

**Winnetka Village Council  
REGULAR MEETING  
Village Hall  
510 Green Bay Road  
Tuesday, July 5, 2016  
7:00 p.m.**

Emails regarding any agenda item are welcomed. Please email [contactcouncil@winnetka.org](mailto:contactcouncil@winnetka.org), and your email will be relayed to the Council members. Emails for the Tuesday Council meeting must be received by Monday at 4 p.m. Any email may be subject to disclosure under the Freedom of Information Act.

**AGENDA**

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Quorum
  - a) July 12, 2016 Study Session
  - b) July 19, 2016 Regular Meeting
  - c) August 2, 2016 Regular Meeting
- 4) Approval of Agenda
- 5) Consent Agenda
  - a) Approval of Village Council Minutes:
    - i) June 7, 2016 Regular Meeting .....3
    - ii) June 14, 2016 Study Session.....13
    - iii) June 21, 2016 Regular Meeting .....16
  - b) Approval of Warrant List dated June 17-30, 2016 .....19
- 6) Stormwater Report: None.
- 7) Ordinances and Resolutions: None.
- 8) Public Comment
- 9) Old Business: None.
- 10) New Business:
  - a) 5 Indian Hill Road, Subdivision & Zoning Variation: Policy Direction .....20

- 11) Appointments
- 12) Reports
- 13) Closed Session
- 14) Adjournment

**MINUTES  
WINNETKA VILLAGE COUNCIL  
REGULAR MEETING  
June 7, 2016**

(Approved: xx)

A record of a legally convened regular meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, June 7, 2016 at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Penfield Lanphier, Scott Myers, Christopher Rintz and Kristin Ziv. Absent: Trustees William Krucks and Andrew Cripe and Village Manager Robert Bahan. Also present: Assistant to the Village Manager Megan Pierce, Village Attorney Peter M. Friedman, Community Development Director Mike D'Onofrio, and approximately 50 persons in the audience.
- 2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.
- 3) Quorum.
  - a) June 14, 2016 Study Session. All of the Council members present indicated that they expect to attend.
  - b) June 21, 2016 Regular Meeting. All of the Council members present indicated that they expect to attend.
  - c) July 5, 2016 Regular Meeting. All of the Council members present indicated that they expect to attend.
- 4) Approval of the Agenda. Trustee Myers, seconded by Trustee Rintz, moved to approve the Agenda. By voice vote, the motion carried.
- 5) Consent Agenda
  - a) Village Council Minutes.
    - i) May 10, 2016 Study Session.
    - ii) May 17, 2016 Regular Meeting.
  - b) Warrant List. Approving the Warrant List dated May 13-June 2, 2016 in the amount of \$526,602.48.
  - c) Resolution No. R-34-2016: Approving a Fourth Amendment to a License Agreement with Chicago SMSA, D/B/A Verizon Wireless (Adoption). A Resolution approving the Fourth Amendment to the 2007 Cellular Antenna License Agreement between the Village of Winnetka and Chicago SMSA Limited Partnership, d/b/a Verizon Wireless, substantially in the form presented in Exhibit A.
  - d) Resolution No. R-35-2016: Authorizing the Purchase of Cable Under a Contract with The Okonite Company (Adoption). A Resolution authorizing the purchase of 15kV single-phase cable in an amount not to exceed \$63,834, under a contract with the Okonite Company.

Trustee Rintz, seconded by Trustee Myers, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Lanphier, Myers, Rintz and Ziv. Nays: None. Absent: Trustees Cripe and Krucks.

6) Stormwater Report. None.

7) Ordinances and Resolutions. None.

8) Public Comment. None.

9) Old Business. None.

10) New Business.

- a) Stormwater Alternatives Study for Western and Southwestern Winnetka – Final Concept Report. Mr. Saunders explained that Strand Associates was hired to evaluate Winnetka's western watershed for stormwater management and flood control opportunities. After a thorough review of watershed data and a comprehensive public engagement process, Strand has identified a set of improvements that would provide the desired flood protection at the best cost. The proposed projects, using a mix of green, grey and traditional stormwater management approaches, can be implemented in phases, for a total estimated cost of \$57.7 million in present-day dollars.

Mr. Saunders noted that the success of the proposed improvements depends on partnerships with other land owners in the watershed, such as the Winnetka Park District (WPD), New Trier Township High School (NTTHS), School District 36 and the Cook County Forest Preserve District (CCFPD). Next, he introduced Mike Waldron, Strand's Project Manager.

Mr. Waldron reviewed the boundaries and topographical elevations of the study area. He explained that when the Skokie Lagoons were built in the 1930's, a levy system was created to protect against flooding from the Skokie River. However, these levies also prevent water from the Village's southwestern neighborhoods from draining naturally to the river – resulting in a "bathtub" condition wherein the area holds not only its own stormwater, but runoff from higher elevations in the Village as well. He noted that this makes the Village very dependent upon pumping to get the water out of the study area.

Mr. Waldron reviewed modeling that demonstrated the depth of the 2011 flood, and explained the Village's target level of protection requires 150 acre-feet of storage capacity. During his review of a matrix of conceivable stormwater projects, many brought out by the public engagement process, he illustrated the major concepts that were rejected as not feasible:

- Storage in the Skokie Lagoons: not permitted by regulatory agencies.
- Increased pumping capacity: requires several acres of land for pumping station; in addition, mechanical pumps can fail.
- Storage on Winnetka golf course: effectiveness is very low.
- Storage on Indian Hill golf course: this area is outside the watershed, so effectiveness is very low; and it is private property.

- FEMA flood buyouts: the cost to buy land is approximately \$1.3 million per acre, which is prohibitively high; in addition, most of the eligible areas are not contiguous, which limits effectiveness of potential stormwater projects.

Mr. Waldron said after eliminating less viable alternatives, 15 projects remained, which Strand divided into four phases. He explained the Village can decide whether to do all projects and how to stage them, though there are interdependencies to consider. He noted that homeowner and neighborhood level green infrastructure projects are a valuable aspect of the overall Concept Vision, as they provide community participation, valuable water quality benefits, and a small amount of storage.

Mr. Waldron reviewed each phase of the Concept Vision, stressing that the Village can implement the projects over time, for a total estimated cost of \$57.7 million. He indicated that healthy contingency figures were used in light of lessons learned from the Willow Road Tunnel process, where design engineering revealed unforeseen obstacles that added significantly to original cost projections.

- **Phase 1**
  - CCFPD stormwater storage project .....\$ 582,000
  - Duke Childs field storage project .....1,005,000
  - Landfill: lacrosse field relocation .....2,331,000
  - Ash Street conveyance .....5,107,000
  - Hibbard Road (north) conveyance .....6,553,000

**Total Phase 1: \$23,578,000**
- **Phase 2**
  - Crow Island (south) storage .....\$ 1,841,000
  - Sunset Drive (east) conveyance .....10,356,000
  - Sunset Drive (west) conveyance .....2,821,000
  - Mt. Pleasant conveyance .....1,362,000

**Total Phase 2: \$16,380,000**
- **Phase 3**
  - Washburne-Skokie school storage .....\$ 1,381,000
  - Oak Street conveyance .....3,294,000

**Total Phase 3: \$4,675,000**
- **Phase 4**
  - Provident Avenue storm sewer improvements ...\$ 2,930,000
  - Willow Road storm sewer improvements .....5,284,000
  - North of Pine Street conveyance .....2,408,000
  - Duke Childs Field + Par 3 golf course + forest preserve storage .....2,461,000

**Total Phase 4: \$13,084,000**

**Total Concept Vision: \$57,717,000**

Next Mr. Waldron compared benefits to the estimated overall cost of the four-phase Concept Vision. The figures were calculated using FEMA damage estimates and depth of flooding; however, the analysis did not include homes relieved from seepage or sanitary sewer impacts, reduced flood duration, other property damage (car, landscaping,

pavement, etc.) and Village cleanup costs. Also not reflected in the analysis: ancillary infrastructure improvements, improved stormwater quality, improved property values and elimination of the stigma associated with a flood-prone community. Strand's estimated damage reduction benefit is \$99.5 million, against the \$57.7 million project cost, for a benefit-cost ratio of 1.72.

Trustee Cripe arrived at 8:00 p.m.

Mr. Waldron reviewed possible next steps for the Council, including items such as: (i) further negotiations with other landowners and public agencies in the watershed; (ii) gain an understanding of process and milestones for gaining CCFPD approval; (iii) perform tree inventory for the Crow Island project; (iv) confirm funding, implementation and long-term maintenance of the CCFPD project; and (v) additional public engagement.

Finally Mr. Waldron suggested the Council mull over the following questions to help with advancing the Concept Vision projects:

1. Is the Concept Stormwater Vision the general direction the Village would like to follow? Is the overall Concept Vision worth further pursuit?
2. If yes, what is the right process and timeline for beginning next steps toward community discussion, adoption and implementation?
3. Are there any immediate next steps or data gathering activities the Village should seek to undertake?

Trustee Cripe asked for an explanation about the methodology used to select the detention amounts at Duke Childs Field and Crow Island Woods, and what the minimum required storage is. He also asked if the existing wetlands at Crow Island could be better maximized for water quality.

Mark Shubak, Strand Project Engineer, explained the storage volume at Crow Island was maximized to result in the least impact on the character of the woods. He added that if the storage volume is reduced, the amount will have to be provided elsewhere, since the CCFPD has charged Winnetka with maximizing storage within its boundaries. He noted that there is potential in the existing wetlands; however, the main flow of water through the park is in the southern portion. The northern end was identified as being "off-limits" through public input, and was not closely evaluated.

Trustee Cripe acknowledged the CCFPD's desire not to have a lot of dirty water dumped on its land, and he asked if the Village should test to determine the quality of the water, or enact other measures, like a ban on phosphorus.

Manager Bahan arrived at 8:18 p.m.

Mr. Shubak noted that testing and water quality modeling could be done to test effectiveness of certain best practices, and he explained that the preferred method for improving water quality is stopping pollutants at the source. He said several communities in the area have phosphorus bans, for example – and Winnetka doing so would demonstrate commitment to the CCFPD.

Trustee Myers asked if the storage in Crow Island could be reduced from five feet to two, to balance the safety concerns of residents and still be viewed as making a best effort to meet the criteria set by the CCFPD.

Mr. Shubak explained the five foot depth was chosen because it is typically most effective for removal and storage of sediment, so a shallower pool would not clean the water as effectively.

Trustee Myers next asked if more detailed design for not only the forest preserve, but both Duke Childs Field and Crow Island Woods, will be required from CCFPD as part of its review.

Mr. Shubak said in the long term that is true, but the timing of developing that information is open to discussion.

Trustee Ziv asked if water quality is the only concern of the CCFPD, or if quantity also plays a role.

Mr. Waldron explained that although quality is the greatest concern, quantity must be considered, since there are other communities also seeking stormwater storage opportunities. This is why Winnetka must endeavor to store as much of its own water as it can, and the Village will continue to check in with the Forest Preserve to see if it is on the right track.

Trustees Lanphier and Rintz said they wished to give the audience a chance to speak.

A resident asked if closed conveyance could be used for Crow Island Woods and underground storage at Duke Childs Field. Mr. Waldron said conveyance was studied at Crow Island, but was rejected in favor of improving the water quality.

Mary O'Hara, Apple Tree Road. Ms. O'Hara suggested the landfill as an alternative to using Crow Island.

Ralph O'Hara, Apple Tree Road. Mr. O'Hara asked why parking lots and roads in the flood zone are not paved with permeable surfaces and agreed that the landfill should be considered as an alternative to Crow Island. Mr. Waldron said there is a very low volume benefit to permeable pavers, but it is still important. Strand recommends using the Zoning Ordinance to encourage use of pervious surfaces.

