupied. He suggested that the Board members go online to look at the data which he described as interesting.

**Adjournment:**

The meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Antionette Johnson

**DRAFT**

**WINNETKA ZONING BOARD OF APPEALS  
MARCH 14, 2016**

**Zoning Board Members Present:** Joni Johnson, Chairperson  
Mary Hickey  
Thomas Kehoe  
Kathleen Kumer  
Carl Lane

**Zoning Board Members Absent:** Chris Blum  
Mark Naumann

**Village Staff:** Michael D'Onofrio, Director of Community  
Development  
Ann Klaassen, Planning Assistant

**Agenda Items:**

**Case No. 15-27-V2:** 5 Indian Hill Road  
Dan and Debra Gill  
Variation by Ordinance  
1. Lot Area, Shape and Dimensions (Minimum Lot  
Depth)

**Case No. 16-05-SU:** 1112 Willow Road, Crow Island School  
Winnetka School District 36  
Special Use Permit  
1. Modular Classrooms  
Variation by Ordinance  
1. Side Yard Setback

**Minutes of the Zoning Board of Appeals  
March 14, 2016**

**Call to Order:**

Chairperson Johnson called the meeting to order at 7:02 p.m.

**Approval of Minutes:**

Chairperson Johnson stated that the Board would now review the December 14, 2015 and January 11, 2016 meeting minutes. She noted that the portions relating to One Winnetka had already been approved and adopted. Chairperson Johnson then stated that she submitted her changes via email to Mr. D'Onofrio in connection with the December 2015 minutes. She asked if there were any other comments. No comments were made at this time. Chairperson Johnson

then asked for a motion.

A motion was made by Mr. Lane and seconded by Ms. Hickey to approve the minutes and findings from the December 14, 2015 meeting, as amended. A vote was taken and the motion was unanimously passed.

Chairperson Johnson stated that for the January 11, 2016 minutes, she submitted her changes to Mr. D'Onofrio. She then asked if there were any comments. No comments were made at this time. Chairperson Johnson asked for a motion.

A motion was made by Mr. Lane and seconded by Ms. Hickey to approve the minutes and findings from the January 11, 2016 meeting, as amended. A vote was taken and the motion was unanimously passed.

**5 Indian Hill Road, Case No. 15-27-V2, Debra Gill, Variation by Ordinance – Lot Area, Shape and Dimensions (Minimum Lot Depth)**

Mr. D'Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by Dan and Debra Gill concerning a variation by Ordinance from Section 17.30.010 [Lot Area, Shape and Dimensions] of the Winnetka Zoning Ordinance to permit Lot 2 of the proposed Gill Subdivision to have a minimum lot depth of 156.62 ft., whereas a minimum of 200 ft. is required, a variation of 43.38 ft. (21.69%).

Chairperson Johnson swore in those that would be speaking on this case.

Hal Francke of Meltzer, Purtill & Steele introduced himself to the Board as the attorney for the applicants. He stated that the piece of property was previously considered by the Plan Commission for subdivision into two lots. Mr. Francke stated that with regard to whether there are any zoning ordinance variations for the lots, those would come before the Board before the subdivision is considered.

Mr. Francke stated that they are here on one variation request and noted that the other requests are considered by the Plan Commission but that there would only be one before the Board. He then introduced Dan Gill and Lesa Rizzolo, the architect on the project. Mr. Francke stated that there would not be an extensive presentation and that he would respond to the standards for consideration for the variation and comment on some of the concerns which were expressed by the neighbors. He stated that he would then turn the presentation over to Ms. Rizzolo who would orient the Board to the property location and unique characteristics. Mr. Francke then distributed to the Board a two page summary of what makes this a unique situation.

Lesla Rizzolo stated for the lot currently identified, they are looking for the subdivision of two lots. She noted that the blue areas represented the existing residences and guest home on the property, the pool, the pool house, the carriage home and the main home. Ms. Rizzolo stated that the request is to subdivide the property into two lots, one which would measure 41,500 square feet and the other measuring 43,789 square feet. She then referred the Board to the handout which identified all of the other lots as significantly smaller.

Ms. Rizzolo stated that in connection with the unique situation of the lot, she identified the buff color as the road. She also identified Church Road and the flag lot to Church as well as Indian Hill Road. Ms. Rizzolo informed the Board that they spent a lot of time with zoning and Mr. Norkus and Ms. Klaassen. Ms. Rizzolo stated that the trick was to figure out where the front and side yards are. She then identified the front yard, the rear yard and side yards, all of which are conforming on Lot 1. Ms. Rizzolo then stated that with regard to Lot 2, she identified the front yard, side yards and rear yard. She stated that with the front yard by zoning, they need 200 feet of depth which is what they are asking for a variation for since the lot will be 157 feet deep. Ms. Rizzolo stated that it is based on a really unique lot and how they decided the front yards, side yards and backyards are set up.

Chairperson Johnson asked if the reason why is one lot is a corner lot, the west lot is measured east to west instead of north to south. She also asked if it was an interior lot, would it satisfy the depth requirement. Chairperson Johnson then stated that if it did, if they did not consider Lot 2 as an interior lot, then it would be measured like the main lot from east to west for depth.

Ms. Klaassen informed the Board that the frontage is on the north.

Ms. Rizzolo identified the side yards for both properties.

Ms. Klaassen then stated that the depth is measured from the front of the lot.

Mr. Kehoe asked if that were not the front yard, would no variation be needed.

Ms. Rizzolo responded that they would have the depth otherwise. She also noted that all of the lots are less in depth than the 200 foot requirement as well.

Chairperson Johnson stated that on the earlier plan before the Plan Commission, the GFA variation was obviated since the applicants moved the east line.

Ms. Rizzolo confirmed that is correct in order to allow for the GFA to meet the requirements.

Chairperson Johnson asked if there were any other questions.

Ms. Hickey asked what are the addresses.

Ms. Rizzolo noted that the whole property is 5 Indian Hill. She also stated that there is a tax bill at 116 Church and that the other property receives a different tax bill.

Mr. D'Onofrio noted that it is a single lot for zoning purposes all under 5 Indian Hill.

Ms. Hickey asked if the trees along the driveway by the garage would be coming down.

Ms. Rizzolo stated that is on the property line and that they are not taking anything down. She then referred the Board to an illustration of the trees on the property lines and reiterated that they have no intention of taking trees or anything else down.

Ms. Hickey stated that she is having a hard time and is not seeing how the homes are going to be built.

Ms. Rizzolo responded that they are not building any homes.

Ms. Hickey then asked if what they are proposing is for the main home to come down.

Ms. Rizzolo stated that there would be no demolition now and that they are only requesting to subdivide an extraordinarily large lot into two lots.

Ms. Hickey questioned the vision for the east lot and if they keep the pool and coach house, she asked where does the home go.

Ms. Rizzolo stated that it is a four bedroom home with a two car garage. She also stated that it is a very large home. Ms. Rizzolo then identified the home on that lot on an illustration for the Board.

Ms. Hickey asked if the coach house would meet the southern setback requirement.

Ms. Rizzolo responded that neither does and referred to the southern setback.

Mr. D'Onofrio informed the Board that the dashed line is the building line based on both subdivisions.

Ms. Rizzolo stated that it would if either home is torn down and identified the lot line. She reiterated that no trees would come down. Ms. Rizzolo stated that they would never build a home this big or keep the home as is. She stated that they need to look at the building lot to meet the building lot area requirements to subdivide the lot.

Mr. D'Onofrio noted that with a lot this size, they could build a 10,832 square foot home.

Ms. Hickey questioned the measurement of the west lot.

Mr. D'Onofrio responded that it would be permitted 11,360 square feet.

Ms. Rizzolo informed the Board that it is their intention to not tear down either home. She also stated that the applicants spent a lot of time and energy to renovate the home.

Mr. Francke stated that he would like to clarify that the subdivision is not being done to do an addition or new construction. He stated that they are to look at it as if they wanted to buy a coach house and that under the ordinance, the home has to exist on its own lot of record. He then stated that if they wanted to sell the property, they would have to create a legal lot of record and that a buyer would want to know that the property in its existing condition is conforming. Mr. Francke also stated that if 50% or more of the home is destroyed, they could not rebuild it since it would not be a legal lot of record and that it would not be deep enough. He stated that reasonable return cannot be provided with this lot and that the lot is legally nonconforming for

the home if it is burned down because of the lot depth. Mr. Francke then stated that would not be the case if Church was considered the front yard.

Ms. Hickey asked if the coach house had its own address.

Mr. Francke responded that it is 116 Church and that the Village considered it all one property. He also stated that it has two PIN numbers.

Chairperson Johnson asked what the PIN numbers are based on.

Ms. Hickey asked if legally, they can sell it on its own.

Mr. Francke responded that they could not and that they can rent it out. He stated that they could not create a lot of record because of the ordinance.

Chairperson Johnson asked does the second pin list 116 Church as the address.

Mr. Gill responded that it did not.

Chairperson Johnson then asked if there are separate utilities.

Mr. Gill confirmed that is correct and that there is separate mail and that someone has been living there for five years.

Chairperson Johnson asked when was the flag lot built.

Mr. Gill responded that the brochure says in the 1920's. He then referred to the original driveway for the home.

Mr. Francke stated that he would now go through the standards. He stated that the second standard related to unique circumstances and identified on the summary sheet the irregularly shaped lot and the fact that it is considered a flag lot. Mr. Francke stated that municipalities do not go out of their way to create a flag lot.

Chairperson Johnson stated that it still can be a flag lot when it is subdivided.

Mr. Francke stated that it would still be a unique property. He went on to state that the first standard for variation is the irregular shape as well as the fact that the lot is the biggest lot in the area. Mr. Francke informed the Board that the lot measured 85,290 square feet and that if the subdivision goes through, both lots would measure over 40,000 square feet. He also stated that with regard to all of the lots surrounding the property on Church and Indian Hill, those lots measure 10,000 to 24,000 square feet. Mr. Francke added that the coach house also represented a unique situation.

Mr. Francke stated that in connection with standard no. 3 and altering the character of the locality, this would allow for a lot depth of 159 feet which is unique because of the way it is

measured. He stated that in repeating what is on Ms. Rizzolo's plan, the lots across Indian Hill Road have depths of 156 feet, 162½ feet, 170 feet and 197½ feet. Mr. Francke then stated that there is no way that this lot at 156 deep would alter the character of the locality. He also stated that because no new construction is being proposed, he would suggest that the rest of the standards have been met.

Chairperson Johnson asked if there are any other lots flags.

Mr. Francke responded that there are not.

Mr. Lane stated that he read in the materials that this is the largest lot in Indian Hill. He asked after the property is divided, where would it fall.

Mr. Francke stated that in this area of Indian Hill, it is clearly the largest lot.

Chairperson Johnson stated that because Mr. Blum was not at the Plan Commission meeting, she reviewed the agenda packets and minutes from the October meeting and informed the Board that Mr. Norkus provided a list of 38 lots surrounding the area with their square footage and that the average was 34,754 square feet. She stated that those materials were not in their agenda packet. Chairperson Johnson indicated that you can see that there is a wide range although the average is 34,754 square feet. She then asked if there were any other questions.

Mr. Lane stated that with regard to reasonable return, he asked the applicants to go more into it.

Mr. Francke described it as the most challenging standard. He submitted that if they viewed the lot as being created without a variation, it is not that the home could not be occupied or sold, but that it could be sold as a legal nonconforming lot. Mr. Francke stated that this second lot is not requested for the whole property. He then stated that if the Village Council approved the subdivision, Lot 2 would be a legally nonconforming lot and that you cannot get reasonable return on a lot which is nonconforming to the code. Mr. Francke described it as a worthless lot.

Mr. Lane stated that the standard is that the property in question cannot yield a reasonable return and that Mr. Francke is saying that if they sold the home, that is not the standard.

Mr. Francke stated that he understood Mr. Lane's point and that the key question is what is the property in question. He stated that the Village views it as 5 Indian Hill and that if the Village Council adopted an ordinance granting the variation, it would be granted for Lot 2 in the subdivision. Mr. Francke stated that part of the property needs a variance. He stated that the ordinance would not be granting a variation for 5 Indian Hill, but a variation for Lot 2 which is the property in question. Mr. Francke then stated that the request is not like other subdivision requests where the applicant is seeking a variation to do an addition or there are weirdly shaped lots. He stated that it is not the same situation.

Ms. Kumer asked if the property is for sale.

Mr. Francke confirmed that is correct.

Ms. Kumer asked if they are anticipating that the property will not yield reasonable return as it is currently.

Mr. Francke responded not the property on the market. He stated that they are calling the property in question Lot 2 which is not on the market. Mr. Francke stated that the applicants would like to put it on the market and referred to the fact that it does not exist.

Ms. Kumer stated that the property in question is the existing property as it stands.

Mr. Francke stated that he is suggesting that it is not. He reiterated that they are not granting a variation for 5 Indian Hill. Mr. Francke then stated that with regard to the way in which it was noticed up, there was no way to identify the other lot for notice. He also stated that when you analyze the standards, he asked does the property in question variation affect the essential character of the locality. Mr. Francke stated that they are only looking at the depth requirement for Lot 2 which does not exist now. He reiterated that they are not granting a lot depth variation for 5 Indian Hill.

Chairperson Johnson stated that they would not need the variation if they did not subdivide the property and that Mr. Francke is trying to obfuscate.

Mr. Francke stated that every lot as a result of a subdivision has to conform. He stated that if the lot did not conform, this case has 14 zoning ordinance bulk regulations that each lot has to conform to and that if it did, they would not be here tonight. Mr. Francke then stated that in connection with the subdivision ordinance, if they subdivided the lot and if variations are needed, they would go to the Board and see what they think about that variation and whether that variation would adversely affect the character of the locality. He stated that the Board would consider whether it is justified because of unique circumstances, hazard from fire, etc. Mr. Francke then stated that Lot 2 would be consistent with everything across the street. He added that they are coming to the Plan Commission and the Board as 5 Indian Hill, but that if it is approved, the Village Council would be approving a two lot subdivision and granting a variation for Lot 2 only.