Alyssa Kaufman, Westmoor Road. Ms. Kaufman expressed concerns about how the Forest Preserve project will look, as it is a gateway to Winnetka, and she asked what would happen to the wildlife living in that area.

Lisa Kaestle, Apple Tree Road. Ms. Kaestle asked why the additional 61 properties are not in the Strand Vision. Mr. Waldron explained that there may be things people can do on their own property in the mitigation zones. He added that it is possible, once area improvements are completed, that these homes may benefit enough to be taken out of the flood risk zone.

A resident expressed concerns about the Crow Island project relating to accessibility and mosquito populations, and asked how the Village plans to pay the estimated \$57.7 million total project cost. Mr. Waldron said more detail is needed to determine construction access, explained that the project is designed to encourage predators of mosquitoes to flourish, and added there is a lot of data showing that the ecology of the Crow Island development would take care of a large mosquito population.

Manager Bahan said the issue of paying for the improvements will be thoroughly discussed once a series of projects have been chosen by the Council.

Bill Lesnik, Sunset Road. Mr. Lesnik asked how an event above the 100-year model would impact the woods and Crow Island School. Mr. Waldron explained if the 100-year event is exceeded, there will be some flooding south of Willow Road, but it will not be as severe. He added that overland flood routes could be established to handle water from a 100+ year storm.

Chris Crone, 1205 Sunset Road. Mr. Crone asked how children would be protected from the proposed pond at Crow Island. Mr. Waldron noted that the deep water is an important aspect, but could be much shallower, albeit less effective, for safety reasons. He added that the water areas could also be isolated with vegetation to make it inaccessible to kids.

Britt Bartter, Apple Tree Road. Mr. Barter asked if Strand was constrained by the scarcity of woods and playfields in Winnetka when conducting its study, and he suggested that the projects should be underground, instead of eliminating playfields and woods. Mr. Waldron explained no specific constraints were put on Strand by the Council beyond identifying feasible, cost-effective means to reduce flooding. He said underground storage is not the best solution in his opinion, but the community might decide otherwise.

Al Pyott, Spruce Street. Mr. Pyott said the first item rejected was the Skokie Lagoons and asked if this wouldn't be the most cost-effective place to put stormwater. Mr. Waldron reiterated the CCFPD has said no water can be sent to the Lagoons. He added that the water can't get to the Lagoons without pumping, which would require acres of land and cost more to construct than the overall Concept Vision.

A resident on Sunset Road asked if shallower water at Crow Island would increase the mosquito population. John Lyons, Strand Project Principal, explained there are a variety of mitigations for mosquitoes, including larvacides and pesticides, and that the community has to make a decision on whether to use them.

Gwen Trindl, Oak Street. Ms. Trindl asked if the CCFPD requires machinery to improve the Village's stormwater quality, and also asked if using the landfill raises environmental issues.

Mr. Saunders clarified that most regulatory agencies prefer addressing stormwater quality through best management practices that mimic the natural environment. He added that most mechanical systems not only pose space constraints, but are generally not as effective. He explained that the concept for the landfill is about adding soil to the top, which is fairly simple from a regulatory perspective and he noted that methane is not an issue, as the EPA no longer requires monitoring of Winnetka's landfill.

A resident asked about the contingency range of Strand's cost estimate and also what was learned from the Willow Road Tunnel process. Mr. Waldron disclosed Strand was very sensitive to the cost estimates and made a concerted effort to eliminate as many unknown quantities as possible. This included digging down to a deeper level than previous studies and a 30% contingency on the conveyance aspects, since this is where contractors

run into the most surprises. He added there is also a high contingency on the storage portions, and that some of the information from the Tunnel process informed this project.

Mr. Saunders added that because of the Tunnel process outcome, Strand was directed to closely examine risk areas that could negatively impact cost. In addition, the Concept Vision consists of a series of smaller projects that can be implemented interdependently, rather than one huge all-or-nothing project. He added that the importance of conducting a lot of public process and gathering community input was another important lesson that came out of the Tunnel process.

King Poor, Walden Road. Mr. Poor asked if the Village has discussed the Crow Island project with the Crow Island school board. Mr. Waldron said no; however, it is the next critical step in the process.

Sue Galler, 650 Sheridan. Ms. Galler suggested it might be helpful if the school boards and community investigated the wetland area near Middlefork School in Northfield as an example of wetlands near an elementary school.

Todd Ford, DeWindt Road. Mr. Ford said most of the trees in Crow Island Woods are dead, and implementing the Concept Vision would be an improvement.

Jim Gordon, White Oak Lane. Mr. Gordon asked: (i) does the Concept Vision call for permanent ponds at Crow Island, Duke Childs Field and the Forest Preserves; (ii) how many years will it take to implement the Vision; and (iii) how can the cost estimates be made to account for inflation over time?

Mr. Waldron explained (i) the Vision does contain proposals for permanent ponds fed by groundwater at Crow Island, Duke Childs Field and the forest preserves, and (ii) while the Village has control over the timing, he could foresee a ten-year process.

Mr. Saunders said the cost estimates will be revisited frequently to track inflationary factors, and updated each year at budget time to keep them as current as possible.

John Vondran, Euclid Avenue. Mr. Vondran asked if Crow Island could be removed from consideration in the Concept Vision, as it is a jewel in Winnetka. Mr. Waldron said there will be continued conversations with the CCFPD to gauge their acceptance of the Forest Preserve plan, and discussions about not providing storage at Crow Island can be part of that conversation.

Tim Foley, DeWindt Road. Mr. Foley asked: (i) when did the stormwater project first begin; (ii) what was learned from the Northwest Winnetka Stormwater Project, and is it working as envisioned; (iii) has Winnetka studied stormwater projects done in other towns, to glean some insight?

Mr. Saunders said (i) Winnetka has been talking about stormwater since the 1980's; however, the current effort came out of floods in 2008 and 2011; (ii) a key lesson learned from the Northwest Winnetka Project is that the Village worked successfully with the CCFPD, navigating their land use process and getting board approval to move more water in the Forest Preserve pond; (iii) Strand was hired to because of its demonstrated track record in identifying stormwater projects in other communities.

Matt Wendt, 607 Willow Road. Mr. Wendt said he supports the Strand Concept Vision, including using Crow Island Woods, since it would be a rehabilitation of former

wetlands. He complimented the Vision as being collaborative, effective and creating an opportunity to rehabilitate Crow Island in a way that will increase the value of nearby homes.

Mike Hales, Euclid Avenue. Mr. Hales asked: (i) how many of the homes being helped by the Concept Vision are in the vicinity of Crow Island Woods; (ii) are any guiding principles in place for making a decision; and (iii) what is the opportunity for Strand to come to Crow Island Woods and talk about the wetland rehabilitation?

Mr. Waldron explained (i) that the project works with 400 homes; however, in 2011 over 1,000 homes reported flooding and that's the overall vision being addressed; (ii) the guiding principles come down to public engagement, and what the community wants; and (iii) a walking tour of Crow Island Woods could be a good idea, to educate the public about the site.

Kim Bieber, Sunset Road. Ms. Bieber said it would be a shame to change Crow Island Woods, as she prefers the raw nature of the site as it is now; and she added that the kids commuting to Middlefork School in Northfield don't walk through the wetlands, they use the sidewalk, unlike the kids who walk through the Crow Island Woods on their way to school. Lastly, she expressed concerns about the polluted water that would be retained at the Woods.

Tom Horwich, De Windt Road. Mr. Horwich said the flooding will not go away and the Village should deal with it now, as the \$57.7 million price tag will not go down.

Debbie Guillod, 1301 Forest Glen Avenue. Ms. Guillod said the Strand report is great, and she is happy with the results.

Bill Lesnick, 1200 Sunset Road. Mr. Lesnick asked the Council to preserve Crow Island Woods and get more creative with Duke Childs Field and use it for more storage.

Chris Crone, 1205 Sunset Road. Mr. Crone said the community working together stands the best chance to solve Winnetka's stormwater problems, and he cautioned against locking into a particular vision before full due diligence has been done. He urged the Council to fight the temptation to get something – anything – done.

A resident on De Windt Road urged the Council to move forward, and cautioned against a single issue stopping the Village from doing something for the greater good.

Tim Foley, De Windt Road. Mr. Foley said the flooding issue needs to be resolved and the Council needs to make a decision and move on.

Jennifer Baker, De Windt Road. Ms. Baker said it is time to address the neighborhoods that have the biggest flooding problems, and urged the Council to implement the Concept Vision as is.

Ann Wilder, Spruce Street. Ms. Wilder said the Concept Vision is wonderful and economical, incorporates best practices and is sustainable. She urged the Council to move forward with the Vision, as restoring the forest preserve area and Crow Island Woods will increase property values. She also suggested that another New Trier community be approached about a playing field for the high school, as Winnetka is heavily used by New Trier High School and some balance would be nice.

John Vondran, Euclid Avenue. Mr. Vondran asked the Council to do everything possible not to disturb Crow Island Woods and said he would be willing to pay more for a solution that would save the Woods. He urged the Council to walk the Woods to get an idea of the value of the site.

Jim Gordon, White Oak Lane. Mr. Gordon expressed concern with environmental issues and animal habitats being disturbed, and he urged the Council to keep the Tunnel option in mind.

Christie Fowler, Sunset Road. Ms. Fowler said Crow Island Woods is deteriorated and should be reforested, and if used for a stormwater project, preserved as much as possible. She asked why a road as narrow as Sunset Road would be used for conveyance, given the many trees that would die and access issues during construction, when Hill Road seems much more suitable.

Sarah MacAdam, 1234 Ash Street. Ms. MacAdam approved moving forward with the Concept Vision projects.

Leslie Farmer, Berkeley Avenue. Ms. Farmer said even though there are concerns about the inconveniences of putting pipe under the road, a greater public good will result and she encouraged the Council to move forward with the Concept Vision Phase 1 projects.

Jeff Franzen, Euclid Avenue. Mr. Franzen said it is important that all of the voices of southwest Winnetka be heard, and that his group, Save Crow Island Woods, would like some investment in the Woods. He added that if no other solution could be found, they would consider approving the Woods for stormwater purposes.

Lisa Kaestle, Apple Tree Lane. Ms. Kaestle said the Woods were damaged in a 2007 storm, and that the Park District has just planted 60 new trees. She noted there are issues with removing all the dead trees, as animals use them for habitat – and this is why the Woods look neglected.

President Greable thanked the audience for their comments and asked the Council to give their thoughts about moving forward with the Concept Vision.

Trustee Ziv commended the Strand team and said the Concept Vision is definitely worth pursuing. She expressed a willingness to move forward with the recommended next steps.

Trustee Rintz said he feels the Vision is the right plan – however, the devil is in the details. He recommended making sure there is a good foundation of community input and debate and support, as well as a ratification of the plan from the CCFPD before any more taxpayer dollars are spent on studies and design engineering.

Trustee Myers felt the Vision is headed in the right direction, but there are clearly some elements that require a lot more thinking. He suggested doing more work to get answers to some questions before any decisions are made.

Trustee Lanphier said the Vision is going in the right general direction and probably should be pursued. She noted that the Village is dealing with infrastructure that was never really installed in the first place, and what was done was a patchwork. She added that a big part of the problem is deferred maintenance.

Trustee Cripe agreed that the overall Vision is a good one, although significant concerns need to be addressed with fact-based solutions. He suggested doing water quality testing and monitoring to get data for the CCFPD, and implementing the quick wins such as underground detention between Skokie and Washburne Schools.

President Greable suggested the discussion about next steps take place at the Council Study Session next week. The Council agreed, and the discussion was continued until the June 14<sup>th</sup> Study Session

11) Appointments. None.