Ms. Kumer asked Mr. D'Onofrio is that how the Board is to evaluate the eight standards.

Mr. D'Onofrio stated that the purpose of the hearing is based on the proposed subdivision and that what Mr. Francke described is correct. He stated that the variation is for the proposed Lot 2 on the proposed subdivision. Mr. D'Onofrio stated that if they were to build a home there tomorrow on one lot, no zoning relief would be needed. He stated that if it was situated with a lot depth of 159 feet for the entire lot, they could do it without any zoning relief and that it would be a legally nonconforming lot and would be permitted. Mr. D'Onofrio reiterated that what Mr. Francke is saying is correct and that the Board is looking at a variation for the proposed Lot 2. He stated that the subdivision would be creating two lots of record, one of which would not meet the minimum standards for the lot.

Mr. Francke added that if the ordinance treated Church as the front yard for Lot 2, they would not be here. He then stated that it is because of the unique way the Village interpreted the front

yard. Mr. Francke stated that the west lot is the corner and that they look east to west to measure lot depth while the other lot is measured north to south.

Chairperson Johnson asked if there were any other questions from the Board. No additional questions were raised by the Board at this time. She then asked if there were any comments from the audience.

Dana Connell stated that he and his wife live at 2 Indian Hill which is north of the east Lot 2. He thanked the Board for their service and the opportunity to comment on the proposed variation. Mr. Connell informed the Board that the neighbors provided a 7 page letter dated March 6, 2016 which laid out the case against the variation. He noted that they intentionally provided the document by March 6<sup>th</sup> for it to be included in the packet and so that the Board would have the benefit to see it before they rule on the recommendation to the Village Council. Mr. Connell stated for the record that the two page document distributed to the Board from the applicants was never presented to anyone or the neighbors and was given to the Board at the last minute after months that the application has been pending. He stated that he would like to talk about three things which include the size of the proposed variation, the applicants' inability to show the eight requirements to get the variation and history data.

Mr. Connell went on to state that the proposed subdivision is not close to complying with the ordinance. He stated that the ordinance required for the R-2 zoning district a minimum lot depth of 200 feet. Mr. Connell stated that it is undisputed that the minimum lot depth for the east lot would only be 156 feet which he commented is a significant variation from the ordinance. He then stated that other subdivisions which are proposed and in his view are granted are extraordinary. Mr. Connell then stated that they moved the lot line to get one variation. He also stated that if a person stood on each other's head at 6 feet 2 inches, that represented the amount of the variation being requested for the proposed subdivision which he described as an extraordinary amount.

Mr. Connell stated that second, with regard to the eight requirements, first there is a burden on the applicants to show why the zoning variation should be granted. He stated that it is not on the neighbors to show nor should it be. Mr. Connell stated that they were told from the moment the applicants filled out the application to provide evidence and explain in detail how the request would meet the eight requirements. He stated that if you look at the application filed, this is the third application. Mr. Connell then stated that the question is whether the applicants met that requirement with regard to the first two requirements. He stated that finally, he referred to the neighbors, the applicants or the Board gets to change the eight standards. Mr. Connell stated that they have an ordinance and that those are the standards and stated that they should trust the Board to apply the standards.

Mr. Connell stated that the first of eight requirements is that the property in question cannot yield a reasonable return without a variation. He noted that the properties are for sale for \$4,995,000 for both lots which meant that it can yield a reasonable return and that the applicants have not proved that it cannot. Mr. Connell also stated that whether there is a sale or not, Mr. Francke said that they would like to put it on the market. He stated that nothing stops it from becoming new construction if the property is put on the market. Mr. Connell then stated that the Village

application packet states that the applicants' desire to maximize return did not meet the requirement.

Mr. Connell stated that the second standard is that the plight of the owner is due to unique circumstances associated with the property. He stated that the property is exactly the same as when the owners bought it in 1999. Mr. Connell stated that the issue is not whether it is a unique property, but whether the plight of the owner is due to unique circumstances. He stated that in this case, the only plight to the owners is the owners' desire to subdivide the property and that he cannot believe that met the requirement.

Mr. Connell stated that the third requirement is that the variation would not alter the essential character of the locality. He stated that they all live in the community and that there are a large number of properties facing Indian Hill. Mr. Connell stated that he believed that granting the variation would alter the essential character of the locality and that squeezing another home on the lot would create a side lot facing the rear lot and would alter the character of the locality.

Mr. Connell then referred to the history that the Village has with regard to subdivisions. He also referred to the information Mr. Norkus prepared for the Plan Commission meeting which included the fact that there have been 50 requested subdivisions from 1990 to the present and that for 33 of those, no relief was required. Mr. Connell noted that one required relief from the Plan Commission and the Board. He then stated that of the 17 requests for relief, only 10 required a variation under the ordinance. Mr. Connell stated that most of those variations were either denied or withdrawn and that one was granted. He noted that none of the 10 involved a property which did not meet the minimum depth requirement and that the Board has never approved a variation even remotely resembling this one. Mr. Connell concluded that for all of those reasons, he hoped that the Board would recommend to the Village Council that the application be denied.

Chairperson Johnson asked if there were any other comments.

Ernie Macvicar, 1 Indian Hill, introduced himself to the Commission and stated that he is here to support Mr. Connell. He stated that some of the things he wanted to say changed and that since Mr. Francke was not at the other meetings where there was focus on buildable lot size. Mr. Macvicar then stated that the property already has four variations and that this would result in eight. He stated that the point is that the property in total would have five variations. He also stated that it is a very large property and that there is no economic hardship. Mr. Macvicar informed the Commission that the Gills paid \$2 million and that they are asking \$4 million. He then stated that with regard to the configuration of the lot, it is the same when they bought it as it is today.

Chairperson Johnson stated that to clarify for the record, formally before the Village staff interpreted the zoning code after the Plan Commission in October, the maximum number of variations were three and not eight and that the other variations were to the subdivision ordinance standards which are not in the Board's purview. She stated that whether the existing zoning conformity and the homes have an adverse impact, that would be under the Plan Commission's analysis. Chairperson Johnson noted that there are no minutes for either meeting

yet and that the October minutes and January minutes are not yet available. She then stated that they are not to characterize why the Plan Commission decided the way they did and that they looked at different standards to the extent there is overlap. Chairperson Johnson asked if there were any other comments from the audience.

Laura Connell, 2 Indian Hill, stated that in the Village, there is plenty of new construction which did not need variation requests. She then stated that when there is a situation where there would most likely be new construction, with the density of the Village and drainage, the Board should deny a request when it needs so many exceptions.

Chairperson Johnson asked if there were any other comments.

Ms. Rizzolo stated that if the request is granted and they were to build, they would not need any exceptions. She also stated that Mrs. Connell's comment is incorrect.

Chairperson Johnson stated that they have not made a condition of approval as the Village Council has done in other cases where they have made conditions such as if a home is torn down, it would revert to the old property line, etc. and that they are not at that point yet. She then stated that if the Board is to recommend approval and the Village Council granted the subdivision and variation, unless they were to impose conditions, there would be nothing barring the owner of Lot 2 from asking for a variation for new construction. Chairperson Johnson asked if there were any other comments.

Ms. Hickey asked the Connells that Mr. Francke referenced the depth of the other homes which did not meet the 200 foot requirement, if they do not know the history.

Mr. Connell stated that the 200 foot requirement is in the 2002 zoning ordinance which was passed. He informed the Board that their property was built in the 1950's and there is no reason to believe that their property required a variation.

Ms. Kumer referred to the properties where the front is situated differently.

Chairperson Johnson asked Mr. D'Onofrio to explain to the Board why the two other additional variations were not required for the minimum rectangular buildable lot.

Mr. D'Onofrio informed the Board that the lots were subdivided in 1914 prior to the adoption of the ordinance. He stated that it related to all four lots to the north. Mr. D'Onofrio then stated that over time, with regard to part of the larger lot, some of it was deeded off and that they do not know when those occurred.

Ms. Hickey asked if the Church Street homes were part of that subdivision also.

Mr. D'Onofrio responded that those two lots were part of a larger subdivision in 1910 and that after that, they were deeded off before the Village had subdivision regulations.

Chairperson Johnson stated that there is some question as to how they determined the maximum

building area. She stated that they went through and want back to the history with regard to what was previously done and how it was interpreted was the correct way to calculate it. She stated that there were some differences in what the language of the code said but that after consultation with the Village Attorney, Peter Friedman, they calculated it the way they always have. Chairperson Johnson then stated that the 2002 ordinance had a Scribner's error. She then stated that based on the color coded map on page 2, the area to the west and south of the applicants' property is in violet and asked if that is the R-1 district.

Mr. D'Onofrio confirmed that is correct.

Chairperson Johnson then referred to the blue area to the north and west.

Mr. D'Onofrio informed the Board that is the R-2 district.

Chairperson Johnson also referred to the list that Mr. Norkus provided to the Plan Commission and asked if 9 Indian Hill is in the R-1 district.

Mr. D'Onofrio stated that it is in the R-2 district.

Chairperson Johnson stated that with regard to the whole Indian Hill area which included Golf Lane, what percentage of the entire district is in the R-1 district.

Mr. D'Onofrio stated that he did not have the zoning map.

Chairperson Johnson stated that Mr. Norkus at the October Plan Commission meeting stated that a large portion of Indian Hill north of the country club and to the west is zoned R-1 and that she did not know what is meant by large.

Mr. D'Onofrio confirmed that is true.

Chairperson Johnson stated that the whole idea of having an address for the property without separate PINs, she asked if there were other instances.

Mr. D'Onofrio stated that to clarify for the Board, there was a hard time figuring where the second PIN was. He indicated that it represented a very small sliver of land at the south end of 5 Indian Hill which may be several feet wide. He noted that there are two PINs, which is the same situation as Chairperson Johnson's home which has two PINs with one address.

Ms. Kumer questioned whether that did not correspond to Lot 2 at all.

Mr. D'Onofrio showed the Board where the second PIN is on the applicants' lot.

Chairperson Johnson asked who assigned street addresses.

Mr. D'Onofrio responded the Village. He then stated that when they have a subdivision, the Village assigns addresses and that it is done in a certain way.

Chairperson Johnson stated that it was addressed in the applicants' letters, as far as they know, the access drive to Church was always there.

Mr. Gill confirmed that is correct and stated that was the original driveway for the entire property. He stated that the driveway for Indian Hill came in later. Mr. Gill also stated that the home was nonconforming by today's standards and that it sits on the corner of the lot, the same as with the coach house.

Chairperson Johnson asked Mr. D'Onofrio if none of the roads except for the south portion of the property go through to the public street and that they are all dead end and if they are still considered roads.

Mr. D'Onofrio confirmed that is correct.

Chairperson Johnson then stated that Mrs. Gill in a letter stated that they have four roads surrounding the property and that they are an island which is unusual. She asked if there were any other comments.

Mr. Kehoe asked if of the 50 requests for a variation, if none of them dealt with lot depth.

Mr. D'Onofrio responded that they went through the same data and that he did not recall one for lot depth and referred to a deminimus variation request for lot width.

Mr. Kehoe then asked that if there is new construction, would they have to correct the existing nonconformity and that otherwise, they would not be able to build.

Mr. D'Onofrio stated that if there is a new home, it would have to be built according to all of the regulations. He stated that if not, it would have to come before the Board and the Village Council for a variation for zoning relief.

Ms. Kumer stated that with regard to the coach house, if there is a subdivision, she referred to the existing nonconformity. She then questioned if they want to improve it or make a change to windows.

Mr. D'Onofrio confirmed that is correct.

Chairperson Johnson stated that if windows are added to the main home and it was nonconforming. She then referred to page 9 under Item No. 4, there was talk with regard to windows. Chairperson Johnson then stated that on Ms. Rizzolo's letterhead, they submitted an explanation of the standards based on a prior zoning case.

Ms. Rizzolo stated that was the previous zoning case.

Chairperson Johnson suggested that the applicants fix that. She then asked if there were any other comments. No additional comments were made at this time. Chairperson Johnson called the matter in for discussion.

Mr. Lane described the request as difficult. He stated that the two standards that he has an issue with are the first two standards. Mr. Lane stated that with regard to the character of the locality, the lot size is still substantially large. He stated that if there is a new home, the zoning standards would come before the Board. Mr. Lane also stated that with regard to the essential character of the locality and light and air, those standards are not an issue.

Mr. Lane referred to the first standard with regard to reasonable return and the applicants' response to look at the other property. He stated that if they assumed that is true, he referred to standard no. 2. Mr. Lane also referred to the typical evaluation and the uniqueness on the full property. He stated that if they are looking at evaluating no. 1, they would do the same for no. 2, they are not that unique. Mr. Lane also stated that the flag pole did not make it unique and that it is still a rectangular property. He stated that unique circumstances focus on the shape and use of the property such as if it is a triangle or on a corner or has an easement, all of which are things that he could get over in terms of the concept of unique circumstances. Mr. Lane also stated that if this was one individual property, it is a normal size one and that for the street front yard, you can get to it from two different places. He stated that he cannot get past the second standard and that there are no unique circumstances. Mr. Lane then stated that with regard to the smell test, he stated yes and to apply the standard.

Ms. Hickey stated that in not considering Lot 1 but that if there was a subdivision, with regard to the front yard for that large main home, there would be no land for a large home if it was subdivided. She stated that it would change the essential character of the neighborhood. Ms. Hickey also stated that with regard to the homes on Church, although it is the R-2 district, it is separate and that the lot sizes are smaller.

Chairperson Johnson stated that those lots bring the average down.

Ms. Hickey then stated that further around on Indian Hill, there are very large lots. She stated that they are being asked to create a legal nonconforming lot with a variation and that the Board has not done that in a subdivision.

Chairperson Johnson indicated that it is hard to separate the two issues and that they are to look at Lot 1.

Ms. Hickey concluded by stating that she agreed with Mr. Lane's comments with regard to unique circumstances.

Mr. Lane stated that to take the applicants' statement to evaluate no. 1 and the basis for determining reasonable return on Lot 2 only. He stated that the applicants can make a reasonable return as a large piece of property. Mr. Lane also stated that they can make reasonable return if they cannot have the property subdivided only with a variation. He referred to the applicants' statement that they cannot get reasonable return if they cannot subdivide the property. Mr. Lane described no. 2 as a slam dunk.