12) Reports.

- a) Village President. President Greable stated the One Winnetka would come before the Council as soon as information is received by the Developer, and that the public would receive ample notification.
- b) Trustees. None.
- c) Attorney. None.
- d) Manager. None.

13) Closed Session. Trustee Cripe moved to adjourn into Closed Session to discuss Pending and Probable Litigation, pursuant to Section 2c (11) of the Illinois Open Meetings Act. Trustee Myers seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Cripe, Lanphier, Myers, Rintz and Ziv. Nays: None. Absent: Trustee Krucks.

President Greable announced that the Council would not return to the open meeting after Executive Session. The Council adjourned into Executive Session at 10:56 p.m.

14) Adjournment. Trustee Lanphier, seconded by Trustee Cripe, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 11:26 p.m.

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Deputy Clerk

**MINUTES**  
**WINNETKA VILLAGE COUNCIL STUDY SESSION**

**June 14, 2016**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, June 14, 2016 at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Andrew Cripe, William Krucks, Penfield Lanphier, Scott Myers, Christopher Rintz and Kristin Ziv. Absent: None. Also present: Village Manager Robert Bahan, Village Attorney Peter M. Friedman, Public Works Director Steve Saunders, and approximately 12 persons in the audience.
- 2) Village Council Discussion and Next Steps: Stormwater Alternatives Study for Western and Southwestern Winnetka – Strand Final Concept Report. President Greable asked the Council to give their impression of the overall Final Concept Report.

Trustee Myers said it was generally a thorough analysis, and while he personally felt it was on the right track, that does not mean he is inclined to do all recommended projects. He added that the concepts for north of Willow Road were closer to being on track, and the projects south of Willow Road will require some tradeoffs and compromises.

Trustee Lanphier agreed the Concept Report is on the right track, but that a framework for the Council's policy vision is missing. She added that the value of the projects needs to be conveyed to the community, along with an explanation of the problems that are being solved.

Trustee Cripe observed that overall, the report deals with the central issues like following the natural watershed and improving water quality, and the Council can address concerns with the different components at a later time.

Trustee Krucks said the Strand Final Concept Report gave the Council exactly what it asked for, although substantial questions remain, among them: (i) should the Village do all 15 projects; (ii) is the Concept Vision feasible given the necessary partnerships with other agencies; and (iii) to what extent is the Vision affordable?

Trustee Ziv expressed satisfaction with the general framework and added that she was hoping to get some timeframes for working with partner agencies. She said it is important to signal to the community that the Village is on the right track to prevent splinter groups from stalling progress, and the Council needs to be united in leading the way.

Trustee Rintz said the Final Concept Report is an excellent framework, technically solid and comprehensive in its look at the flooding problem; however, he noted that there is a lot of public and political activities that need to take place. He recommended the Council be efficient with its time, to keep focus on what matters at the moment with an eye towards the future.

President Greable was in favor of developing a roadmap to adoption with intent to implement, including a description of all key action steps, a timeline with identified milestones, a list of data and engineering needed, an assessment of the cost, as well as priority and financing, of each phase.

The Council discussed difficulties in creating a roadmap with steps lined up, since the later steps will change based on what is learned from the earlier steps. It was agreed there is no sense working on the later stages yet, and that good relationships with partner agencies must be established as soon as possible. It was pointed out that a thoughtful process that is well-articulated to the public is crucial, as is identifying a solution that works for all. There was a suggestion to fast-track some of the less controversial elements of the Vision that would provide immediate relief, and gather data for the elements that are on a longer trajectory.

Trustee Krucks said the main objective is to fulfill the mandate in *Winnetka 2020*, the Comprehensive Plan, which states unequivocally that flooded basements and homes are not acceptable in Winnetka.

Trustee Rintz noted that the Strand Report provides the building blocks in a logical flow based on where the water goes. He said the next step is development of a critical path to identify all the components needed to get from start to finish. He pointed out that fast-track implementation of one or two projects does not ensure the water will ultimately have a place to go without a larger piece in place first. He recommended keeping the Council's focus on each task that is in front of it, and stay with it until it is done before moving on.

The Council discussed the political aspects of the CCFPD partnership, and how to get conditional approval so the next steps of the Concept Vision can be worked on. It was agreed that conditional approval shouldn't be predicated on any particular plan components, and to keep the discussion centered around stormwater volume, rate and quality.

Mr. Saunders explained that the Village has discussed stormwater volume and rate with the Forest Preserve, but not quality. However, Winnetka's stormwater is presumed to be similar to other suburban locations nationwide, and Strand used some basic wetland concepts from other projects they've completed. The CCFPD is asking for more detail, as Winnetka's request is not one of their typical land use projects, and they don't necessarily have a process established to deal with it.

Trustee Rintz expressed concern about spending more money on consultants, as the Tunnel project cost the Village several million dollars in engineering contracts before ultimately being ruled out.

The Council discussed how best to proceed with negotiations for the Forest Preserve detention project during the summer months, with the goal of getting preliminary approval.

Mr. Saunders said the CCFPD staff is sensitive to the cost of engineering, and he predicted that discussions about what type of approval process will be used and what to expect from the CCFPD could reasonably be done over the summer months.

Attorney Friedman suggested a memo of understanding be drafted to formalize the discussions and also give the Forest Preserve an outline of intent.

Mr. Saunders said other tasks that can be accomplished in a parallel timeframe with the CCFPD discussions are: (i) developing phasing for the fast track projects so they can be discussed at Budget time; and (ii) identify strategies for the development of a community engagement plan, which the Council will discuss in the fall.

After another brief discussion, it was generally agreed that Strand would develop phasing for the fast-track projects and submit a proposal to identify opportunities for the houses that are

not included in the Concept Vision projects. Mr. Saunders added that he would bring back information for a discussion on a phosphorus ban and implementation of a rain barrel program, and work on a stormwater best practices guide for homeowners.

President Greable called for public comment.

Jennifer Crone, 1205 Sunset Road. Ms. Crone said she liked the idea of negotiating with the CCFPD before doing taking further action, so the Village can know what to expect.

Pat Balsamo, 1037 Cherry Street. Ms. Balsamo suggested keeping the community engaged throughout the long process by developing information about ways they can contribute to stormwater quality, such as rain barrels, rain gardens and neighborhood projects.

Gwen Trindl, Oak Street. Ms. Trindl observed that some of the Cook County Board Commissioners represent districts that are quite disadvantaged, which could be a hurdle for Winnetka, and she suggested the Village's approach convey that Winnetka aims to benefit the whole Forest Preserve.

Britt Barter, Apple Tree Road. Mr. Barter recommended surveying the community and also explaining to residents why there is only one solution for Crow Island woods, why pumping is not an option and why the golf course is not a good solution. He added that he does not think Strand is on the right track with its concept of turning one of the last Oak savannas in Illinois into a wetland.

Trustee Rintz pointed out that the Strand Final Concept Report contains an appendix that explains why certain alternatives were ruled out. Trustee Lanphier suggested using that information to educate the public.

Manager Bahan added that the Village's website has a stormwater library full of educational information for the public.

Cass Baker, De Windt Road. Ms. Baker approved of the Council's approach to get preliminary approval from the Forest Preserve before expending any more time, money and energy. She also urged the Council to set some deadlines for action.

Ted Wynnichenko, Oak Street. Mr. Wynnichenko said the report is intriguing, but the Village has spent years talking about stormwater projects, always with some in the community opposed. He pointed out that stormwater from the east side of Winnetka runs into Lake Michigan untreated, which will be regulated in the not-too-distant future which will cost the Village large sums of money to mitigate. He said Winnetka could be using the Street Rehabilitation Program to install pervious pavement on public roads and parking lots to clean and slow the flow of stormwater. He urged the Village to use best stormwater management practices going forward with public works projects and infrastructure repairs.

A Winnetka resident agreed with Mr. Wynnichenko, and asked why these kinds of options are not included in the Opportunity Matrix in Strand's Final Concept Report.

- 3) Public Comment. None.
- 4) Executive Session. None.
- 5) Adjournment. Trustee Cripe, seconded by Trustee Rintz, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 9:16 p.m.

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Deputy Clerk

**MINUTES  
WINNETKA VILLAGE COUNCIL  
REGULAR MEETING  
June 21, 2016**

(Approved: xx)

A record of a legally convened regular meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, June 21, 2016 at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Andrew Cripe, William Krucks, Penfield Lanphier, Scott Myers, Christopher Rintz and Kristin Ziv. Absent: None. Also present: Village Manager Robert Bahan, Assistant to the Village Manager Megan Pierce, Village Attorney Peter M. Friedman, and approximately 8 persons in the audience.
- 2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.
- 3) Quorum.
  - a) July 5, 2016. All of the Council members present indicated that they expect to attend.
  - b) July 12, 2016. All of the Council members present indicated that they expect to attend.
  - c) July 19, 2016. All of the Council members present indicated that they expect to attend.
- 4) Approval of the Agenda. Trustee Cripe, seconded by Trustee Ziv, moved to approve the Agenda. By voice vote, the motion carried.
- 5) Consent Agenda
  - a) Village Council Minutes. None.
  - b) Warrant List. Approving the Warrant List dated June 3-16, 2016 in the amount of \$1,030,800.84.
  - c) Resolution No. R-36-2016: Police Communications Consolidation (Adoption). A Resolution granting an extension to file compliance plans with the State of Illinois under Public Act 99-006 by October 31, 2016.
  - d) Resolution No. R-37-2016: Prevailing Wage Resolution (Adoption). A Resolution establishing prevailing wage rates for the Village of Winnetka in accordance with the Illinois Prevailing Wage Act.

Trustee Lanphier, seconded by Trustee Cripe, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Cripe, Krucks, Lanphier, Myers, Rintz and Ziv. Nays: None. Absent: None.
- 6) Stormwater Report. None.
- 7) Ordinances and Resolutions. None.
- 8) Public Comment.

Jennifer Talber, 608 Lincoln. Ms. Talber asked if there is a timeline for the One Winnetka preliminary planned development application, how long it will take to bring the matter to a vote, and if the responses to questions taken in April have been received from the Developer.

Manager Bahan explained that the Village is waiting for information from the Developer and anticipates the matter will appear on a Council agenda in July, and it could take several meetings before a vote is taken. He added that the Developer's final responses to the public's questions will be posted on the Village website as soon as they are received.

a) Old Business. None.

9) New Business.

a) Winnetka Park District: Winnetka Waterfront 2030 Lakefront Master Plan. Bob Smith, Executive Director of the Winnetka Park District, explained that the Master Plan has been two years in the making, and was partially funded by a grant from the Illinois Department of Natural Resources. He introduced Scott Freres from Lakota Group, who led the team that developed the plan.

Mr. Freres reviewed a presentation of the *Winnetka Waterfront 2030* plan (Plan), which is intended to be a guide for the next 20 years, with periodic updates as necessary to accommodate the changing needs of the community. He reviewed the community engagement process, mission and goals of the Plan, and facilities at each of the Park District's beaches.

The Council asked a few questions and briefly discussed the Plan. There was agreement that the Plan's vision does indeed respond to the modern needs of the community. A question was asked about stormwater runoff affecting the beaches.

Manager Bahan said the Village is testing stormwater quality on an ongoing basis, and the issue that remains is how much of the bacteria levels at the beaches are due to man-made contaminants, and how much are caused by natural forces.

Director Smith noted that the beaches are closing less this summer for high bacteria counts, and more for rip-tide warnings.

President Greable called for public comment.

Christa Miller, Linden Street. Ms. Miller expressed concerns about how many non-residents use Winnetka's beaches, and suggested finding a way for out of town users to help pay the cost of implementing the Plan. She noted that only 300 dog owners have control over Centennial Beach, and boat owners have taken over Lloyd Beach. She expressed criticism for Plan recommendations to build boat storage at Lloyd and jetties that she posited would interfere with wave action. Finally, she called for more transparency before embarking on any Lakefront projects.

Ron White, 434 Berkeley. Mr. White suggested adding a plan to build bluff protection, as envisioned in the Bennett Plan, noting that Winnetka should follow the lead of Lake Forest in restoring the bluffs using native plantings. He added that he thought it was important to continue the prohibition on gasoline at Winnetka's docks and said he thought jet skis were dangerous.

Director Smith explained that the concerns expressed during the public engagement process had been taken into account, and the issues will all be revisited as project implementation is undertaken. Answering a question from the Village President, he noted that the vast majority of beach users are Winnetka residents, and that non-residents are charged a higher fee for a beach pass, which is an important revenue stream.

11) Appointments. None.

12) Reports.

a) Village President. President Greable invited the community to attend the Fourth of July activities in Winnetka.

b) Trustees.

i) Trustee Cripe announced that the Winnetka Congregational Church is hosting a presentation from the Midwest Pesticide Action Center on pesticide use.

ii) Trustee Ziv reminded the community that the Winnetka-Northfield Sidewalk Sale is July 15 and 16 this year.

c) Attorney. None.

d) Manager. None.

13) Closed Session. None.

14) Adjournment. Trustee Myers, seconded by Trustee Lanpher, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 8:48 p.m.

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Deputy Clerk



## Agenda Item Executive Summary

**Title:** Approval of Warrant List

**Presenter:** Robert M. Bahan, Village Manager

**Agenda Date:** 07/05/2016

**Consent:**  YES  NO

- |                                     |                         |
|-------------------------------------|-------------------------|
| <input type="checkbox"/>            | Ordinance               |
| <input type="checkbox"/>            | Resolution              |
| <input type="checkbox"/>            | Bid Authorization/Award |
| <input type="checkbox"/>            | Policy Direction        |
| <input checked="" type="checkbox"/> | Informational Only      |

### Item History:

None.

### Executive Summary:

The Warrant List dated June 17-30, 2016 was emailed to each Village Council member.

### Recommendation:

Consider approving the Warrant List dated June 17-30, 2016.

### Attachments:

None.



## Agenda Item Executive Summary

**Title:** 5 Indian Hill Road, Subdivision and Zoning Variation: Policy Direction

**Presenter:** Michael D'Onofrio, Director of Community Development

**Agenda Date:** 07/05/2016

**Consent:**  YES  NO

- Ordinance
- Resolution
- Bid Authorization/Award
- Policy Direction
- Informational Only

### Item History:

None

### Executive Summary:

The owner of 5 Indian Hill Rd. has submitted an application seeking approval of a land subdivision which would divide the existing single lot measuring 85,290 s.f. (1.96 acres) into two (2) lots, measuring 41,500.82 s.f. (Lot 1 – west lot) and 43,789.18 s.f. (Lot 2 – east lot).

In addition to the subdivision application, the owner has submitted an application seeking approval of 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%).

The request was first heard at the Plan Commission (PC) meeting on October 21, 2015, but was continued, in part to allow staff to provide additional background information relating to the frequency of requests for relief from land subdivision standards. The PC continued its consideration of the request at its meeting on January 27, 2016. With a vote of 6 to 2, with one abstention, the PC voted to recommend denial of the proposed subdivision, including the requested relief from the subdivision standard prohibiting the creation of side lot lines abutting rear lot lines.

Subsequent to the January PC meeting, the petitioners submitted a revised application. The only change to the proposal was an increase in lot area for Lot 1 (west). The previous configuration of the proposed subdivision would have created a nonconformity with respect to the existing gross floor area (GFA) for Lot 1. However, the increase in lot area eliminated the need for a GFA variation.

The Zoning Board of Appeals considered the variation application at its meeting on March 14, 2016. With a vote of 4 to 1, the Board recommended denial of the variation from the minimum required lot depth.

### Recommendation:

Provide policy direction.

### Attachments:

- Agenda Report
- Attachment A: Application Materials
- Attachment B: Neighborhood Lot Areas
- Attachment C: November 12, 2015 Summary of Variations
- Attachment D: Excerpts of October 21, 2015 and draft January 27, 2016 PC meeting minutes
- Attachment E: Excerpt of March 14, 2016 ZBA meeting minutes
- Attachment F: Public Correspondence

## AGENDA REPORT

**TO:** Village Council

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

**SUBJECT:** Proposed Subdivision of 5 Indian Hill Rd.

**DATE:** June 9, 2016

### Introduction

The owner of 5 Indian Hill Rd. has submitted an application seeking approval of a land subdivision which would divide the existing single lot measuring 85,290 s.f. (1.96 acres) into two (2) lots, measuring 41,500.82 s.f. (Lot 1 – west lot) and 43,789.18 s.f. (Lot 2 – east lot).

In addition to the subdivision application, the petitioners have submitted an application seeking approval of 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%).

### Property Location

The location of the subject site is shown in Figure 1 below.

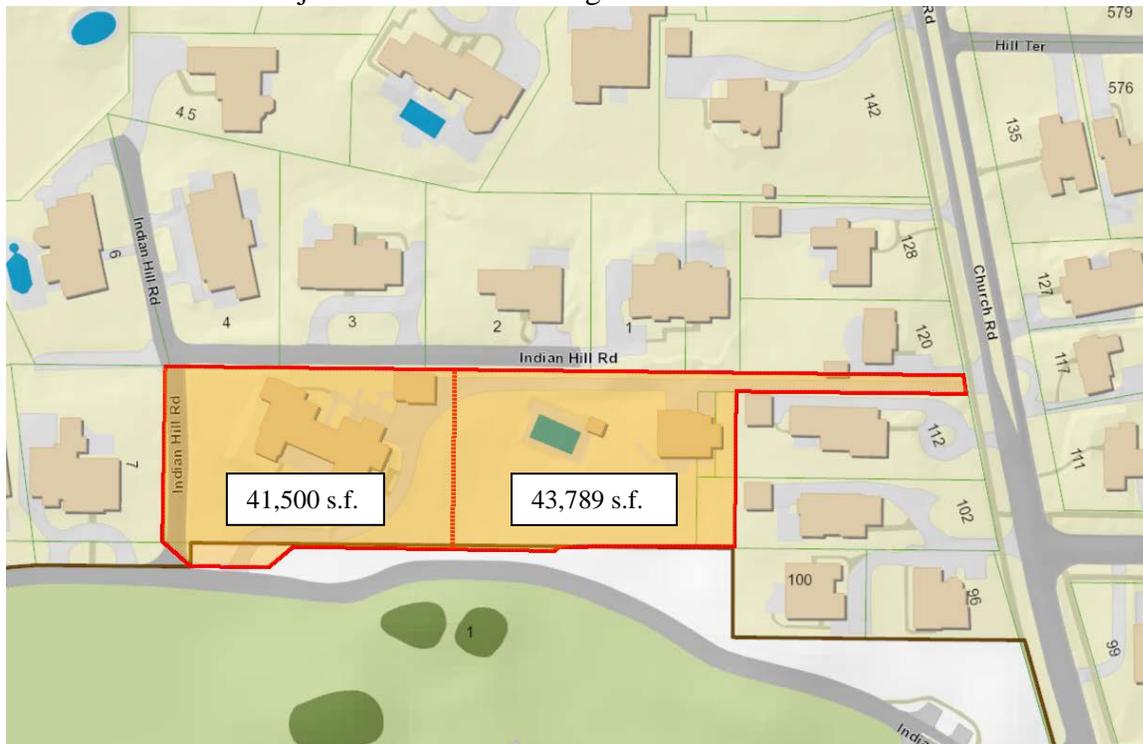


Figure 1 - Proposed subdivision

**Description of subdivision and neighborhood context**

The subject parcel is located in the R-2 zoning district, which requires a minimum lot area of 24,000 s.f. for interior lots and 25,200 s.f. for corner lots. As proposed, the two-lot subdivision would comply with the minimum lot area standard of the Zoning Ordinance, exceeding the minimum lot area by 82% (east lot) and 64% (west lot).

The subject parcel is one of thirty-eight (38) similarly-sized lots located south of Hill Rd. and west of Church Rd. This area of R-2 zoning is highlighted green in Figure 2.



**Figure 2 - R-2 zoning district boundaries**

The highlighted R-2 zoning district is located at the southerly edge of the Village, adjacent to the Indian Hill Club, which is located outside the Village in unincorporated Cook County. The highlighted area includes a wide range of different lot sizes, with the 38 lots highlighted ranging from a size of 10,045 s.f. on the small end to the largest lot (the subject parcel) measuring 85,290 s.f. Attachment B lists the lot area for each of the 38 parcels in the R-2 district highlighted above.

In addition to a wide variation of lot sizes, this particular section of R-2 zoning is improved with an irregular, largely curvilinear street layout, contributing to a concentration of irregular, non-rectangular lots in contrast with a more regular grid layout to the north and east.

**Variations required under subject application**

The proposed subdivision requires relief from not only the Zoning Ordinance, but the Subdivision Ordinance as well. Table 1 on the following page outlines the status of various subdivision and zoning standards for the proposed subdivision, highlighting those items noted as being noncompliant and requiring relief.

**Table 1 – Subdivision and Zoning Ordinance Compliance**

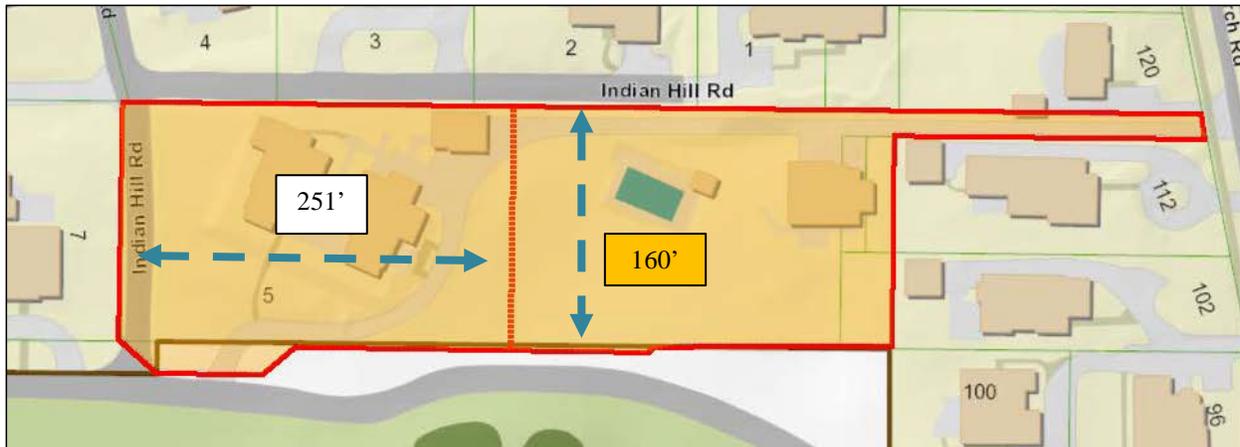
	Code Requirement	5 Indian Hill subdivision	Status
<b>Zoning Ordinance requirements [17.30.010 &amp; .020 Village Code]</b>			
A. Minimum lot area <i>(interior lot)</i>	24,000 s.f.	43,789 s.f.	Complies
Minimum lot area <i>(corner lot)</i>	25,200 s.f.	41,500 s.f.	Complies
B. Minimum lot width <i>(interior lot)</i>	100 ft.	244.09 ft.	Complies
Minimum lot width <i>(corner lot)</i>	115 ft.	165.15 ft.	Complies
C. Minimum lot depth <i>(proposed east lot)</i>	200 ft.	156.62 ft. <i>(measured north to south)</i>	Does not comply – requires zoning variation
Minimum lot depth <i>(proposed west lot)</i>	200 ft.	251.29 ft. <i>(measured east to west)</i>	Complies
D. Rectangular buildable area/rectangular lot area	16,335 s.f. rectangular area with a minimum dimension of 90 ft.		Complies
E. Existing improvements  Lot area must be adequate to support existing improvements.	In addition to minimum lot area standards, lot sizes must be adequately sized to allow existing improvements to comply with density limits.		Complies
F. Existing improvements  Lot configuration must not create nonconforming setbacks.			Complies
<b>Subdivision Ordinance lot requirements [16.12.010.D Village Code]</b>			
A. Side lot lines to be perpendicular to street lines			Complies
B. No side lot line shall abut another lot's rear lot line.		See Fig. 4	Does not comply – requires variation by Plan Commission

**Compliance with Zoning Standards**

All subdivisions are evaluated for compliance with basic minimum quantitative measures including minimum lot area, lot width, and lot depth. The proposed subdivision does not comply with one provision of Section 17.30.010 of the Zoning Ordinance related to lot dimensions. Lot 1 (west lot) would provide a conforming depth of 251 ft., while Lot 2 (east lot) would result in a nonconforming depth of 160 ft., whereas a minimum depth of 200 ft. is required. Figure 3 depicts

the measurement of each lot's depth. Under the Zoning Ordinance, lot depth is measured from the "front street line" to the farthest point from that line.