Mr. Kehoe stated that he had no idea what reasonable return is in relation to what. He referred to selling the property for \$5 million. Mr. Kehoe also stated that it would be hard to sell the

property if it is not subdivided and that there are select buyers who could buy both. Mr. Kehoe added that there are also findings for other approvals and that the presence of three or more street frontages would result in the correction of existing deficiencies and the irregular topography shape. He stated that the home would front on the street which is the only reason they are here tonight. Mr. Kehoe then referred to the massive brick wall on the north property line and the neighbors. He concluded by stating that he did not see how it would have an effect as to what goes on with regard to the other side of the wall.

Ms. Kumer reiterated that standard no. 2 represented a hang-up for her. She also stated that the flag pole on Lot 2 is not extremely unique. Ms. Kumer then stated that the separate street address is not significant to her or the separate PINs and that she did not have an issue with the rest of the standards. She also referred to traffic if the lot is subdivided and if there is new construction and reiterated that the hurdle related to standard no. 2.

Chairperson Johnson stated that she is troubled by standard no. 3 and that the request would alter the character of the locality not because of the lot sizes since it would still be close to what is required for the R-1 district and that it would still be larger than many of the surrounding lots. She noted that there are two large lots west of this lot and that having a separate lot with maybe a new home or not, it would to be appropriate for the neighborhood. Chairperson Johnson then stated that creating a lot will require a substantial variation and that it will be a flag lot which is not desirable in Winnetka. She stated that standard has not been met.

Chairperson Johnson also stated that even though the lot depth for the other homes is similar to this one, the subdivision happened a long time ago before the requirements of today. She also stated that she agreed with the others with regard to standard no. 2. Chairperson Johnson then stated that she did not think that they could conclude whether they are only looking at the standards vis-à-vis Lot 2. She concluded by stating that either way, she cannot support a recommendation for a variation and asked if there were any other comments.

Mr. Francke stated that with regard to standard no. 2, the Connells' arguments in support included in the application and there is specific reference to the statement tonight in the application. He stated that it is clear that there would be a flag lot condition in this area which he described as completely unique. Mr. Francke also stated that but for the way that the ordinance is interpreted, that is not the request this evening. He referred to some ordinance to make the flag portion in the front and that the flag is unique in that that there are no other flag lots near it and that it is in the R-2 district and larger than others in the area. Mr. Francke added that it is not appropriate to say that for bigger lots down the road in a different zoning district and that the only reason for the variation is due to unique circumstances and the way in which the code interpreted lot depth.

Mr. Lane stated that it has to be a characteristic of the property and not how the code is written.

Chairperson Johnson stated that Mr. Francke's comments are supporting the argument with regard to the flag lot.

Mr. Francke stated that if it becomes two lots, nothing would change. He also stated that it is not

accurate to say that olfactory nerves would not allow approval. Mr. Francke stated that with regard to the subdivision approval, he described one as ministerial and the other as quasi-judicial. He stated that they are applying facts to the standards and that it is not ministerial.

Chairperson Johnson stated that they would withdraw that comment from the minutes. She then stated that even though the lot would be very large when compared to the immediate neighborhood, it reads as one lot.

Mr. Francke stated that the issue of the subdivision is not before the Board and that the subdivision created the lot which is before the Plan Commission and the Village Council. He stated that for the Board, if the subdivision is approved, they are to consider whether the variation will alter the essential character of the locality. Mr. Francke also asked how they can say it is substantial when every lot across the street has the same lot depth. He added that the ordinance did not change in 2002 and that a lot of the examples given were long before that.

Mr. Connell referred to the submission of the two page document for which no one had the benefit of reviewing.

Chairperson Johnson stated that Mrs. Gill's letter was misplaced by the Village staff and emailed to the Board with regard to street frontages.

Mr. Francke stated that the surrounding lot information is in Ms. Rizzolo's application and that his comments focus out of the ordinance. He also stated that the new construction comments are not appropriate.

Mr. Lane stated that it is considered but is not one of the factors.

Mr. Francke then asked for a continuance and the opportunity to respond in writing to the comments made tonight.

Chairperson Johnson stated that the Board is a recommending body whose recommendation goes to the Village Council which concluded two hearings before the Plan Commission with the Village Attorney present. She stated they could have submitted the two page letter earlier. Chairperson Johnson stated that they can argue before the Village Council and not the Board again with or without the full Board. She then asked Mr. D'Onofrio is the property as a whole the rear yard abutting the side yard or vice versa.

Mr. D'Onofrio responded rear yard to rear yard.

Chairperson Johnson then stated that she would like to add to her reasons for not recommending approval the issue addressed by the Plan Commission and argue that the changes are negative and would affect the character of the locality to create a lot through subdivision creating a rear yard abutting a side yard. She then asked for a motion.

Mr. Lane moved to recommend denial of the zoning variation based on reasonable return. He stated with regard to the property in total, there was little evidence presented that the property

could not be sold and that the reasonable return of utility was not able to be obtained from the property and that if they did divide the properties, they would not be able to sell the property without provision. Mr. Lane then stated that the property is not attached to the property [?] and that if that is true, it would lend standard no. 2 with regard to the plight of applicant being due to unique circumstances.

Mr. Lane then stated that while the property in total is wide and long and has a flag pole which may be unique, it is a fairly regularly shaped rectangular lot with a flag which did not make it unique and that there are no other additional circumstances such as it being a corner lot or having an odd shape or multiple street frontages which would make the lot substantially unique. He stated that with regard to altering the character of the locality, while the properties are reasonable in size compared to adjacent properties, creating the property would only be accessible off of Church which would make it somewhat unique.

Mr. Lane stated that the light and air for the coach house would remain the same and that if a new home is to be constructed, the applicants would have to come back and comply with the standards. He stated that with regard to the hazard from fire, the coach house would be in the same place and that otherwise, it would have to comply with the standards for a new home and that it would follow the essential character of the locality which would not be impacted. Mr. Lane stated that congestion would not increase and that for the two properties, it would still be there if there is a subdivision or if new construction is built. He concluded by stating that the standard with regard to the public health, comfort, morals, welfare and safety of the Village is not applicable and to recommend denial of the request to the Village Council.

Chairperson Johnson noted for the record to reflect to add that creating a rear yard abutting a side yard where currently none existed would negate the effect on the essential character of the locality. She asked if there were any other comments. No additional comments were made at this time.

Ms. Hickey seconded the motion. A vote was taken and the motion was passed, 4 to 1.

AYES: Hickey, Johnson, Kumer, Lane  
NAYS: Kehoe

### **FINDINGS OF THE ZONING BOARD OF APPEALS**

1. The requested variation is within the final jurisdiction of the Village Council.
2. The requested variation is not in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is not compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are not practical difficulties or a particular hardship which prevents strict application of Section 17.30.010 [Lot Area, Shape and Dimensions] of the Winnetka Zoning Ordinance which is related to the use or the construction or alteration of buildings or structures.

The evidence in the judgment of the Zoning Board of Appeals has established:

1. The property in question can yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone. Little evidence was presented that the property as a whole cannot be sold with a reasonable return.
2. The plight of the owner is not due to unique circumstances. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants. While the property in total is wide and long and has a flag pole which may be unique, it is a fairly regularly shaped rectangular lot with a flag which did not make it unique and that there are no other additional circumstances such as it being a corner lot or having an odd shape or multiple street frontages which would make the lot substantially unique.
3. The variation, if granted, will alter the essential character of the locality. Creating a rear yard abutting a side yard where currently none existed would have a negative effect on the essential character of the locality. Additionally, creating a lot that would only be accessible off of Church Road would make it somewhat unique to the neighborhood.
4. An adequate supply of light and air to the adjacent property will not be impaired. The existing supply of light and air will remain the same and if a new home is constructed it will be required to comply with the zoning regulations required for the lot.
5. The hazard from fire or other damages to the property will not be increased. The coach house will be in the same place and any new construction would be required to comply with the building code.
6. The taxable value of the land and buildings throughout the Village will not diminish. No evidence was presented to the contrary.
7. The congestion in the public street will not increase. No evidence was presented to the contrary.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired. No evidence was presented to the contrary.

**1112 Willow Road, Crow Island School, Winnetka School District 36, Case No. 16-05-SU Modular Classrooms and Variation by Ordinance – Side Yard Setback**

Mr. D'Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by Winnetka School District 36 for Crow Island School, located at 1112 Willow Rd., concerning a Special Use Permit in accordance with Section 17.56.010 and a variation by Ordinance from Section 17.30.060 [Side Yard Setback] of the Winnetka Zoning Ordinance to permit the installation of modular classrooms that would result in a west side yard setback of 6 ft., whereas a minimum of 12 ft. is required, a variation of 6 ft. (50%).

Chairperson Johnson swore in those that would be speaking on this matter.

Trisha Kocanda introduced herself to the Commission as the Superintendent of the Public Schools as well as Greg Kurr, the District CFO and Carol Pugh, the project architect. She stated that she would provide a brief overview of the rationale as to why they are asking for modular classrooms. Ms. Kocanda informed the Board that she would review a presentation which was shared with the community and neighbors in the process in order to make sure that there is a consistent message. She also stated that they began by having six sessions which were offered to parents and neighbors and that they wanted to be proactive in terms of communication and for the community to be well aware of the need and why they are asking for the units.

Ms. Kocanda stated that with regard to their educational programming, although there are 150 more children than at Greeley and Hubbard Woods, she described their program as a wonderful educational program. She stated that the children at Crow Island have access to all of the instructional programming, specials and services, etc. and that the class guidelines that they have at the school district are in place at Crow Island. Ms. Kocanda stated that they cap their K-1 and K-2 classes at 20 students, K-3 and K-4 at 21 and that they have a wonderful, supportive community at Crow Island and a beautiful facility.

Ms. Kocanda then stated that with regard to space constraints, there are 91 first graders which required five classroom sections once they apply the section guidelines. She stated that as a school district, the students have a similar experience with special classes, art, music, etc. and that for every extra section they have, it adds 13 sections of specials per week which required space to hold those classes. Ms. Kocanda also stated that they have a mandated state program called Response to Intervention which allowed them to intervene on the behalf of children before they would need special services. She stated that the Response to Intervention program does require small group space for the children. Ms. Kocanda stated that they have different demands on their space given their recent commitment to having an assisted specials program across the district as well as Response to Intervention.

Ms. Kocanda then informed the Board that they knew that the first grade size would be rather large and that they moved the classes' two programs out of the school into other places in the district. She stated that with 91 first graders, things do not always go as planned and that things are very tight and noted that they have eight teachers who provide special services to students in one classroom.

Ms. Kocanda informed the Board that they are looking at longer term solutions. She then stated that before they commit to any of these, they had to evaluate the financial and emotional cost and that they wanted to have that extra time to engage. Ms. Kocanda stated that they could either wait for the self-correction of enrollment, investigate school boundary shifts or invest in building new construction, all of which require more time.

Ms. Kocanda then stated that as to why they want short term solutions, they need immediate relief now. She informed the Board that the enrollment is projected to decrease and that the short term solution would allow greater time for study. Ms. Kocanda then stated they are exploring whether to invest in extended day kindergarten and that decision would be made by the School

Board in May. She stated that they are asking for two phases of temporary classrooms with the first phase to take place in the summer with two classrooms which would provide space for immediate relief. Ms. Kocanda then stated that with regard to the second phase, if the School Board approved extended day kindergarten and extended day kindergarten in three schools, they would add the second unit with two classrooms next summer. She also referred the Board to the drawings and applications for both phases.

Chairperson Johnson asked if they are not proposing both modular units and just one for now. She also asked if they did not want to come back if they determined that they needed the second one.

Ms. Kocanda confirmed that is correct.

Mr. Lane asked if one unit would contain two classrooms.

Ms. Kocanda responded that is correct. She also stated that it would be for music and Spanish and that it would also be air conditioned.

Greg Kurr stated that you can see the units in the slides and reiterated that each unit would have two classrooms. He stated that ultimately, they are considering four classrooms and that they are starting with two. Mr. Kurr then stated that in connection with the timeline, for the summer, the plan is putting the A unit in an area he identified in the illustration at the southwest corner of Crow Island and that the B unit would go in the other direction from east to west.

Mr. Kurr then stated that with regard to amenities, the external planting, landscaping and air conditioning was discussed with the parents and neighbors. He also stated that with regard to safety, the units would be equipped with communications, utilities, etc. which are regulated by the Illinois School Code and Village standards. Mr. Kurr added that they are planning on sprinkling the units. He then referred the Board to a diagram of what the units would look like. Mr. Kurr stated that the two units would be connected by a walkway with a canopy and that the installation plan met the code of the Village and the Illinois School Code.

Mr. Kurr went on to state that in engaging with the parents, they talked to the general consensus as to the fact that there is a space need. He indicated that there are different viewpoints on extended day kindergarten. Mr. Kurr noted that the bigger issue was landscaping with the neighbors and that they would come up with a plan agreement with them.

Mr. Kurr then stated that with regard to the timetable, there have been meetings with the Village and that they would come back to the DRB because of landscaping and the surrounding areas and then on to the Village Council.

Mr. Kehoe stated that he was there Saturday with his grandchildren and noted the proximity to the closest neighbor at the southwest corner.

Mr. Kurr indicated that they spoke to the Glendale neighbors and that there was minimal attendance. He also referred to the Mt. Pleasant neighbors. Mr. Kurr then asked if there were

any other questions.

Carol Pugh introduced herself to the Board as the architect and stated that she would tell the Board why the modular units would be where they are and why they are asking for a variance. She informed the Board that the units would be located at the southwest corner by the wing of the school. Ms. Pugh also stated that they looked at various other locations and that with regard to the northwest side; the neighbors asked that they be located on the other side. She noted that is not the school's property and that it is the Park District property as well as the fact that it is in the 100 year flood plain. Ms. Pugh stated that they cannot put the modular units in the flood plain. She also stated that they cannot be placed in the front of the building.