It is worth pointing out, in this particular subdivision, each lot's depth is measured with a different orientation (east-west versus north-south) due to the location of abutting streets and due to the fact the west lot is a corner lot with two street frontages.



**Figure 3 - Lot depth measurement**

Existing Zoning Nonconformities

In the case of the proposed subdivision, the following zoning nonconformities exist and will continue to exist:

1. The existing residence at 5 Indian Hill, located on proposed Lot 1, is setback 5.2 ft. from the north lot line, whereas a minimum front yard setback of 50 ft. is required;
2. The existing detached garage at 5 Indian Hill on proposed Lot 1 is setback 0.99 ft. from the north lot line, whereas a front yard setback of 50 ft. is required;
3. The existing swimming pool on proposed Lot 2 is setback 37 ft. from the north lot line, whereas a front yard setback of 50 ft. is required;
4. The existing coach house on proposed Lot 2 is setback 12.48 ft. from the east lot line, and 36.47 ft. from the north lot line, whereas a front yard setback of 50 ft. is required.

Table 2 on the following page describes the allowable building sizes and required setbacks of the existing single lot and compares them to the proposed two-lot subdivision. The existing improvements on the proposed lots would comply with the maximum permitted building size and lot coverage.

**Table 2 – Comparison of zoning density and setback requirements: Existing vs. Proposed**

Zoning standards	Existing single lot 80,707.42 s.f. (excludes narrow access way)	<b>Proposed Lot 1</b> (West) 41,500.82 s.f.	<b>Proposed Lot 2</b> (East) 39,206.6 s.f.
<b>1. Minimum Front Setback</b>	50 ft. (west)	50 ft. (west)	50 ft. (north)
<b>2. Minimum Corner Setback</b>	50 ft. (north)	50 feet (north)	-----
<b>3. Minimum Side Yard</b>	12 ft. (south)	12 ft. (south)	12 ft.
<b>4. Required Total Side Yards</b>	-----	-----	73.23 ft.
<b>5. Minimum Rear Yard</b>	25 ft. (east)	25 ft. (east)	24.09 ft. (south)
<b>6. Maximum Gross Floor Area</b>	20,377.71 s.f.	11,360.19 sf.	10,832.52 s.f.
<b>7. Maximum total building footprint / roofed lot coverage</b>	20,176.85 s.f.	10,375.2 s.f.	9,801.65 s.f.
<b>8. Maximum total impermeable lot coverage</b>	40,353.71 s.f.	20,750.41 s.f.	19,603.3 s.f.

**Compliance with Subdivision Standards**

Section 16.12.010(D) (6) of the Village Subdivision Ordinance stipulates that subdivisions shall not “result in the creation of one or more lots having side lot lines abutting rear lot lines”. Generally speaking, this standard was adopted to place limits on subdivisions such as the one depicted in Figure 4 on the following page. The subdivision in Figure 4 was approved by the Village, but later felt to have disrupted a regular “grid” form of the neighborhood by placing structures closer to neighbors than had previously been permitted. The prohibition of “side lot lines abutting rear lot lines” was the approach used to place limits on such practices.



**Figure 4 Example of “side yards abutting rear yards”**

The proposed Gill Subdivision would result in two such “side yards abutting rear yards,” as follows:

1. As proposed, the rear (east) lot line of Lot 1 abuts the side lot line of Lot 2;
2. In addition, the proposed subdivision would result in the creation of the side (east) lot line of Lot 2 abutting the rear lot line of the adjacent parcels to the east at 102 Church Rd. and 112 Church Rd.

Section 16.12.010 (F) of the Subdivision Ordinance states that “Whenever the land to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of this section would result in real difficulties and substantial hardships or injustices, the Plan Commission may vary or modify such requirements so that the owner is allowed to develop the land in a reasonable manner; provided that, public health, safety, welfare and convenience are protected.”

Related to the existing the zoning nonconformities noted on page 4 of this report, Section 16.12.010.D of the Subdivision Ordinance requires the Plan Commission to determine whether such existing

nonconformities, in the context of the proposed subdivision, will result in a material increased adverse impact upon the public health, safety or welfare.

### **Subdivision and Variation History**

A staff memorandum dated November 12, 2015 (Attachment C) is an analysis of fifty (50) subdivision applications filed from 1990-2015, and describing the seventeen (17) cases which incorporated one or more forms of such relief, representing 34% of the total of all subdivisions.

The memo provides a breakdown of the type of variations requested (lot width, lot area, etc.) as well as their final disposition. Key findings in the memo included the following:

- A. Five (5) requests for zoning relief came from lot consolidation requests, involving instances where lot sizes were increased. All five requests were based on a unique feature of the Zoning Ordinance that increases setback requirements as lot area increases – in each case existing structures became nonconforming with a setback requirement even as lot size and lot width increased. All five requests were approved. Due to the unique combination of zoning relief resulting from an increase in lot size, such requests for relief might best be considered a unique circumstance.
- B. Five (5) cases involved requests for relief from minimum lot area requirements, with one (1) approved for a nominal reduction in lot area. The remaining cases were either withdrawn (3 cases) or denied (1 case).
- C. While no requests involved relief from the minimum lot depth standard (as in the current application), three (3) requests for zoning relief involved lot width requirements, a somewhat similar “dimensional” standard. Two (2) requests for lot width relief were approved and one (1) withdrawn.
- D. Rectangular lot area - Two (2) cases involved request for zoning relief from “rectangular lot area requirements. One case was denied and one was withdrawn.

Seven (7) requests for variation from subdivision standards, primarily for cases in which side lot lines were not perpendicular to the street, as is often the case with irregularly shaped lots. All such requests were approved.

### **Property History**

The existing residence at 5 Indian Hill was built in 1922. Subsequent building permits were issued in 1955 to construct a one-story addition to the coach house and in 1999 to remodel and build an addition to the main residence.

There is one previous zoning case for this property. In 1999 the Village Council adopted Ordinance M-597-99 granting a variation to permit new window openings in the nonconforming north building wall.

The petitioners purchased the property in 1999.

### **Recommendation of Advisory Boards**

The request was first heard at the Plan Commission (PC) meeting October 21, 2015 (Attachment D), but was continued, in part to allow staff to provide additional background information relating to the frequency of requests for relief from land subdivision standards (Attachment C). The PC continued its consideration of the request at its meeting January 27, 2016 (Attachment D). With a vote of 6 to 2, with one abstention, the PC voted to recommend denial of the proposed subdivision, including the requested relief from the subdivision standard prohibiting the creation of side lot lines abutting rear lot lines.

Subsequent to the January PC meeting, the petitioners submitted a revised application. The only change to the proposal was an increase in lot area for Lot 1 (west). The previous configuration of the proposed subdivision would have created a nonconformity with respect to the existing gross floor area (GFA) for Lot 1. However, the increase in lot area eliminates the need for a GFA variation.

The Zoning Board of Appeals considered the variation application at its meeting March 14, 2016. With a vote of 4 to 1, the Board recommended denial of the variation from the minimum required lot depth (Attachment E).

### **Council Consideration and Action**

Due to the negative recommendations from both advisory boards, the proposed subdivision is before the Council for policy direction.

### **Recommendation**

Provide policy direction.

### **Attachments**

Attachment A: Application Materials

Attachment B: Neighborhood Lot Areas

Attachment C: November 12, 2015 Summary of Variations

Attachment D: Excerpts of October 21, 2015 and draft January 27, 2016 PC meeting minutes

Attachment E: Excerpt of March 14, 2016 ZBA meeting minutes

Attachment F: Public Correspondence

CASE NO. \_\_\_\_\_

**APPLICATION FOR LAND SUBDIVISION  
WINNETKA PLAN COMMISSION**

**Owner Information: Name, Address, Telephone, Fax & Email**

Debra Gill, 5 Indian Hill, Winnetka  
[REDACTED], Kanilworth

**Surveyor Information: Name, Address, Telephone, Fax & Email**

BH Suhv 840 Custer Ave, Evanston IL 60202 847.864.8315  
Surveyor@bhsuhv.com

**Architect Information: Name, Address, Telephone, Fax & Email**

LA. Pizzolo Architects, LTD  
669 Walden, Winnetka IL 60093  
lanizzolo@gmail.com

**Attorney Information: Name, Address, Telephone, Fax & Email**

Robbi King 847.446.3972 / 224.216.4320  
669 Walden, Winnetka IL 60093

Date Property Acquired by Owner May 1999.

**Note:** This application must be accompanied by a written narrative summary of the proposed subdivision together with associated improvements.

Signature: [REDACTED]

Date: 8/19/15



## Submission for Land Subdivision – 5 Indian Hill, Winnetka, IL 8/15

Revised 10/15

First known as "Wynwyd Estate," the house at 5 Indian Hill Road was designed in 1922 by noted California architect and AIA Fellow Reginald D. Johnson. An MIT graduate, Johnson was known primarily as a "society architect" and was renowned for his Mediterranean-style private homes and public buildings.

Wynwyd Estate was created for Thomas H. McInerney as an Italian-style villa set on two landscaped acres overlooking the Indian Hill Club. Originally conceived by Johnson with an "H" shaped floor plan, economic realities caused the house to be built in a "T" shape. A three-car motor house and gardener's apartment completed the property.

Mr. and Mrs. John Nuveen later purchased the estate. John Nuveen (1896-1968) was the vice-chairman and director of the investment firms of John Nuveen & Co. and the Nuveen Corporation. Mr. Nuveen held the position of chief of the Marshall Plan on missions to Greece, Belgium and Luxemburg during the Truman administration, as well as a consultant on foreign investments in the Commerce Department during the Eisenhower years. After his death, his wife Grace continued to live in the house.

In 1999, the property was acquired by the current owners. While being marketed as three separate lots, the Owners bought the property "as is", and completely preserved the entire property, along with adding two additions to the main house - following the original architectural concept of an "H-shaped" home. Sitting on 1.96 acres, with access from Indian Hill Road as well as Church Road, they also remodeled the gardener's apartment, motor car garage, added a pool/pool house, and landscaped the entire grounds to include formal gardens.

Fifteen years later, the Owner's have decided to downsize, and are currently "on the market" with this unique "Estate Home". Sitting in the R-2 zoning district, with a minimum lot size of 24,000 sf, the proposed application is to sub-divide the current **85,290** sf lot into 2 large lots, using the two existing addresses – 5 Indian Hill and 116 Church Road. Currently there are 4 lots to the north of the property, and 2 lots to the East. Indian Hill Country Club sits to the south and Indian Hill Road to the west.

The first proposed lot, 5 Indian Hill, at **38,698** sf would allow for the original historic home and motor car garage to be preserved. The gated entrance with the original brick columns on Indian Hill Rd would be unchanged, with the existing driveway curving around the house to the garage.

The proposed lot #2, 116 Church, would have a lot area of **46,592** sf. The lot would contain the smaller single family home using the current driveway on Church Road. The lot would include the original gardener's home, a 1 ½ story brick house (3030 sf), along with the pool and pool house.

The brick column/iron fence along the entire south property and the brick wall along a portion of the north property would stay as is. The proposed subdivision would split the property into two sizeable lots, each using the current access to the lots, preserving the current homes, and maintaining the scale and context of the neighborhood.

APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS

Owner Information:

Name: Dan & Debra Gill

Property Address: 5 Indian Hill

Home and Work Telephone Number: [REDACTED]

Fax and E-mail: [REDACTED]

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

LEGA RIZZOLO / L.A. RIZZOLO ARCHITECTS, LTD

1043 RIDGEWOOD, HIGHLAND PARK IL 60035

847. 471. 4484. cell 847. 835. 1233. OFFICE Lavizzolo@gmail.com.

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

Hal Francke / Meltzer, Purtill & Steele, LLC.

1515 E. Woodfield Rd, Schaumburg IL 60173

847. 330. 6068. PHONE.

Date Property Acquired by Owner: 1999

Nature of Any Restrictions on Property: SEE ATTACHED.

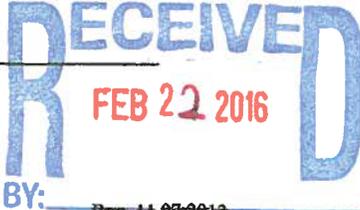
Explanation of Variation Requested:

(Attach separate sheet if necessary) SEE ATTACHED.

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: 2/19/2016.

(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.**



**Revised 2/19/16**

**Overall:**

The subdivision request for 5 Indian Hill would create two lots in the R-2 district, both surpassing the minimum lot requirement by over 150%, while allowing the two residential structures to be maintain on each of the lots. With this proposed subdivision, the new lots would require zoning variations as outlined below. Both of the proposed lots currently have individual addresses, recognized by the federal government, and the Village of Winnetka as separate properties, along with separate accounts/addresses with the utility companies. Both residential structures were built in 1922, and have been restored over the years, remaining consistent with the original architecture. The overall size of the current lot is 85, 289 in the R-2 district, with the minimum lot size required of 24,000 sf .

**Zoning Variation: 116 Church Road, Winnetka (Lot #2)**

**Variation Request:** Minimum lot depth.

- Min lot depth 200'/157' actual

**Hardship:**

- Irregular Lot:  
The current lot is a flag lot, with the “flag” at 249.46’ x 18.36’ (4,582SF), on the East side of the property. The “front yard” of this lot is on the north side, setting up the lot from north to south as the lot depth (157 actual/200 required), and the lot width at 249.28’ (calculated without the flag lot dimension), with a required 90’.
  - With the North side of the property being designated as the “Front”, the proportions of the lot are working against the zoning code, with the longest dimension of the lot as the “lot width” (east to west), and the shorter dimensions (north to south) as the lot depth

**Standards for Zoning Variation:**

1. The property is vastly oversized for the regulations in the zone (43,789 sf lot proposed/ 24,00 sf required)
2. The variation, if granted, will not alter the essential character of the locality.
3. An adequate supply of light and air to the adjacent property will not be impaired.
4. No impairment of the public health, safety, comfort, morals and welfare of the inhabitants of the Village will be created with the window modifications, and the switching of a window to a screen.
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.

MELTZER, PURTILL & STELLE LLC

ATTORNEYS AT LAW

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June 28, 2016

Village President E. Gene Greable and Members of the Village Council  
Village of Winnetka  
510 Green Bay Road  
Winnetka, IL 60093

**Re: 5 Indian Hill Road/Request for Approval of a Two-Lot Subdivision with Variations for Minimum Lot Depth (ZBA Case No. 15-27-V2) and for a Side Yard-to-Rear Yard Condition**

Dear President Greable and Council Members:

This firm represents Dan and Debra Gill in connection with their request for approval of a two-lot subdivision for the property situated at 5 Indian Hill Road. In addition to their request for subdivision approval, our clients seek approval of one Zoning Ordinance variation and one Subdivision Ordinance variation. We appreciate the opportunity to present the following information to you in advance of your consideration of this matter on July 5.

We begin by noting the obvious differences between your consideration of our clients' requests and the prior considerations of the requests by the Plan Commission and Zoning Board of Appeals which are required, among other things, to make findings of hardship in advance of forwarding their recommendations to you. As all of you know well, the final decisions in matters such as this are left to you to be made. In rendering those final decisions, you are able to take a broader look at the issues and consider the overarching objectives of the Village's Zoning Ordinance (which are set forth at **Tab 1** of this correspondence) and the objectives of the Village's Subdivision Ordinance.

A municipality enacts a zoning ordinance to promote the public health, welfare and safety. *Firstbank Company v. City of Springfield*, 253 Ill.App.3d 844, 847, 625 N.E.2d 804, 806; (4<sup>th</sup> Dist. 1993); *Suhadolnik v. City of Springfield*, 184 Ill.App.3<sup>rd</sup> 155, 540 N. E.2d 895, 900 (4<sup>th</sup> Dist. 1989). In the implementation and enforcement of a zoning ordinance, elected officials sometimes render legislative decisions (for example, decisions related to map or text amendments), and sometimes they render administrative or quasi-judicial decisions (for example, decisions related to special use and variation requests). See, e.g., *People ex rel. Klaeren v. Village of Lisle*, 202 Ill.2d 164, 781 N.E.2d 223 (2002). In each instance, the corporate authorities are to render their decision with an eye towards the objectives of the local zoning ordinance which again are intended to promote the protection of the public health, safety, morals and general welfare. See, e.g., *Equity Associates, Inc. v. Village of Northbrook*, 171 Ill.App.3d 115, 524 N.E.2d 1119 (1<sup>st</sup> Dist. 1988).

A municipality enacts a subdivision ordinance to regulate the division of land into separate parcels. Decisions under such an ordinance are typically considered to be ministerial acts when the state Plat Act and all local ordinances have been complied with. Generally speaking, if a subdivision complies with a municipality's subdivision regulations it must be approved. *People ex rel. First National Bank & Trust Co. of Evanston v. Village of Deerfield*, 50 Ill.App.2d 349, 200 N.E.2d 120 (2<sup>nd</sup> Dist. 1964); *Urban Investment & Development Co. v. Graham*, 49 Ill.App.3d 661, 364 N.E.2d 628 (2<sup>nd</sup> Dist. 1977). In some instances, however, a plan commission, in its consideration of a subdivision application, may be required

to render a quasi-judicial decision by applying a defined set of facts to a specified standard in the ordinance.

**A. The Applicants' Zoning Ordinance Variation Request**

Our clients' request to subdivide their property into two lots, one for the existing main residence and garage ("**Lot 1**") and one for the existing coach house, swimming pool and pool house ("**Lot 2**"), includes one request for variation from the provisions of the Village's Zoning Ordinance--that being, a request to vary from the provisions of Section 17.30.010 [Lot Area, Shape and Dimensions] to permit Lot 2 to have a minimum lot depth of 156.62 feet, where a minimum of 200 feet is otherwise required. In all other respects, both lots will either conform to **or exceed** the applicable bulk regulations of the R-2 Zoning District (i.e., minimum required lot area, minimum required lot width, minimum required setbacks, rectangular buildable area, and adequacy of area to support existing improvements). Although some of the existing improvements on the lots currently fail to conform to setback requirements (See page 3 of Mr. D'Onofrio's March 7, 2016 Agenda Report to the Zoning Board of Appeals, a copy of which is included with this correspondence at **Tab 2**) and those non-conformities will continue to exist if the requested subdivision is approved, those conditions do not justify a denial of our clients' applications since they presently have and will continue to have no material adverse impact on the public health, safety or welfare (See Section 16.12.010(D)(4) of the Subdivision Ordinance and the photographs included with this correspondence at **Tab 3** depicting the existing conditions).

This is a unique situation and a unique piece of property.

As the information provided by Mr. Norkus confirms, over the past 25 years the Village has never considered a request for relief from the minimum lot depth standard. See Memorandum dated January 20, 2016 included in the Council's Agenda Packet.

At the same time, the subject property is unique in that it is almost two acres in size (85,290 square feet) and located in an area where the average lot size is 34,754 square feet (See Attachment B to Mr. Norkus' memorandum, a copy of which is included with this correspondence at **Tab 4**). In fact, it is the largest lot in this R-2 zoned portion of the Village (See Figure 2 on page 2 of Mr. D'Onofrio's March 7, 2016 Agenda Report to the ZBA [**Tab 2**]). If the requested subdivision is approved, Lot 1 (containing 41,501 square feet) and Lot 2 (containing 43,789 square feet) will remain unique in that they will be, respectively, 19% and 26% larger than the average lot size of the **38** surrounding lots and significantly larger than the most proximate lots in the area, as noted below:

1. Lot 96 Church Road—10,579 s.f.
2. Lot 100 Church Road—10,045 s.f.
3. Lot 102 Church Road—17,621 s.f.
4. Lot 112 Church Road—18,827 s.f.
5. Lot 120 Church Road—13,524 s.f.
6. Lot 128 Church Road—16,255 s.f.
7. Lot 1 Indian Hill Road—23,353 s.f.
8. Lot 2 Indian Hill Road—24,875 s.f.
9. Lot 3 Indian Hill Road—24,740 s.f.
10. Lot 4 Indian Hill Road—24,302 s.f.
11. Lot 6 Indian Hill Road—25,147 s.f.
12. Lot 7 Indian Hill Road—24,249 s.f.

The subject property is also unique in that it is surrounded on all four sides by roads and has two means of ingress and egress—one off Church Road and one off Indian Hill Road. The uniqueness of the situation is highlighted by the fact that in this particular subdivision the lot depth of each of the proposed

lots is measured with a different orientation (east-west and north-south) due to the location of abutting streets and the fact that the west lot is a corner lot with two street frontages (See page 2 of Mr. D'Onofrio's March 7, 2016 Agenda Report to the ZBA [Tab 2]).

Most importantly, the minimum lot depth being proposed is *not* out of character with the lots in the immediate vicinity or "significant" as the neighbors have asserted. In fact, it is entirely in keeping with the lot depths of the most proximate residential lots, those being the lots situated immediately to the north of the subject property at 1 Indian Hill Road, 2 Indian Hill Road, 3 Indian Hill Road and 4 Indian Hill Road. Those lots and their respective lot depths are set forth below:

1. Lot 1 Indian Hill Road—156 ft
2. Lot 2 Indian Hill Road—162.6 ft
3. Lot 3 Indian Hill Road—169.95 ft
4. Lot 4 Indian Hill Road—197.6 ft

Finally, we ask the corporate authorities to consider, as ZBA Member Kehoe<sup>1</sup> noted at the ZBA public hearing, that there is a six to eight foot high heavily landscaped brick wall on the north end of our clients' property which completely buffers and screens these lots from the subject property and the improvements which exist on the subject property. It is abundantly clear that, due to this buffer and screen and contrary to the unsubstantiated concerns of the neighbors to the contrary, no adverse impact on the use and enjoyment of these lots or on the public health, welfare and safety will occur if the requested minimum lot depth variation is granted. Included with this correspondence at **Tab 5** are recently taken photographs which depict these conditions at the ground level and an aerial photograph that depicts the significant distances that separate the homes on these lots from the aforesaid brick wall and the improvements which exist on the 5 Indian Hill Road property.