Ms. Pugh then stated that with regard to Glendale, there is no room there and that they have to keep the required 35 feet from the building. She also stated that location would be obvious to the neighbors and that for the southeast corner, they would lose play space and access in and out.

Ms. Pugh also stated that with regard to locating them in between the two wings of the school, there is not 35 feet from each building. She indicated that left them with the southwest corner which is more obscure from the community as a whole and that although Glendale would see them, that is the best location. Ms. Pugh also referred to the 35 foot requirement from the IBC building code and that the modular units have to be kept away from the building unless they are sprinklered but added that they would be sprinklered. She also stated that there is a fire wall on the south wall which will be kept at 15 feet from the building and that in any other location; it would have to be 35 feet.

Ms. Pugh then stated that with regard to the reason for the variation for the side setback, she referred the Board to an illustration of the configuration for modular units A and B. She noted that they would have an L shaped configuration and that they would be nestled among the trees. Ms. Pugh informed the Board that they wanted to stay away from a 30 inch tree as well as another tree and identified the trees in an illustration for the Board. She noted that they were held at 10 feet off of the Park District property. Ms. Pugh informed the Board that the modular unit itself is at 10 feet and that the emergency exits are 4 feet closer which is why they need the variation. She also stated that all of the children would come out of one end and door on the east side. Ms. Pugh added that there would be ADA accessibility as well. She then stated that if modular unit B is installed in 2017, it would run in an east-west position in order to save green space and that it would have the same distance off of the property line which is the rationale as to where they are located and why they are located there. Ms. Pugh also referred the Board to an illustration of the landscaping plans and stated that they would come up with a plan for Glendale and Mt. Pleasant.

Ms. Kocanda added that it would be considered by the School Board tomorrow.

Chairperson Johnson asked if there are berms and landscaping on the perimeter.

Mr. Kurr and Ms. Kocanda confirmed that is correct.

Ms. Pugh then referred the Board to an aerial view which was not available at the DRB meeting.

She also identified modular unit A and the landscaping. Ms. Pugh stated that they planned to clear the old landscaping and that it would be added in other areas.

Chairperson Johnson stated that with regard to the landscaping around the units, she stated that she is curious that if they are temporary, that would represent quite an investment.

Mr. Kurr stated that for the nature of the plantings, they have to be careful because of the size and duration and that they would be transplantable. He informed the Board that when the units come out, they would be put elsewhere on the property.

Ms. Pugh stated that there would be a combination of evergreens and seasonal color.

Mr. Lane referred to the long term timeline for the necessity for these. He then stated that in his experience when he grew up, they were called temporary classrooms and that they went up and never came down. Mr. Lane asked when would they make a long term decision.

Mr. Kurr stated that the first unit would have a three year lease option and that after three years, he referred to if any additional time is needed for the longer term plan. He also stated that redistricting is an option as well as the consideration of putting an addition on the school. Mr. Kurr then stated that because the school has historic value, the process that they would have to go through would take quite a while. He stated that is how the duration of the units would be determined.

Chairperson Johnson asked if with regard to the second one, if it is needed longer than three years.

Mr. Kurr responded that it is not and that the second unit would have a two year lease and a one year option. He noted that the terms would end concurrently. Mr. Kurr also stated that the Illinois School Board would monitor it as well as far as duration is concerned and that they have to report annually with regard to a longer term commitment and disposition plan.

Ms. Hickey stated that her children who attended Hubbard Woods grew up with temporary classrooms and that they are gone now.

Mr. Lane stated that with regard to the growth projection, the applicant said that it would decline and asked how confident are they with that projection.

Ms. Kocanda responded that there is an approved process for projection forecasting. She indicated that it is dependent on the housing market and birth rates. Ms. Kocanda then stated that years back, they have not looked at real estate movement as a predictor. She indicated that they are comfortable that for a net three years, they would be expecting a 2% decrease. Ms. Kocanda also stated that the piece that could shift is if the School Board approved extended day kindergarten and that because of that, they see a rebounding effect from enrollment. She added that families do not choose a school because they do not have extended day kindergarten.

Mr. Lane then referred to a letter from the neighbors and that concern in connection with safety.

He stated that now, the units are not patrolled by the doors and referred to the difficulty getting into Crow Island. Mr. Lane asked how they planned to make sure that they would still be able to control the children exiting the school where they are supposed to be exiting.

Mr. Kurr informed the Board that there would be an electronic swipe entrance. He also stated that the use is for specials and older children. Mr. Kurr also stated that between the building with the communication factor, there would be back and forth and assistance.

Ms. Kocanda confirmed that the students would be escorted in and out and with the use of walkie talkies. She stated that the ideal situation would be to have supervised transportation between the units.

Mr. Kurr also referred to the use of cameras.

Mr. Lane questioned the end of the school day.

Ms. Kocanda stated that they would exit near where they do now. She also stated that special classes would not let out at the end of the school day.

Chairperson Johnson asked if the pickup after school on Mt. Pleasant would not be blocked off.

Ms. Kocanda confirmed that there would be supervision out there. She noted that the vehicles go down Glendale to Mt. Pleasant.

Ms. Kumer asked if they would not be changing the traffic pattern.

Ms. Kocanda confirmed that is correct.

Chairperson Johnson asked if there were any other questions.

Ms. Hickey questioned the agreement with the Park District.

Mr. Kurr informed the Board that the original plan was for two units to be located together which would have encroached on their property. He stated that there was an agreement with the Park District Board and that in a letter follow-up, it was determined that there was not any setback issue with them.

Chairperson Johnson suggested that the applicant take that letter out of the packet since the units would not be located on Park District property.

Ms. Kumer stated that with regard to extended day kindergarten and the second modular, would that only be at Crow Island.

Ms. Kocanda responded that the other schools have capacity for extended day kindergarten.

Ms. Kumer then asked if they addressed putting the modular units in between the wings.

Ms. Pugh clarified in an illustration for the Board why that alternative would not work. She stated that there is 80 feet in width which is not enough room and that the units are 24 feet wide.

Ms. Kumer asked if they had the leased units yet.

Mr. Kurr stated that they did not.

Chairperson Johnson asked if there were any other questions. She stated that it was mentioned that they might add sidewalks.

Ms. Pugh noted that the units would be located on the asphalt and that they would add a sidewalk for the emergency exit doors.

Chairperson Johnson asked if the current permeability matrix accounted for the sidewalks they would be adding.

Ms. Pugh confirmed that is correct.

Chairperson Johnson asked if that is for both units.

Ms. Pugh confirmed that is correct and that the calculation is for both units.

Chairperson Johnson then stated that they would be adding lights and asked if there would be any glare.

Ms. Pugh identified one light pole which would be 12 feet in height and confirmed that the light would shine down. She also stated that the units would have lights at each door and that there is an existing tall pole behind one unit which shined down for the playground. Ms. Pugh also stated that they would add lighting underneath the covered canopy.

Chairperson Johnson asked if the DRB looked at it.

Ms. Pugh confirmed that it is in their packet of materials. She confirmed that there is a light at the exit door already.

Chairperson Johnson asked if there were any other questions.

Mr. Lane stated that he is concerned with the length of time.

Chairperson Johnson stated that when it moves forward, they should swap out the letters and that otherwise, it is confusing. She then called the matter in for discussion. Chairperson Johnson noted that the request is for a variation and special use.

Ms. Kumer stated that she had no issues with the variation.

Chairperson Johnson stated that since they are asking for two units and might not need one, if the

recommendation should include the condition that the applicant come back when and if it is determined that they need the second one or if the Board should recommend approval for both units and for them to come back to the Village Council annually similar to the Illinois School Board review to get updates as to how much longer they would need them or not, as well as issues with the neighbors, traffic, etc.

Ms. Kumer stated that in terms of the contract itself and the lease agreements, she asked if they would go to 2019.

Ms. Kocanda stated that if they cannot have the units, it would make it difficult as to how they offer programs.

Mr. Kurr stated that in connection with the duration of the first unit, it related to the fact that they have a bubbling first grade. He stated that the duration is determined on the classes and how they get to three years. Mr. Kurr then stated that for the additional years, it would depend on how things settle out as to whether it would be self-correcting and the other plans to address it, etc.

Ms. Hickey stated that the proposal is so prudent and that the applicant is not coming here saying that there needed to be additions on the school and that they understand that Crow Island is a national landmark. She also stated that they evaluated the population and that it sounded like modular unit A is for Spanish and music and that everyone would be rotating through them. Ms. Hickey stated that she had no problem with the applicants asking for two units now and referred to it being favorable for their presentation to the School Board tomorrow. She also stated that it would help them plan and that it sounded great in terms of the evaluation going on. Ms. Hickey then stated that if the Board was to make a condition that they come back, that would be fine and that approval would give them leeway for planning. She also stated that for the special use in terms of the improvement of the property, it included two phases of landscaping and that they planned to improve the site.

Chairperson Johnson referred to the cost associated with the landscaping and that it stated \$400,000 in the report.

Mr. Kurr confirmed that is correct.

Chairperson Johnson then stated that if the School Board says it is fine, great. She then asked what if the School Board says no to perimeter landscaping.

Ms. Pugh stated that it would not cost \$400,000.

Mr. Kurr then stated that they are viewing the berms as a maintenance issue and that for adding additional landscaping, they would have to get approval from the School Board.

Ms. Kocanda stated that they can separate it as two components in terms of the implementation of landscaping and the fact that it is critical to the neighbors. She informed the Board that they have been apprising the School Board as the project evolved and that they have received no

dissenting opinion.

Chairperson Johnson then referred to the view in the winter which is not good looking and that the units did not look good. She stated that she would like to see the units and that it would be good to have that clarified in terms of perimeter landscaping.

Mr. Lane commented that it would be nice to know exactly what they are approving. He described it as relatively straightforward here and that he would be comfortable to approve the entire thing. Mr. Lane then stated that his concern related to special use item no. 3 and standard no. 3 with regard to altering the essential character of the locality. He stated that it would be dramatically different than the landmarked significant building and that the request will alter the character. Mr. Lane then stated that given the fact that it is short term, he would be comfortable for the special use and variation. He also stated that given the fact that the applicant would be entering into leases for four years or less, he would like to see the special use and variation have a restriction for four years and that the applicant would have to come back and have it evaluated again. Mr. Lane then referred to long term modular classrooms even in the proposed location and landscaping which would impact the character of the locality and the willingness of people to buy homes in the area.

Chairperson Johnson stated that she agreed that the units would alter the character of the locality near the Park District property.

Mr. Lane then commented that the applicant made a nice presentation and that he would like to make a recommendation.

Ms. Kumer asked what is the likelihood of the extended day program and asked if a survey was sent out.

Ms. Kocanda responded that there has been interest in the community. She then stated that the question is benefits and whether the investment would justify the cost. Ms. Kocanda stated that the School Board narrowed the recommendation to say in May, they want to hear whether extended day only instead of full day would depend on others' willingness to invest. She reiterated that the School Board would make its decision in May which would determine the need for the second modular unit.

Chairperson Johnson asked if there were any other questions. No additional questions were raised by the Board at this time. She then asked for a motion and recommendation of a time limit which required the applicant to come back before the Village.

Ms. Kumer moved to recommend approval for the zoning variation proposed. She stated that the property cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone and that the plight of the applicant is due to unique circumstances. Ms. Kumer stated that with regard to the alteration of the essential character of the locality that is up for debate but that the units would be temporary.

Ms. Kumer then stated that the hazard from fire and other damages would not be increased and

that the taxable value would not be affected. She stated that congestion is up for debate and that the units would be temporary. Ms. Kumer concluded by stating that the public health, safety, comfort, morals and welfare of the Village will not be otherwise impaired.

Chairperson Johnson added that the variation on the west side of the units facing the open Park District space is not close to any residential properties.

Mr. Lane and Ms. Hickey seconded the motion. A vote was taken and the motion was unanimously passed.

AYES: Hickey, Johnson, Kehoe, Kumer, Lane

NAYS: None

### **FINDINGS OF THE ZONING BOARD OF APPEALS**

1. The requested variation is within the final jurisdiction of the Village Council.
2. The requested variation is in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are practical difficulties or a particular hardship which prevents strict application of Section 17.30.060 [Side Yard Setback] of the Winnetka Zoning Ordinance which is related to the use or the construction or alteration of buildings or structures.

The evidence in the judgment of the Zoning Board of Appeals has established:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone. The use of the modular units will be temporary. Permanent construction is not justified for the current needs.
2. The plight of the owner is due to unique circumstances. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants. The proposed location of the modular units causes the least amount of disruption and loss of playground and open space. Additionally, the proposed location is not close to residential properties. Floodplain and building code requirements further restrict the location of the units.
3. The variation, if granted, will not alter the essential character of the locality. The modular units will be temporarily located on the property. The use of the units is intended for a period of four years.
4. An adequate supply of light and air to adjacent property will not be impaired. The location of the modular units is furthest from residential properties and adjacent to open park space. Therefore, it will not impair an adequate supply of light and air to the adjacent Park District property.

5. The hazard from fire or other damages to the property will not be increased as the proposed improvements shall comply with building code standards, including fire and life safety requirements.
6. The taxable value of land and buildings throughout the Village will not diminish. The modular units will be temporarily located on the property and therefore will not diminish the taxable value of land and buildings throughout the Village.
7. The congestion in the public streets will not increase. The location of the modular units will not impact pedestrian or vehicular traffic.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not otherwise be impaired. The modular units will be installed and maintained in compliance with the requirements of the Illinois School Code governing the education and safety of children and in accordance with applicable Village ordinances and codes.

Ms. Kumer then moved to recommend approval of the special use permit and stated that the request meets the six characteristics required for a special use. She stated that the proposed special use will not endanger or be detrimental to the public health, safety, comfort, morals or general welfare and that the special use will not substantially diminish or impair property values in the immediate vicinity, or be substantially injurious to the use and enjoyment of land in the immediate vicinity for uses permitted by right in that zoning district. Ms. Kumer stated that the special use will not impede the normal and orderly development and improvement of other property in the immediate vicinity for uses permitted by right in the zoning district and that adequate measures have been or will be taken to provide ingress and egress in a manner which minimizes pedestrian and vehicular traffic congestion in the public ways. She stated that adequate parking, utilities, access roads, drainage and other facilities necessary for the operation of the special use either exist or will be provided and that the special use in all other respects conforms to the applicable zoning regulations and other applicable Village ordinances and codes. Ms. Kumer then stated that she would make a recommendation to put a restriction on the special use that there be a time limitation of four years and for the applicant to come back and for the special use approval to lapse in four years from the date of approval of the ordinance.

Mr. Lane suggested that they either make it four years from the date of the ordinance or the date of the lease signing.

Mr. Kurr noted that nothing would be done until the summer and that the lease would be entered into within a month.

Mr. D'Onofrio stated that in terms of four years from now, they would key off the date of the ordinance.

Mr. Kurr agreed that would be fine.

Ms. Hickey seconded the motion. A vote was taken and the motion was unanimously passed.

AYES: Hickey, Johnson, Kehoe, Kumer, Lane  
NAYS: None

**Standards for Granting Special Uses**

The standards for granting Special Uses are set both by statute and by Village Code. Section 17.56.010 requires that special uses be permitted only upon evidence that these meet standards established by the applicable classification in the zoning ordinances. Conditions “reasonably necessary to meet such standards” are specifically authorized. Section 17.56.010 establishes the following standards for granting Special Use permits:

1. That the establishment, maintenance, and operations of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals, or general welfare. The modular units will be installed and maintained in compliance with the requirements of the Illinois School Code governing the education and safety of children and in accordance with applicable Village ordinances and codes.
2. That the Special Use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values in the immediate vicinity. The proposed location of the modular units is furthest from residential property and is adjacent to a wooded area of the adjacent park. Landscaping will also installed around the modular units.
3. That the establishment of the Special Use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts of concern. The location of the modular units will not be an impediment to development on either the adjacent Park District property or the neighboring residential properties as there is a large amount of space between the units and the residential properties. Additionally, the use of the units will be temporary.
4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimize pedestrian and vehicular traffic congestion in the public ways. The proposed location of the modular units at the southwest corner of the school will not impact pedestrian or vehicular traffic.
5. That adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exists or are to be provided. Utilities and other connectivity to the building and safety features will be added in accordance with the Illinois School Code and applicable local ordinances and codes. Access roads and drainage will be maintained.
6. That the Special Use in all other respects conforms to the applicable regulations of this and other Village ordinances and codes. Installation and operation of the modular units will conform to the requirements of the Illinois School Code and applicable Village ordinances and codes.

**Adjournment:**

The meeting was adjourned at 9:27 p.m.

Respectfully submitted,

Antionette Johnson

**ZONING BOARD OF APPEALS  
AGENDA REPORT**

**SUBJECT:** 277 Poplar St., Case No. 16-07-V2  
(1) Rear Yard Setback  
(2) Garages

**DATE:** April 28, 2016

**PREPARED BY:** Michael D'Onofrio, Director of Community Development

The petitioners, Joe and Lisa McGowan, are requesting variations by Ordinance from Sections 17.30.070 [Rear Yard Setback] and 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit the construction of a detached garage that would provide a rear yard setback of 2 ft. from the east property line, whereas a minimum of 6 ft. is required, a variation of 4 ft. (66.67%).

The variations are being requested in order to build a two-car garage measuring 23 ft. x 21 ft. The existing one-car attached garage, at the basement level, on the north side of the residence accessed from Hawthorn Ln., is to remain (Attachment C). Because the rear yard of the subject site is abutting the side yard of the adjacent property to the east, the proposed garage is required to provide a 6 ft. setback. Therefore, the proposed setback of 2 ft. requires zoning relief.

It should be noted the proposed garage will be located in approximately the same location, but further south, of the existing garage at 271 Poplar St., which has been approved for demolition along with the residence. On October 7, 2014 the Village Council adopted Ordinance M-9-2014 approving a subdivision and related variations for 265, 271, and 277 Poplar St. The subdivision evenly divided the center lot, 271 Poplar St., between 277 and 265 Poplar St.

The property is located at the southeast corner of Poplar St. and Hawthorn Ln. in the R-5 Single Family Residential District. The residence was built in 1915. The petitioners acquired the property in 2002.

There are two previous zoning cases for this property. At its meeting June 9, 2014, the Board recommended approval of Case No. 14-15-V2 to permit a nonconforming corner yard setback from Hawthorn Ln. for the existing residence, which was created due to the subdivision mentioned above. Then at the August 11, 2014 meeting, the Board recommended approval of Case No. 14-20-V2 to allow the existing residence at 271 Poplar St. to remain temporarily during construction of additions to 265 Poplar St. subsequent to the proposed resubdivision of the three lots known as 265, 271, and 277 Poplar St. into two lots, whereas only one dwelling unit is permitted on each lot. Both variation requests and the subdivision were approved by the Village Council with the adoption of Ord. M-9-2014.

The Village Council has final jurisdiction on this request.

**Attachments:**

277 Poplar  
April 28, 2016  
Page 2 of 2

- Attachment A: Zoning Matrix
- Attachment B: GIS Aerial Map
- Attachment C: North elevation of existing residence (Google Maps)
- Attachment D: Variation Application
- Attachment E: Excerpt of June 9, 2014 ZBA minutes
- Attachment F: Excerpt of August 11, 2014 ZBA minutes

# ATTACHMENT A

## ZONING MATRIX

**ADDRESS: 277 Poplar St.**

**CASE NO: 16-07-V2**

**ZONING: R-5**

ITEM	REQUIREMENT	EXISTING	PROPOSED	TOTAL	STATUS
Min. Lot Size	8,900 SF	7,521.01 SF	N/A	N/A	EXISTING NONCONFORMING
Min. Average Lot Width	70 FT	75.12 FT	N/A	N/A	OK
Max. Roofed Lot Coverage	2,030.67 SF (1)	1,203.5 SF	283 SF	1,486.5 SF	OK
Max. Gross Floor Area	3,008.4 SF (1)	2,180.09 SF	83 SF	2,263.09 SF	OK
Max. Impermeable Lot Coverage	3,760.5 SF (1)	1,673.98 SF	1,277.94 SF	2,951.92 SF	OK
Min. Front Yard (Poplar)	30 FT	17.5 FT (2)	N/A	N/A	EXISTING NONCONFORMING
Min. Corner (Front) Yard (Hawthorn)	22.54 FT	9.84 FT (3)	N/A	N/A	EXISTING NONCONFORMING
Min. Side Yard (South)	7.51 FT (5)	13.12 FT (3)	2 FT (4)	N/A	OK
Min. Rear Yard (East)	15.02 FT (6)	27.97 FT (3)	2 FT (4)	N/A	<b>4 FT (66.67%) VARIATION</b>

**NOTES:**

(1) Based on lot area of 7,521.01 s.f.

(2) Setback to porch.

(3) Setback to excessive eave on residence.

(4) Setback to proposed detached garage.

(5) The garage is permitted a 2 ft. setback from the south property line because the garage is located within the rear quarter of the lot and adjoins the rear quarter of the adjacent property to the south.

(6) The detached garage is required to provide a 6 ft. setback because it is abutting the neighboring side yard.

# ATTACHMENT B



Google Maps Hawthorn Ln



Image capture: Sep 2011 © 2016 Google

Winnetka, Illinois

Street View - Sep 2011



Google Maps

ATTACHMENT D

CASE NO. 116-07-V2  
VA2016-229

APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS

Owner Information:

Name: Lisa and Joe McGowan  
Property Address: 277 Poplar St., Winnetka, IL 60093  
Home and Work Telephone Number: [REDACTED]  
E-mail: [REDACTED]

Architect Information: Name, Address, Telephone, E-mail:

Healy M. Rice 847-853-0824  
934 Elmwood Ave. 847-853-0132 (fax)  
Wilmette, IL 60091 healyrice@comcast.net

Attorney Information: Name, Address, Telephone, E-mail:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Property Acquired by Owner: 1/2002

Nature of Any Restrictions on Property: none known

Explanation of Variation Requested: rear yard setback to permit construction  
(Attach separate sheet if necessary) of new detached garage

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OFFICE USE ONLY

Variation Requested Under Ordinance Section(s): \_\_\_\_\_

Staff Contact: \_\_\_\_\_ Date: \_\_\_\_\_

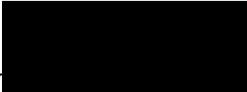
**STANDARDS FOR GRANTING OF ZONING VARIATIONS**

Applications must provide evidence and explain in detail the manner wherein the strict application of the provisions of the zoning regulations would result in a clearly demonstrated practical difficulty or particular hardship. In demonstrating the existence of a particular difficulty or a particular hardship, please direct your comments and evidence to each of the following items:

1. The property in question can not yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.
2. The plight of the owner is due to unique circumstance. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants.
3. The variation, if granted, will not alter the essential character of the locality.
4. An adequate supply of light and air to the adjacent property will not be impaired.
5. The hazard from fire and other damages to the property will not be increased.
6. The taxable value of the land and buildings throughout the Village will not diminish.
7. The congestion in the public street will not increase.
8. The public health, safety, comfort, morals, and welfare of the inhabitants of the Village will not otherwise be impaired.

For your convenience, you will find attached examples of general findings, for and against the granting of a variation, which have been made by the Zoning Board of Appeals and Village Council in prior cases.

**NOTE:** The Zoning Board of Appeals or the Village Council, depending on which body has final jurisdiction, must make a finding that a practical difficulty or a particular hardship exists in order to grant a variation request.

Property Owner's Signature:  Date: 3/16/16

(Proof of Ownership is required)

**Variations, if granted, require initiation of construction activity within 12 months of final approval. Consider your ability to commence construction within this 12 month time period to avoid lapse of approvals.**

**Lisa and Joe McGowan  
277 Poplar Street  
Winnetka, Illinois 60093**

Request for Variation

Our home, 277 Poplar Street, is located on the northeast corner of Poplar and Hawthorn Lane. We are seeking a 4.00' rear yard setback variation in order to construct a new garage on the southeast corner of our property. All remaining setbacks, floor area and lot coverage requirements are compliant with required.

We seek this variation due to unique circumstances, practical difficulty and hardship for the following reasons. We have purchased 25.0' of the lot adjacent to ours, along with our neighbors at 265 Poplar who now own the other half of this original 50.0' lot. Our desire is to build a new garage and driveway on this piece of the property. We propose to locate it in the rear corner of our lot to maximize our green space, but this is the side yard of the neighboring property at 524 Hawthorn Lane. As such we are requesting permission to build to the 2.0' setback in lieu of the 6.0' setback required.

We are proposing to build our new garage almost exactly where the existing detached garage already is located, on the property being split between us and our neighbors at 265 Poplar. This original garage will be torn down along with the existing house; this has already been approved by the Winnetka Landmark Preservation Commission. The existing garage is in poor shape and not economically practical to rehab. Similarly, the driveway will be basically where the current driveway exists, but will be replaced with new asphalt.

At present our existing "garage" is below grade under our eating area and family room. It is 9.0' wide and as such is not truly a functioning garage as you can barely open the car doors if you were to actually drive into it. It will become storage space, as it truly has been used by us and previous owners. It is our desire to have a 2 car garage so that we can put our family vehicles, bicycles, yard equipment, etc. in the garage. We considered all location options on the property and feel this is the best solution with the least impact.

The only homes affected by the variation are our neighbors to the south and east. To the east, the driveway runs along their west side of their property. This maintains a large separation between their house and our proposed garage. Our neighbors at 265 Poplar are aware of our plans and support this location. As noted above, the new garage and driveway will be in the same location as the existing garage and as such any impact to the neighborhood is minimal.

The proposed variation does not alter the essential character of the neighborhood and will be consistent with the goals, objectives, and policies established in the zoning ordinance. The proposed variation will not impair an adequate supply of light and air to the adjacent properties, will not injure other property and its use, will not substantially increase the danger of fire or otherwise endanger public health, safety and welfare, and will not substantially diminish or impair property values within the neighborhood.

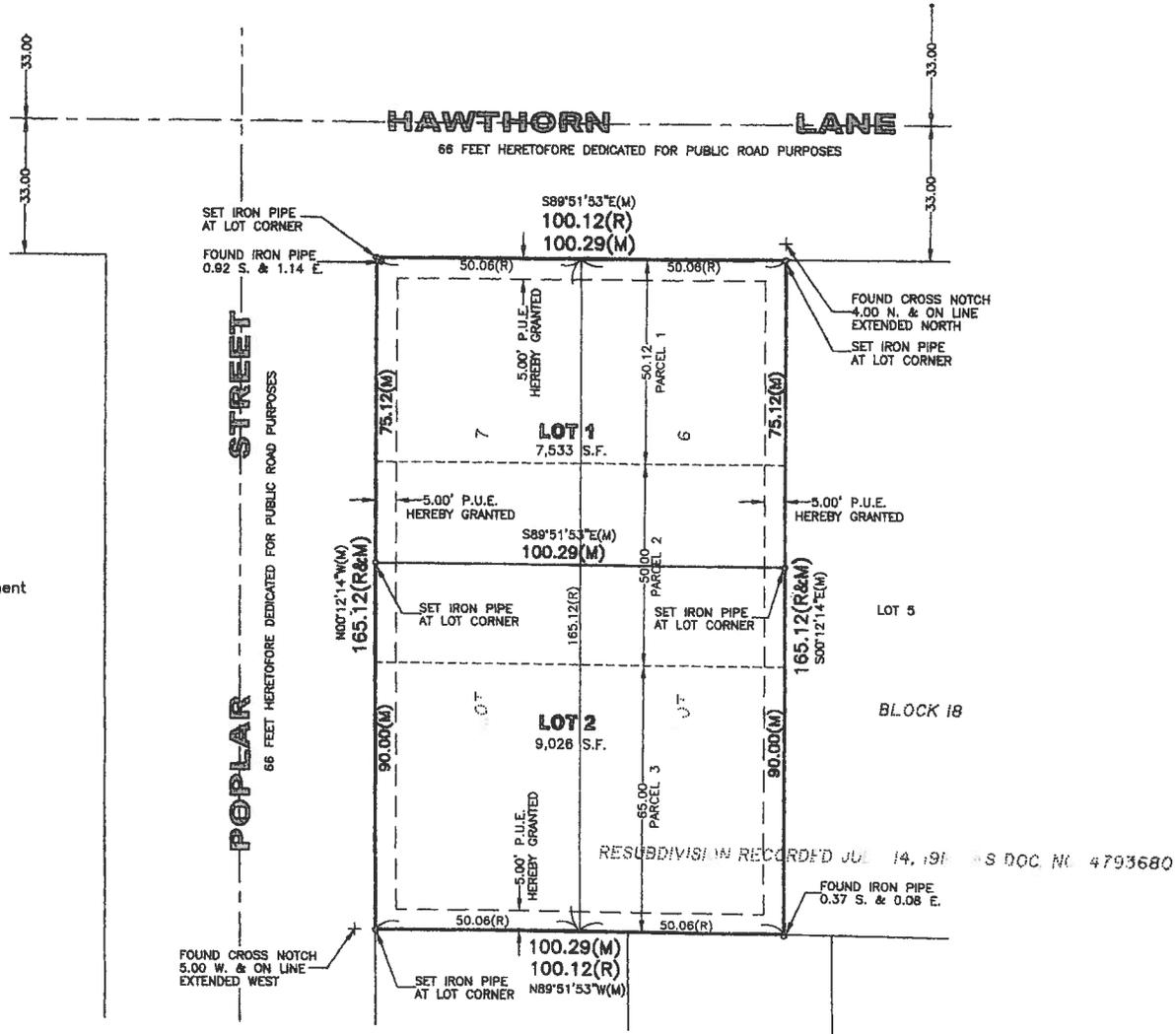
Thank you for your consideration.