#### **B. The Applicants' Two-Lot Subdivision and Subdivision Ordinance Variation Requests**

As noted above, the consideration of a request to subdivide land is generally considered to be a ministerial act. If a proposed subdivision meets all the requirements of the state Plat Act and the local municipality's ordinances, the Village must approve it<sup>2</sup>.

In the instant case, it is undisputed that the proposed subdivision satisfies the provisions of the Subdivision Ordinance in all respects save one—that being, the provisions of Section 16.12.010.D(6) which states that "(n)o plan for any land subdivision shall be approved if it results in the creation of one or more lots having side lot lines abutting rear lot lines". Specifically, the side yard in which the existing coach house presently encroaches will abut the rear yard of the properties situated at 112 Church Road and 102 Church Road, and the side yard of proposed Lot 2 will abut the rear yard of proposed Lot 1.

Section 16.12.010.F of the Ordinance, however, provides as follows:

*F. Variations and Exceptions. Whenever the land to be subdivided is of such unusual size or shape or is surrounded by such development of unusual conditions*

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<sup>1</sup> Member Kehoe voted against the main motion presented at the conclusion of the ZBA public hearing. He was of the opinion that our client's Zoning Ordinance variation request should be approved.

<sup>2</sup> We believe it is worth noting that, under state law, our clients could divide the subject property into two parcels without the recording of a plat of subdivision under one of the exemptions contained in the Illinois Plat Act (See Section 1(b)(8)—"The sale or exchange of parcels or tracts of land following the division into no more than 2 parts of a particular parcel or tract of land existing on July 17, 1959 not involving any new streets or easement of access." 765 ILCS 205/1(b)(8)).

*that the strict application of this section would result in real difficulties and substantial hardships or injustices, the Plan Commission may vary or modify such requirements so that the owner is allowed to develop the land in a reasonable manner; **provided that public health, safety, welfare and convenience are protected** (emphasis supplied).*

We would respectfully submit to you that a variation from Section 16.12.010.D(6) is warranted in this case given the following:

1. The unique size of the subject property and the unique size of the two newly created lots, as described above. Because of the unique size of Lot 2, it will have side yards of approximately 37 feet, where a minimum side yard of 12 feet is otherwise required in the R-2 District. Since the required minimum rear yards for the Church Road lots and proposed Lot 1 is 25 feet, the combined *side yard-to-rear yard conditions* at issue here will be **62 feet**, which *exceeds* the required minimum rear *yard-to-rear yard condition* the Zoning Ordinance seeks to maintain in the R-2 District, that being, **50 feet**. (See *Setback exhibits included with this correspondence at Tab 6*).
2. The unique nature of the development which surrounds the subject property (See *Page 3 of January 27, 2016 Plan Commission meeting minutes where Mr. Norkus discusses the unique nature of the surrounding area given the significant variation in lot sizes that exists, a copy of said Page 3 being included with this correspondence at Tab 7*).
3. The fact that the condition that dictates the need for the variation presently exists on many other abutting lots in the Village (See *page 6 of the aforesaid Plan Commission meeting minutes, a copy of said Page 6 being included with this correspondence at Tab 7*). In fact, the condition exists on the lots just north of the subject property on Indian Hill Road (i.e., 1 Indian Hill Road (side yard) and 120 Church Road and 128 Church Road (rear yards)).
4. The fact that the 1999 amendment to the Subdivision Ordinance which added this provision was enacted after a parcel in the R-5 Single Family Residential District, which is a significantly more intense residential zoning district (minimum lot area required: 8,400 square feet) than the R-2 Single Family Residential District (minimum lot area required: 24,000 feet), was subdivided for purposes of constructing a new home on the newly created lot (See *Mr. Norkus 1/20/16 Memorandum at page 8*).
5. Most importantly, the fact that the approval of the requested variation will have no adverse impact on either the properties situated at 112 Church Road and 102 Church Road because none of the existing conditions will change (See *photograph enclosed at Tab 8*), or the public health, safety, welfare and convenience<sup>3</sup>.

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<sup>3</sup> While several neighbors testified at the Plan Commission and ZBA public hearings that their welfare and convenience would be adversely impacted by the approval of the requested variation, none of them identified what this adverse impact would be or offered up one scintilla of evidence as to how the approval of the variation would lead to such adverse impact.

**C. Conclusion**

In conclusion, our clients respectfully ask that you approve their request for subdivision approval and their variation requests for the following reasons:

1. Both the existing property and proposed Lot 2 are unique in their size, location, and condition.
2. No change in access is being proposed as part of the application for subdivision approval.
3. A six to eight foot high brick wall exists on the northern boundary of the subject property which entirely screens the lots to the north from the property proposed to be subdivided.
4. The subdivision of the subject property will not adversely impact the substantial landscaping and vegetation that exists on the perimeter of the property.
5. Both Lot 1 and Lot 2 will be significantly larger than ALL of the immediately adjacent lots and they will significantly exceed the average lot size for single-family lots in the area.
6. The continuation of the existing non-conforming conditions of certain improvements on the subject property will not result in a material increased adverse impact upon the public health, safety, or welfare.
7. Approving the requested variation from the Zoning Ordinance will not frustrate any of the objectives of the Zoning Ordinance or result in a material adverse impact upon the public health, safety comfort, morals or welfare.
8. Approving the requested variation from the Subdivision Ordinance will not result in an adverse impact upon the adjacent properties on Church Road and Indian Hill Road, specifically, or the public health, welfare, safety and convenience, generally.

We hope you find this information helpful and look forward to appearing before you next week.

Very truly yours,

**MELTZER, PURTILL & STELLE LLC**



Harold W. Francke

cc (w/ encl.):

Peter Friedman, Holland & Knight LLP, Village attorney  
Dan and Debra Gill  
Lesa Rizzolo

# TAB 1

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Sections:

- 17.04.010 Title.
- 17.04.020 Objectives.
- 17.04.030 Definitions.
- 17.04.040 Interpretation, purpose and conflict; rules of construction.

**Section 17.04.010 Title.**

The ordinance codified in this title shall be known, cited and referred to as the Winnetka Zoning Ordinance.

(Prior code § 22.01)

**Section 17.04.020 Objectives.**

A. General Objectives. The general objective of this Zoning Ordinance is to maintain the Village as a developed community primarily consisting of well-maintained single-family residential neighborhoods, separately located thriving business areas that complement the residential neighborhoods, in an area with mature trees and green space.

B. Land Use and Development Objectives. It is the purpose of this Zoning Ordinance to assure that the following land use and development objectives are accomplished:

1. To foster the goals and policies of the Comprehensive Plan of the Village;
2. To establish a rational pattern of land uses and to encourage the most appropriate use of individual parcels of land within the Village;
3. To encourage and promote detached single-family homes as the principal land use in the Village;
4. To protect the scale and character of existing neighborhoods from the encroachment of incompatible uses and structures having excessive bulk or providing inadequate open space;
5. To prohibit uses, buildings or structures that are incompatible with the character of the zoning district in which they are located;
6. To regulate and limit the height and bulk of buildings;
7. To establish, regulate and limit building or setback lines on or along any street, traffic way, drive, parkway or storm or floodwater runoff channel or basin;
8. To regulate and limit the intensity of the use of lot areas and the area of open spaces within and surrounding buildings;
9. To encourage and enhance the preservation of natural resources, aesthetic amenities and natural features;

10. To secure adequate natural light, pure air, privacy a safe environment and convenience of access to property;
11. To facilitate the most efficient use of existing and planned public facilities and utilities;
12. To protect existing public facilities and utilities from being overloaded due to excess development or development incompatible with the capabilities of the Village's utility systems;
13. To protect and enhance a pattern of interconnected streets and roadways that is unified, integrated, safe, effective and efficient;
14. To reduce congestion and promote safety on streets and public ways by limiting traffic generation through the control of land use intensity;
15. To avoid or lessen the hazards of flooding or stormwater accumulation and runoff;
16. To ensure and facilitate the preservation of sites, areas and structures of historical, architectural and aesthetic importance;
17. To assure the development and redevelopment of established residential neighborhoods and business areas in a manner consistent with their established character, by encouraging the renovation, restoration and rehabilitation of structurally sound existing housing and commercial buildings, and by establishing standards to assure that new construction and building additions maintain the existing scale and appearance of the community, and by protecting established trees and landscaping;
18. To protect and respect the justifiable reliance of existing residents, business people and taxpayers on the continuation of existing, established land use patterns;
19. To protect and enhance the taxable value of land and buildings;
20. To otherwise promote the public health, safety, comfort, morals and welfare;
21. To define the powers and duties of administrative officers and bodies necessary to administer this Zoning Ordinance;
22. To establish procedures for the efficient and effective use of the provisions of this Zoning Ordinance;
23. To establish standards for the review of applications filed pursuant to this Zoning Ordinance; and
24. To prescribe penalties for the violation of the provisions of this Zoning Ordinance.

(Ord. MC-221-99 § 2, 1999: prior code § 22.02)

(MC-8-2005, Amended, 12/20/2005, Subsection B(17) amended; MC-8-2000, Amended, 11/21/2000, Subsection (B)7 amended term "setback")

#### **Section 17.04.030 Definitions.**

For the purpose of this title, certain terms and words are defined as follows:

A.

1. Accessory Building. "Accessory building" means a detached building, the use of which

# TAB 2

**ZONING BOARD OF APPEALS  
AGENDA REPORT**

**SUBJECT:** 5 Indian Hill Rd., Case No. 15-27-V2  
(1) Lot Area, Shape and Dimensions

**DATE:** March 7, 2016

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

The petitioners, Dan and Debra Gill, are requesting 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%).

In addition to the variation application before the Board, the petitioners have submitted an application seeking approval of a subdivision which would divide the existing single lot measuring 85,290 s.f. (1.96 acres) into two (2) lots, measuring 41,500.82 s.f. (Lot 1 - west lot) and 43,789.18 s.f. (Lot 2 - east lot).

The location of the subject site is shown in Figure 1 below.



**Figure 1 Proposed subdivision**

**Description of subdivision and neighborhood context**

The subject parcel is located in the R-2 zoning district, which requires a minimum lot area of 24,000 s.f. for interior lots and 25,200 s.f. for corner lots. As proposed, the two-lot subdivision would comply with the minimum lot area standard of the Zoning Ordinance.

The subject parcel is one of thirty-eight (38) similarly-sized lots located south of Hill Rd. and west of Church Rd. This area of R-2 zoning is highlighted green in Figure 2.