EXHIBIT A

# FINAL PLAT OF WABOZO SUBDIVISION

BEING A SUBDIVISION OF PART OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**LEGEND:**  
 (R) = Subdivision Record  
 (M) = Measured  
 (D) = Deed  
 N. = North  
 S. = South  
 W. = West  
 E. = East  
 P.U.E. = Public Utility Easement



30  
 BRST

This plat is  
 Village of  
 510 Green  
 Winnetka,  
 Tel. 1-847-

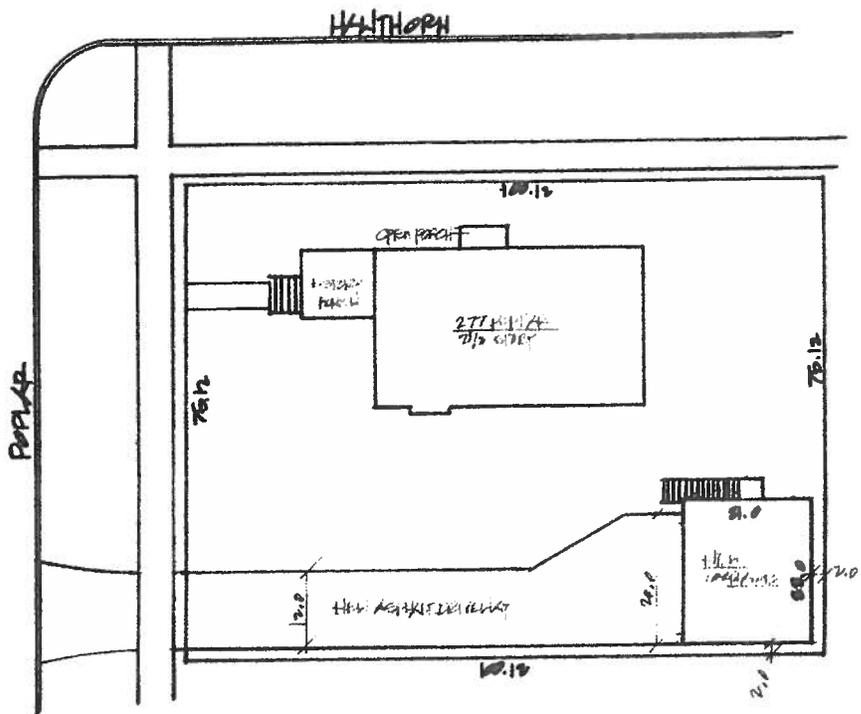
State of Ill  
 County of  
 I, Thomas  
 do hereby  
 this Plat

Dated this

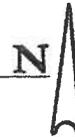
RESUBDIVISION RECORDED JUL 14, 1981 AS DOC NO. 4793680

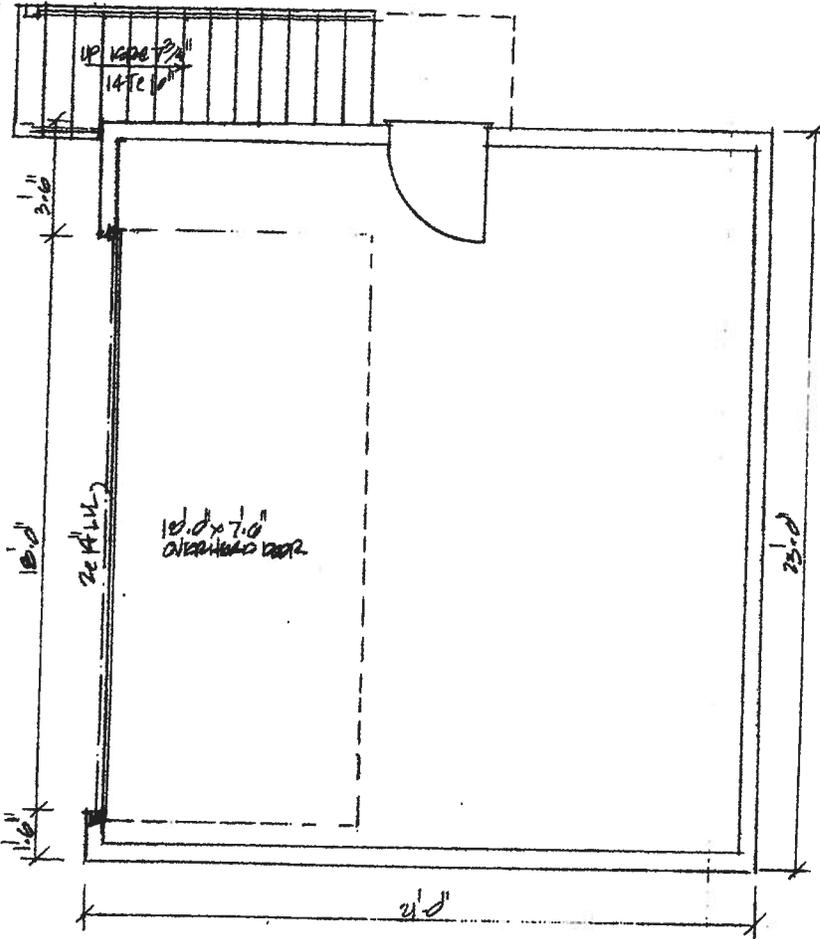
Public Utilit;

An easement  
 over and ut  
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 public utility  
 the right to  
 required in

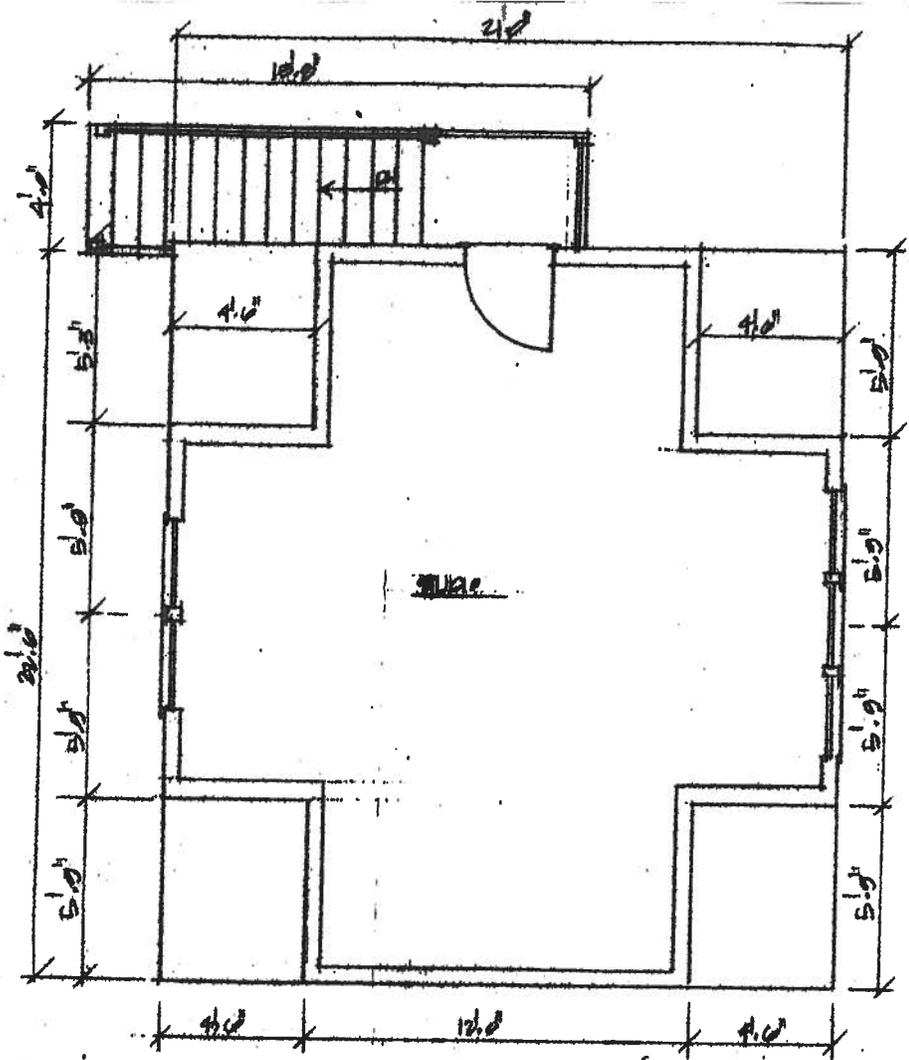


**SITE PLAN**  
1"=20'-0"

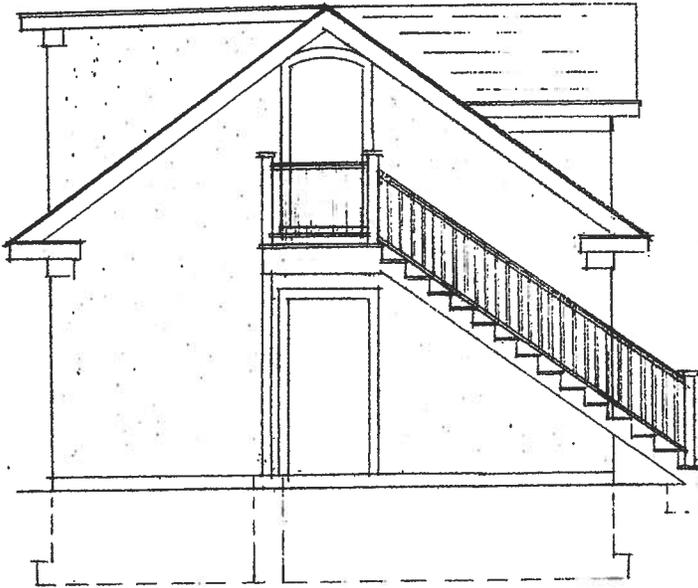




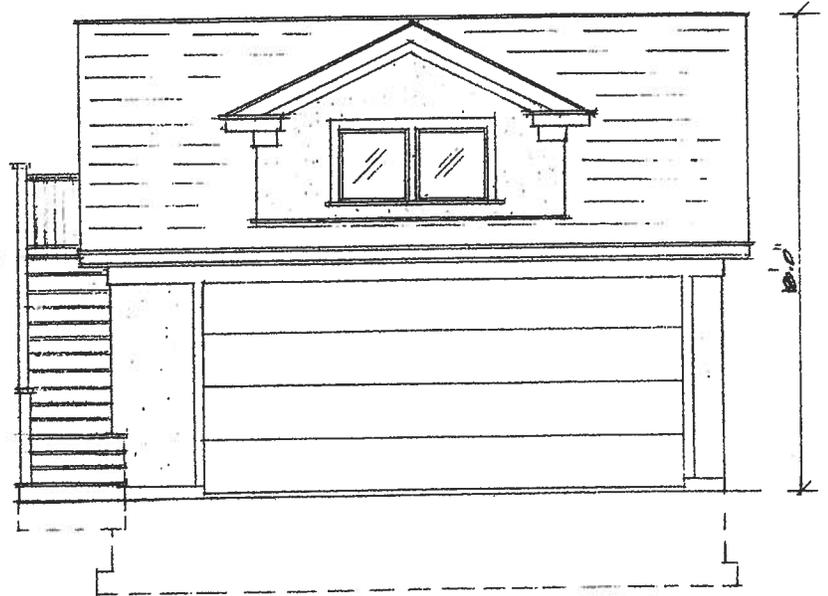
**GARAGE PLAN**  
 1/4" = 1'-0"  
 NEW CONSTRUCTION



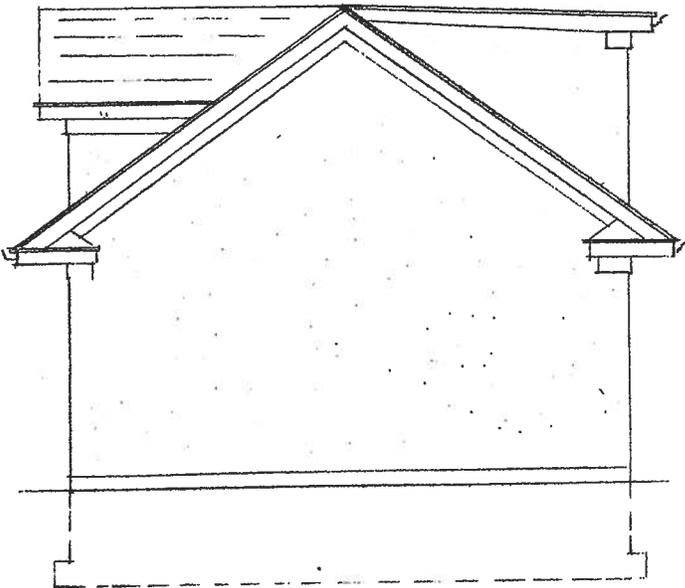
**2ND FLOOR PLAN**  
 1/8" = 1'-0"  
 NEW CONSTRUCTION



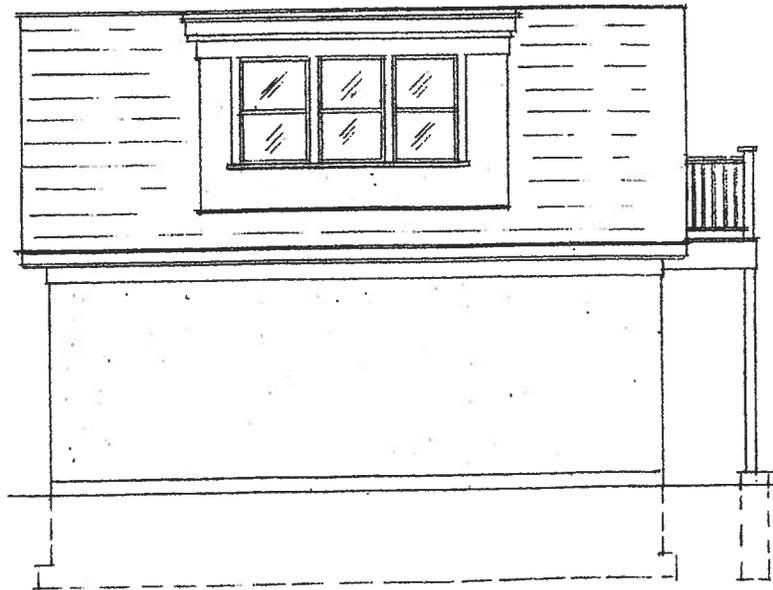
**NORTH ELEVATION**  
1/4" = 1'-0"



**WEST ELEVATION**  
1/4" = 1'-0"



**SOUTH ELEVATION**  
1/4" = 1'-0"



**EAST ELEVATION**  
1/4" = 1'-0"

# ATTACHMENT E

Minutes adopted 07.14.2014

## WINNETKA ZONING BOARD OF APPEALS EXCERPT OF MINUTES JUNE 9, 2014

**Zoning Board Members Present:** Joni Johnson, Chairperson  
Chris Blum  
Andrew Cripe  
Mary Hickey

**Zoning Board Members Absent:** Carl Lane  
Jim McCoy  
Scott Myers

**Village Staff:** Michael D'Onofrio, Director of Community  
Development  
Ann Klaassen, Planning Assistant

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**Case No. 14-15-V2:** 277 Poplar Street  
Joseph McGowan  
Variation by Ordinance  
1. Front and Corner Yard Setbacks

### **277 Poplar Street, Case No. 14-15-V2, Joseph McGowan, Variation by Ordinance – Front and Corner Yard Setbacks**

Mr. D'Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by Joseph McGowan, 277 Poplar Street, and Dave and Elisa Bartels, 265 Poplar Street concerning a variation by ordinance from Section 17.30.050 [Front and Corner Yard Setbacks] of the Winnetka Zoning Ordinance to permit a nonconforming Corner (Front) Yard Setback from Hawthorn Lane for the existing residence at 277 Poplar Street of 9.84 feet, whereas a minimum of 22.54 feet is required, a variation of 12.7 feet (56.34%) that is created by the subdivision of the three lots known at 277, 271 and 265 Poplar Street into two lots. As part of the proposed subdivision, the existing residence at 271 Poplar would be demolished.

Chairperson Johnson swore in those that would be speaking on this case.

Mike Shively with Morgante Wilson Architects introduced himself to the Board along with the Bartels. He stated that he assumed that the Board has the plans which were submitted.

Chairperson Johnson asked if the Bartels owned the property.

Mr. Shively stated that he is representing Joseph McGowan, the owner of the property at 277 Poplar Street because Mr. McGowan could not attend the meeting. He confirmed that the Bartels

own the property at 265 Poplar Street and 271 Poplar Street.

Mr. Shively stated that the issue related to subdividing 271 Poplar Street so that portions of that lot go to the other two properties. He stated that the end result would be lot sizes which would be more in keeping with others in the neighborhood. Mr. Shively then stated that the Bartels' lot measured 90 feet and the corner lot measured 75 feet. He indicated that there is a zoning issue in the widening of the corner lot in that it increased the nonconformity of the corner yard setback. Mr. Shively noted that no work is proposed for that home.

Chairperson Johnson asked if there were any questions.

Ms. Hickey asked if they could discuss the matter without the McGowans here.

Chairperson Johnson stated that Mr. Shively is presenting the case on their behalf since his firm is listed on the application. She also referred to a May 8, 2014 letter which she noted was not signed by Mr. Shively and added that the property owner did not have to be here. Chairperson Johnson stated that the Bartels applied as well. She then stated that it is not relevant, but perhaps the Plan Commission may think it is relevant as far as the plans are concerned. She stated that the Board is only concerned with regard to the nonconformity as a result of the resubdivision. Chairperson Johnson stated that she wanted to make it clear if the subdivided property of the McGowans is brought into compliance with the codes and is a larger lot, they did not have any jurisdiction only because it increased the nonconformity because of the lot size increase. She noted that in the agenda report, the Bartels' lot did not have any nonconformities.

Mr. Cripe asked Mr. Bartels if he purchased the home as two lots.

Mr. Bartels confirmed that is correct.

Mr. D'Onofrio stated that the architect is representing the McGowans and that the Bartels are representing themselves.

Chairperson Johnson asked if there were any other questions.

Mr. Cripe referred to the process for the demolition of the home first.

Mr. D'Onofrio stated that it would go through for approval on the demolition regardless. He described it as what comes first, the chicken or the egg and that he did not know if they applied for demolition yet. Mr. D'Onofrio then stated that the subdivision would be conditioned on the removal of the home.

Chairperson Johnson asked if there were any questions in connection with the nonconformity.

Mr. Blum asked Mr. Shively to speak to how the property cannot yield reasonable return. He stated that the letter did not really say why it cannot.

Mr. Bartels referred to the property in between.

Mr. Shively stated that it is their contention that the lots at their current widths are substandard in comparison to others in the neighborhood. He stated that the idea of splitting the middle lot is that the resulting lot sizes would be more in character with the neighborhood as opposed to combining it with the lot next door and ending up with a wide lot on the corner.

Ms. Hickey referred to 25 feet and that it would enhance the backyard which she described as quite narrow.

Mr. Shively agreed that is correct and that it would help everyone.

Ms. Hickey then asked if there is a fence or is it open.

Mr. Bartels responded that it is open.

Mr. Cripe asked what the state of the home to be demolished is and if there was anyone living in it.

Mr. Bartels stated that the occupants would be gone before the home is demolished and that they do own it. He reiterated that the 265 Poplar Street owners own the property at 271 Poplar Street.

Mr. Blum stated that with regard to the taxable value of the land statement, it will not decrease. He then stated that in looking at the variation, he asked how did they consider that. Mr. Blum also asked if they have any information on the impact of taking the middle property off of the tax roll.

Mr. D'Onofrio stated that the variance request is being made because of the subdivision and that it has to do with the corner front setback on 277 Poplar Street. He then stated that home is not going anywhere. Mr. D'Onofrio stated that in connection with what the variation request is specific to, the standards have to address the enlargement of the existing nonconforming setback which is currently at 14.05 feet and that with the subdivision and increase in lot width, it would go to 22.54 feet. He then stated that the taxable value standard is specific to 277 Poplar Street.

Mr. Blum stated that he is fine with that explanation.

Chairperson Johnson asked if there were any other questions from the Board. No additional questions were raised by the Board at this time. She then asked if there were any questions from the audience.

Mr. Shively stated that it would be great for the neighborhood to get the variation and asked the Board if they had any questions for him.

Chairperson Johnson referred to the issue of the driveway nonconformity on Hawthorn. She asked why and if it is a setback issue.

Ms. Klaassen responded that the front-facing attached garage below the first floor level is considered an existing nonconformity.

Mr. Shively stated that while not speaking for Mr. McGowan, he referred to the vision to change

the driveway. He also referred to the current driveway at 271 Poplar Street and that once the property is subdivided, they might switch and build a decent garage which would be more in keeping with the neighborhood.

Chairperson Johnson informed the audience that is more of a factor for the Plan Commission in terms of the subdivision and that any time there is a demolition which would leave vacant land it would be taxed at a lower rate than a lot with a home on it. She then stated that the Board is not to look at it in terms of the variation, but whether the variation would diminish taxable value. Chairperson Johnson indicated that it might be balanced by the improvements to the other two lots. She then called the matter in for discussion. Chairperson Johnson noted that the Board is a recommending body and that the request would go to the Plan Commission and then to the Village Council.

Mr. Blum stated that they have a situation where they have a home existing as is and the setback line is in the middle of the home. He then stated that the reasonable return standard was quickly met in that they cannot have that situation. Mr. Blum also stated that it is unique in that they are assuming that the subdivision would be done and that when they have a property with this issue, a variation would make sense. He stated that with regard to the request altering the character of the locality, there is no issue.

Mr. Cripe stated that given the limited focus of the Board to consider just the variation on 277 Poplar Street and not on the larger issues which may concern other people by the elimination of the property that is not within the Board's scope. He stated that he would be in support of the variation.

Ms. Hickey stated that she is also in support.

Chairperson Johnson then asked for a motion.

Mr. Blum moved to recommend that the request be approved and stated that after hearing the testimony, they found that with regard to reasonable return they have a have situation where the setback ran through the home and that the alternative to tear down the home and relocate it would not be reasonable. He stated that with regard to unique circumstances, he referred to the lot requiring modification under the existing home. Mr. Blum stated that the request would not alter the character of the locality and that there is no indication that it would alter the character of the locality. He then stated that the light and air to surrounding properties could be improved and that with regard to the setback to the street, there is no indication that the adequate supply of light and air would be affected. Mr. Blum state that there would be no hazard from fire and that the taxable value of the land would not be affected. He stated that congestion would not increase and that the public health, safety, comfort, morals and welfare of the Village will not be otherwise impaired and moved to recommend approval of the variation.

Chairperson Johnson added that the increased lot width would bring the lot into compliance with the minimum lot width requirement.

Mr. Blum stated that is fine to add that to the motion.

Chairperson Johnson also noted for the record that any future improvements or alterations would have to meet the zoning requirements and that they are not binding the Village to allow future variations.

Ms. Hickey seconded the motion. A vote was taken and the motion was unanimously passed, 4 to 0.

AYES: Blum, Cripe, Hickey, Johnson

NAYS: None

### **FINDINGS OF THE ZONING BOARD OF APPEALS**

1. The requested variation is within the final jurisdiction of the Village Council.
2. The requested variation is in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are practical difficulties or a particular hardship which prevents strict application of Section 17.30.050 [Front and Corner Yard Setbacks] of the Winnetka Zoning Ordinance which is related to the use or the construction or alteration of buildings or structures.

The evidence in the judgment of the Zoning Board of Appeals has established:

1. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone. The existing home is nonconforming with respect to the corner setback. The proposed subdivision would increase the lot width and subsequently the required corner setback resulting in an increase of the nonconformity. The only alternative is to tear down the residence and rebuild in a conformation location, which is unreasonable.
2. The plight of the owner is due to unique circumstance. Such circumstances must associated with the characteristics of the property in question, rather than being related to the occupants. The existing residence does not comply with the required corner setback from Hawthorn Lane. The proposed subdivision requires approval of the variation because the degree of the nonconformity would be increased based on the increase in lot width.
3. The variation, if granted, will not alter the essential character of the locality. No alterations are proposed for the residence at 277 Poplar St. Therefore, the existing conditions will remain and there will be no alteration to the essential character of the locality.
4. An adequate supply of light and air to the adjacent property will not be impaired. The

setback of the existing home will remain the same so there will be no change to the supply of light and air to the adjacent property.

5. The hazard from fire or other damages to the property will not be increased. No improvements to the residence are proposed at this time.
6. The taxable value of land and buildings throughout the Village will not diminish. The existing nonconformity exists today and there are not changes proposed for the existing residence, therefore the taxable value of land will not diminish.
7. The congestion in the public street will not increase. The structure will continue to be used as a single-family residence. Furthermore, the proposed subdivision and resulting demolition of the adjacent home may in fact decrease congestion.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not otherwise be impaired. No evidence was provided to the contrary.

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# ATTACHMENT F

Minutes adopted 09.08.2014

## WINNETKA ZONING BOARD OF APPEALS EXCERPT OF MINUTES AUGUST 11, 2014

**Zoning Board Members Present:** Carl Lane, Acting Chairman  
Chris Blum  
Andrew Cripe  
Mary Hickey

**Zoning Board Members Absent:** Joni Johnson  
Jim McCoy  
Scott Myers

**Village Staff:** Michael D'Onofrio, Director of Community  
Development

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**Case No. 14-20-V2:** 265 Poplar, 271 Poplar and 277 Poplar Street  
Dave and Elise Bartels and Joseph McGowan  
Variation by Ordinance  
1. Permitted Uses

### **265, 271 and 277 Poplar Street, Case No. 14-20-V2, Dave and Elise Bartels and Joseph McGowan, Variation by Ordinance - Permitted Uses**

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Mr. D'Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by Dave and Elise Bartels, the owners of 265 Poplar and 271 Poplar St., and Joseph McGowan, the owner of 277 Poplar St., concerning a variation by Ordinance from Section 17.12.020 [Permitted Uses] of the Winnetka Zoning Ordinance to allow the existing residence at 271 Poplar St. to remain temporarily during construction of additions to 265 Poplar St. subsequent to the proposed resubdivision of the three lots known as 265 Poplar, 271 Poplar, and 277 Poplar into two lots, whereas only one dwelling unit is permitted on each lot.

Chairman Lane noted that the Board would be using the same standards for granting a variation as they normally would. He added that the Board would be making a recommendation to the Village Council. Chairman Lane then swore in those that would be speaking on this case.

Dave Bartels of 265 Poplar Street introduced himself to the Board and described the request as fairly unusual. He noted that they were here before and talked about what they are trying to do with the subdivision. Mr. Bartels then stated that the reason they are interested in staying at 271 Poplar while the work is being done on 265 Poplar is for a few reasons. He informed the Board that their children are within walking distance from Greeley School and that there would be a minimum disruption on them through this process. Mr. Bartels also stated that they like the neighborhood and the neighbors and that they want to stay as close to the home as possible. He

then stated that as construction is going on, to the extent there are any issues, they would be located right next door. Mr. Bartels informed the Board that his wife is there most of the time.

Mr. Bartels also stated that there are financial concerns and noted that rental homes are not cheap and close enough for their children to walk to school. He stated that there would be a financial benefit in them doing it this way. Mr. Bartels noted that those are the main reasons they are interested in temporarily residing at 271 Poplar while 265 Poplar is being improved. He added that the renovation involved a kitchen renovation which would make it difficult for them to live through the construction process and that they would need to move out with 271 Poplar being the most convenient place for them to go.

Chairman Lane referred to the component of providing the Village with a letter of credit. He asked Mr. Bartels to explain the amount and how it is determined.

Mr. Bartels informed the Board that they received an estimate on the cost to tear down the home and that it would be 100% of that cost which included a fee to the Village. He informed the Board that they offered to do a letter of credit, to put money into an escrow and cash. Mr. Bartels indicated that it would be more cost effective for them to do that and that banks charge for a letter of credit. He also stated that they are open to whatever suggestion is preferred but that it is their preference to give money to the Village to hold. Mr. Bartels then stated that if for some reason something happened, the Village would have the money to tear down the home. He noted that the goal is not to have a structure with a property line going through it. Mr. Bartels stated that they expect the project to be in the 6 to 9 month range and reiterated that they would work with the Village.

Chairman Lane stated that if there is a cash escrow or letter of credit, the bank would make them cash collateralize it anyway. He then asked if they set a deadline to move out.

Mr. Bartels confirmed that is correct.

Mr. D'Onofrio confirmed that the applicants would work with the Community Development Department and Mr. Norkus.

Mr. Cripe asked Mr. Bartels if they looked at the option of a surety bond.

Mr. Bartels responded that they did not and that it would be easiest this way.

Ms. Hickey asked when construction would commence.

Mr. Bartels stated that it would be in the spring with a March project start and that they would move into 271 Poplar through the end of the year.

Ms. Hickey stated that she would like to reiterate Chairman Lane's comments with regard to having an end date.

Mr. Bartels confirmed that they did.

Mr. D'Onofrio informed the Board that the applicants would be required to put up the letter of credit before the subdivision is recorded. He then stated that once the subdivision is recorded, it is a triggering mechanism. Mr. D'Onofrio reiterated that they would work with the applicants to determine when they anticipate the completion of the project and that they would add several months to that date. He noted that the goal is to complete the project and that they would work with them on the deadline. Mr. D'Onofrio referred to the triggering event to get it to record the subdivision and added that the variation is requesting that there be more than one principal structure on the lot.

Chairman Lane stated that with regard to the reasonable return requirement, he asked what is the incremental cost to the project for the applicants to move to another property and rent it.

Mr. Bartels estimated that it would cost \$5,000 month to rent a home and that while he did not know the specific figure, he stated that it is not cheap. He also stated that he did not know what would be on the market in March. Mr. Bartels stated that in 9 months, there would be an additional cost of \$45,000 plus the extra months Mr. D'Onofrio estimated be added.

Mr. Blum asked if there were no other plans for the middle structure, if it is not used, would it sit empty.

Mr. Bartels responded that it would and that the home would be torn down absent the variation with the subdivision. He then stated that they plan not to have a structure with a property line running through it.

Chairman Lane asked if there were any other questions. He then asked if there were any unique circumstance comments. No comments were made by the Board at this time. Chairman Lane then asked if there were any comments from the audience. No comments were made by the audience at this time.

Chairman Lane then stated that the first standard is easier for the Board to identify. He referred to the situation of the cost associated with it which would be a substantial amount of money and would impact reasonable return. Chairman Lane also stated that it is vacant property that the applicants already own. He then stated that the unique circumstances standard is less clear to him. Chairman Lane stated that as obvious as it is, the Board still had to apply the standards.

Mr. Cripe stated that the challenging things are the boxes that they have to fill in. He stated that while he is in support of the request, there should be some common sense which should prevail. Mr. Cripe stated that with regard to the unique circumstances issue, he wrestled with what actually is the variation. He stated that once the property is subdivided and recorded, it would be legal.

Mr. D'Onofrio informed the Board that they would not issue a building permit unless they are making the improvements and until the subdivision is recorded.

Mr. Cripe stated that the variation they are dealing with is an amendment to what has already been approved.

Chairman Lane stated that he was thinking the same thing. He added that granting the

subdivision did not create unique circumstances.

Mr. Cripe stated that it addressed adequately that they felt comfortable with regard to the first zoning variation and that this would be an amendment to that. He also stated that he would piggy back on the reasons stated before.

Mr. Blum stated that it made sense and that they have a conflict here with regard to how to get the project done. He noted that this is the first time they have ever had this situation and that in the global context of what they are getting done, there would be a line going through the middle of the property. Mr. Blum also stated that tearing down the home instead of using it seemed unique.

Chairman Lane referred to the fact that they provided that the variance cannot be a unique circumstance.

Ms. Hickey referred to Mr. Cripe's comment with regard to the ordinance saying that the home cannot be used and that they are granting its use. She suggested that they come at it with a common sense approach and stated that she is in agreement with the request.

Chairman Lane stated that he would be comfortable in allowing the Village to structure a time frame and form of legal agreement.

Mr. Blum and Mr. Cripe agreed that would be fine.

Mr. Cripe indicated that he liked the letter of credit approach and that in the alternative; he suggested a surety bond or performance bond which would guarantee that the demolition will occur. He added that the premium would be significantly cheaper than a letter of credit. Mr. Cripe stated that he can suggest a variety of companies for them to use.

Mr. Blum stated that he would be in agreement and that to clarify, to understand that they have a timeline agreement, they covered that.

Chairman Lane asked when would the subdivision get executed.

Mr. D'Onofrio responded that it would be once this issue is decided on and the applicants post the surety bond, letter of credit or cash bond. He indicated that the Village likes a letter of credit and that they would work with them. Mr. D'Onofrio then stated that once they get that that would guarantee that the home would be demolished.

Mr. Blum asked if nothing could happen until this is decided.

Chairman Lane stated that the property can be subdivided, but that the home would be torn down. He referred to the expectation of construction in the spring and asked if there would be a 10 to 12 month timeframe.

Mr. Bartels confirmed that is correct. He added that there is a tenant living there now.

Chairman Lane asked if this variation would be for Mr. Bartels to move in the home and for the tenant to move out.

Mr. Bartels confirmed that is correct. He also stated that if the subdivision is approved right away, it would be for both.

Chairman Lane stated that they would not be providing a place for the tenant, but for the owners to live in the property.

Mr. D'Onofrio stated that in order to keep the request on the right path, he informed the Board that Mr. Bartels needed the extra square footage to make the proposed addition to the home and that he cannot do the project until the subdivision takes place or a different variation would be needed for the addition.

Mr. Blum asked if the subdivision goes through as is and the home is demolished, what is the tenant plan.

Mr. Bartels stated that if they require that the home be demolished upon the subdivision's approval, they would proceed with that process until the tenant is out. He then stated that if the request is approved, there would be a line running through the dwelling with a person living there and confirmed that is what they plan on. Mr. Bartels added that if it did not work, they would have to push the whole thing back and wait.

Mr. D'Onofrio informed the Board that if the applicants were building a new home, it would not be an issue and that the demolition would not be permitted until plans for the new home were ready. He noted that they would not issue a demolition permit for this home until the proposed additions are ready to be approved by the Village. Mr. D'Onofrio noted that what triggered this request did not trigger the demolition requirement and that before they record the subdivision, they want a surety that the home would be demolished.

Chairman Lane asked at what point did the subdivision have to be recorded.

Mr. D'Onofrio responded that in order for there to be a variation, it would have to be perfected within 12 months. He then stated that if the Village Council granted the variation, once there is a surety and the variation is in place, they can record the subdivision which could happen within 30 to 60 days.

Ms. Hickey asked when did the clock start.

Mr. D'Onofrio stated that it would start for the owner to occupy the property. He indicated that they did not see a problem and that the tenant would be out by year end, they can get the variation granted by the September date and would have until September 2015 to demolish the home. Mr. D'Onofrio referred to the Board recommending the approval of the variation to allow two principal structures on one lot of record.

Chairman Lane stated that the purpose of leaving the renter there is different than what was stated

as their request.

Mr. Bartels stated that they plan for the renter to stay until the year end which is on the lease. He stated that the plan is to start the project and move in 271 Poplar which would last approximately one year.

Mr. Blum stated that the applicants have to get their ducks in a row and that they cannot start until everything is approved.

Chairman Lane suggested that they require the variation to be contingent upon the tenant moving out at year end on December 31, 2014. He referred to the issue that it made sense for the tenant to stay. Chairman Lane then asked if there were any other questions.

Mr. Blum agreed that it made sense.

Ms. Hickey stated that she would be comfortable with the proposal with an end date for the tenant.

Chairman Lane then asked for a motion.

Mr. Cripe moved to recommend approval of the variation that two primary structures be permitted on the property even after the subdivision is recorded so long as the residence at 271 Poplar is not tenant occupied after December 31, 2014 and for the variation to be approved to allow the owners to occupy the residence at 271 Poplar while construction is making progress with the expected completion date within one year. He noted that one condition of the variation is to have a surety in a form acceptable to the Village to be provided in the form of a letter of credit, the posting of cash or an actual surety performance bond.

Mr. Cripe stated that the basis for evidentiary findings is as follows. He stated that first, in reviewing the unique situation, in many respects, they are looking at this as a modification of the original variation and therefore incorporate the reasons in support of that variation in support of this one. Mr. Cripe stated that with regard to reasonable return, he referred to the reasons cited in the prior variation and stated that in addition, to note the significant cost associated with requiring a suitable living structure while construction is proceeding. He stated that with regard to unique circumstances, the site is unique as previously cited in the previous variation granted and that the unique situation is analogous to the situation where the demolition permit would not be issued until a Certificate of Occupancy is issued. Mr. Cripe stated that the request would not alter the character of the locality and that they would only be altering the time frame from A to B. He stated that the light and air to the surrounding properties would not be affected and that there would be no hazard from fire. Mr. Cripe stated that the taxable value of the land would not be impaired and that congestion would not increase. He concluded by stating that the public health, safety, comfort, morals and welfare of the Village would not be otherwise impaired.

Chairman Lane stated that for clarification, the amount of the cash collateral should be 150% of the estimates provided in the package.

Mr. Cripe also stated that the letter of credit or surety concept is different and guaranteed the faithful performance of the teardown on or before a certain date. He added that the penalty

amount of the bond is that amount.

Mr. Blum stated that the estimates provided did not include the cost to the Village of the permit and that it was said to be part of that. He added that it was not included in the 150% calculation amount.

The motion was seconded. A vote was taken and the motion was unanimously passed, 4 to 0.

AYES: Blum, Cripe, Hickey, Lane

NAYS: None

### **FINDINGS OF THE ZONING BOARD OF APPEALS**

1. The requested variation is within the final jurisdiction of the Village Council.
2. The requested variation is in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are practical difficulties or a particular hardship which prevents strict application of Section 17.12.020 [Permitted Uses] of the Winnetka Zoning Ordinance which is related to the use or the construction or alteration of buildings or structures.

The evidence in the judgment of the Zoning Board of Appeals has established:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone. The existing lots at 265, 271, and 277 Poplar are substandard in comparison to what is typical for the neighborhood. In splitting lot 271 and subdividing the properties, the lots become wider and comparable to the neighborhood standard. Furthermore, the building on lot 271 will be demolished, effectively decreasing the density of the resulting lots to be more in keeping with their surroundings.

The owner of 265 Poplar purchased 271 Poplar to expand and renovate their house and lot, thereby increasing the value of their property and their neighbor's property. By maintaining residence at 271 Poplar during construction, the owners are able to continue their lives in Winnetka where their children attend school. Allowing the family to stay in the residence at 271 Poplar during construction greatly relieves the family from high rental prices necessary to stay in the school district while improvements are made to their house at 265 Poplar.

2. The plight of the owner is due to unique circumstance. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants. This is a unique opportunity for this neighborhood as the owners have two neighboring lots and can make significant improvements to their home, while increasing

the lot size for their neighbor.

3. The variation, if granted, will not alter the essential character of the locality. Upon completion of construction and demolition of the center structure, the variation, if granted, will improve the essential character of the locality by decreasing the density of the lot and its neighboring lots.
4. An adequate supply of light and air to adjacent property will not be impaired. If the variation is granted, the residence at 271 Poplar will be torn down after completion of additions to 265 Poplar. Therefore, the supply of light and air to adjacent property will not be impaired, it may even be increased.
5. The hazard from fire and other damages to the property will not be increased. Upon completion of construction at 265 Poplar and demolition of the 271 Poplar residence, the variation, if granted, will result in a decreased density and an increased distance between structures. Therefore, the hazard from fire and other damages to the property will be decreased.
6. The taxable value of the land and buildings throughout the Village will not diminish. The variation, if granted, will allow for improvements and increased size of the structure at 265 Poplar, thus increasing its property value. The increased lot size at 277 Poplar will result in increased property value due to an increased property size as well. Consequently, an increase in the taxable value of the land and buildings throughout the Village will ensue.
7. The congestion in the public street will not increase. The variation, if granted, will decrease density and therefore decrease the congestion in the public street.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not otherwise be impaired. The variation, if granted, will ultimately decrease density, increase taxable property and land values, and transform lots 265 and 277 Poplar to be in keeping with the character of the surrounding neighborhood. Therefore the public health, safety and comfort of the inhabitants of the Village will be improved, and the morals and welfare will not otherwise be impaired.