Figure 2 R-2 zoning district boundaries

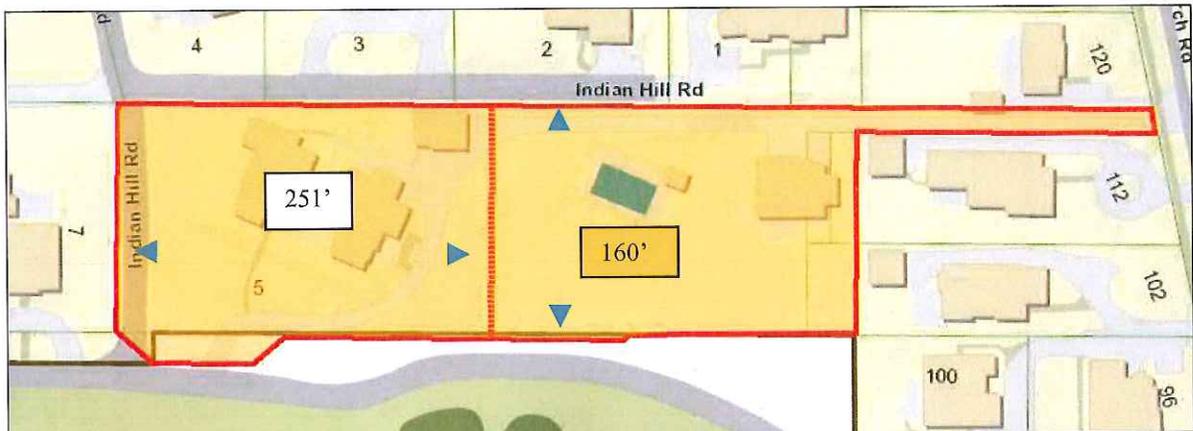
The highlighted R-2 zoning district is located at the southerly edge of the Village, adjacent to the Indian Hill Club, which is located outside the Village in unincorporated Cook County. The highlighted area includes a wide range of different lot sizes, with the 38 lots highlighted ranging from a size of 10,045 s.f. on the small end to the largest lot (the subject parcel) measuring 85,290 s.f. In addition to a wide variation of lot sizes, this particular section of R-2 zoning is improved with an irregular, largely curvilinear street layout, contributing to a concentration of irregular, non-rectangular lots in contrast with a more regular grid layout to the north and east.

### **Compliance with Zoning Standards**

All subdivisions are evaluated for compliance with basic minimum quantitative measures including minimum lot area, lot width, and lot depth. The proposed subdivision does not comply with one provision of Section 17.30.010 of the Zoning Ordinance related to lot dimensions. Lot 1 (west lot) would provide a conforming depth of 251 ft., while Lot 2 (east lot) would result in a nonconforming depth of 160 ft., whereas a minimum depth of 200 ft. is required. Figure 3 on the following page depicts the measurement of each lot's depth. Under the Zoning Ordinance, lot depth is measured from the "front street line" to the farthest point from that line.

It is worth pointing out, in this particular subdivision, each lot's depth is measured with a different orientation (east-west versus north-south) due to the location of abutting streets and due to the fact the west lot is a corner lot with two street frontages.





**Figure 3 Lot depth measurement**

Existing Zoning Nonconformities

In the case of the proposed subdivision, the following zoning nonconformities exist and will continue to exist:

1. The existing residence at 5 Indian Hill, located on proposed Lot 1, is setback 5.2 ft. from the north lot line, whereas a front yard setback of 50 ft. is required;
2. The existing detached garage at 5 Indian Hill on proposed Lot 1 is setback 0.99 ft. from the north lot line, whereas a front yard setback of 50 ft. is required;
3. The existing swimming pool on proposed Lot 2 is setback 37 ft. from the north lot line, whereas a front yard setback of 50 ft. is required;
4. The existing coach house on proposed Lot 2 is setback 12.48 ft. from the east lot line, and 36.47 ft. from the north lot line, whereas a front yard setback of 50 ft. is required.

Table 1 on the following page summarizes the extent to which the proposed subdivision complies with other related zoning standards.

**Table 1 – Evaluation of proposed Gill Subdivision  
 for compliance with Village Zoning Standards**

**Minimum Lot Area and Minimum Lot Dimensions**

Zoning standards	<i>Existing single lot</i>	<b>Proposed Lot 1</b> (West)	<b>Proposed Lot 2</b> (East)
<b>1. Minimum Lot Area</b> (interior lot)  <u>24,000 s.f.</u>	-----	-----	39,206 s.f.  Complies  (excludes area of narrow access way)
<b>2. Minimum Lot Area</b> (corner lot)  <u>25,200 s.f.</u>	85,290 s.f. (1.96 ac)  <i>Complies</i>	41,500 s.f.  Complies	-----
<b>3. Minimum Rectangular Area requirement</b>	<i>Complies</i>	Complies	Complies
<b>4. Minimum Lot depth</b>  <u>200 feet</u>	500.56 feet  <i>Complies</i>	251.29 feet  Complies	<b>156.62 feet</b>  <b><u>(DOES NOT COMPLY)</u></b>
<b>5. Minimum Average Lot width</b>  (interior lot)  <u>100 feet</u>	-----	-----	244.09 feet  Complies
<b>6. Minimum Average Lot width</b>  (corner lot)  <u>115 feet</u>	161.23 feet  <i>Complies</i>	165.15 feet  Complies	-----

Table 2 on the following page describes the allowable building sizes and required setbacks of the existing single lot and compares them to the proposed two-lot subdivision. The existing improvements on the proposed lots would comply with the maximum permitted building size and lot coverage.

**Table 2 – Comparison of zoning density and setback requirements  
 Existing vs. Proposed**

Zoning standards	Existing single lot	<b>Proposed Lot 1</b> (West)	<b>Proposed Lot 2</b> (East)
	80,707.42 s.f. (excludes narrow access way)	41,500.82 s.f.	39,206.6 s.f.
<b>1. Minimum Front Setback</b>	50 feet (west)	50 feet (west)	50 feet (north)
<b>2. Minimum Corner Setback</b>	50 feet (north)	50 feet (north)	-----
<b>3. Minimum Side Yard</b>	12 feet (south)	12 feet (south)	12 feet
<b>4. Required Total Side Yards</b>	-----	-----	73.23 feet
<b>5. Minimum Rear Yard</b>	25 feet (west)	25 feet (east)	24.09 feet (south)
<b>6. Maximum Gross Floor Area</b>	20,377.71 s.f.	11,360.19 s.f.	10,832.52 s.f.
<b>7. Maximum total building footprint / roofed lot coverage</b>	20,176.85 s.f.	10,375.2 s.f.	9,801.65 s.f.
<b>8. Maximum total impermeable lot coverage</b>	40,353.71 s.f.	20,750.41 s.f.	19,603.3 s.f.

The existing residence at 5 Indian Hill was built in 1922. Subsequent building permits were issued in 1955 to construct a one-story addition to the coach house and in 1999 to remodel and build an addition to the main residence.

There is one previous zoning case for this property. In 1999 the Village Council adopted Ordinance M-597-99 granting a variation to permit new window openings in the nonconforming north building wall.

The petitioners purchased the property in 1999.

**Consideration by other Advisory Boards**

The request was first heard at the Plan Commission meeting October 21, 2015, but was continued, in part to allow staff to provide additional background information relating to the frequency of requests for relief from land subdivision standards (Attachment B). The

PC continued its consideration of the request at its meeting January 27, 2016. With a vote of 6 to 2, with one abstention, the PC voted to recommend denial of the proposed subdivision, including the requested relief from the subdivision standard prohibiting the creation of side lot lines abutting rear lot lines.

Subsequent to the January PC meeting, the applicant submitted a revised application. The only change to the proposal is an increase in lot area for Lot 1 (west). The previous configuration of the proposed subdivision would have created a nonconformity with respect to the existing gross floor area (GFA) for Lot 1. However, the increase in lot area eliminates the need for a GFA variation. Therefore, relief from the lot depth requirement is the only variation being considered by the ZBA.

The Village Council has final jurisdiction on this request.

**Attachments:**

Attachment A: Application Materials

Attachment B: November 12, 2015 summary of variations

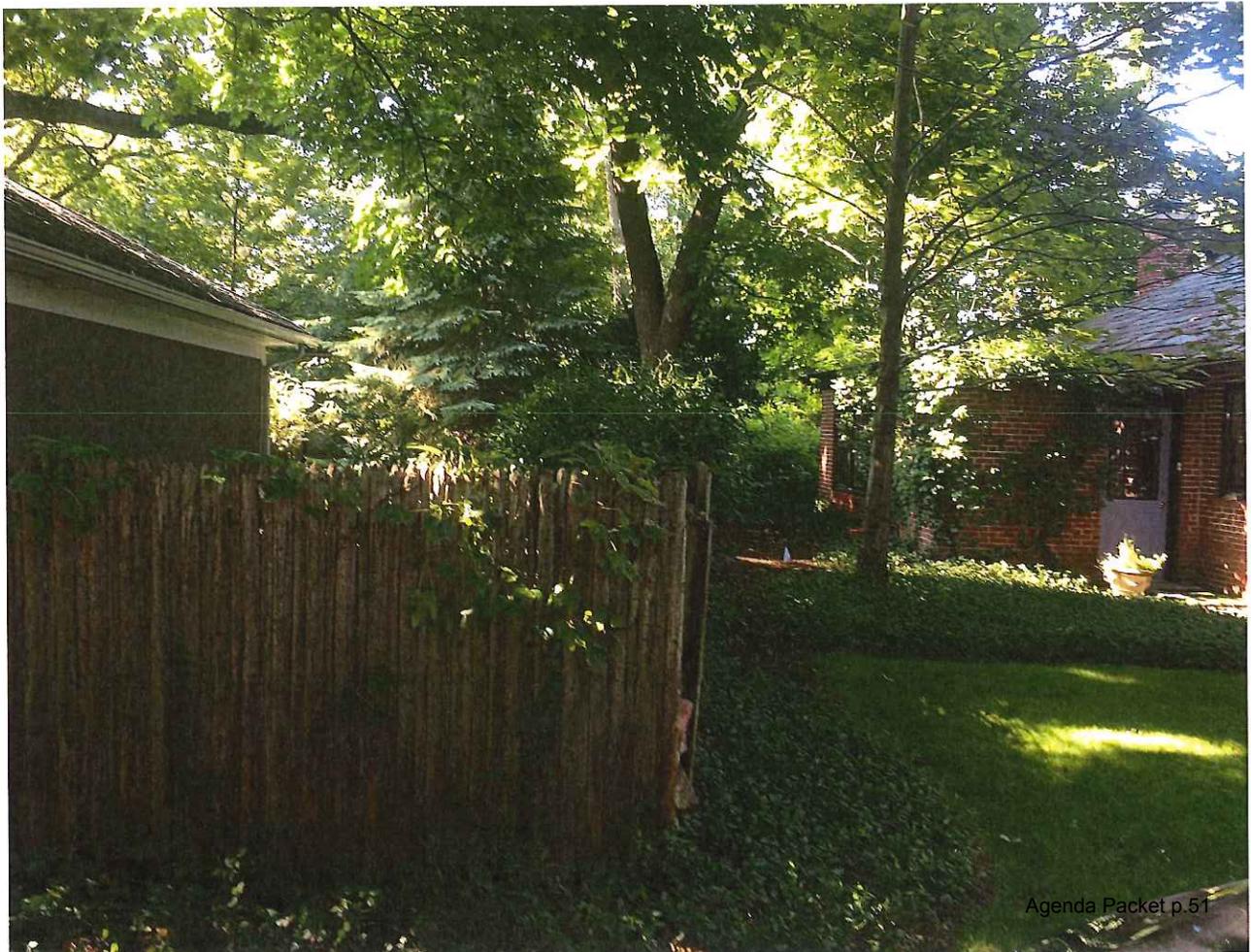
Attachment C: Public Correspondence

# TAB 3

VIEW OF EXISTING NON-CONFORMING CONDITION (GARAGE)



VIEW OF EXISTING SIDE YARD--TO--REAR YARD  
CONDITIONS



# TAB 4

Attachment B - surrounding lot sizes

Address	Lot area (sq. ft.)	
830 Hill	46,371	
808 Hill	51,286	
770 Hill	47,812	
710 Hill	44,880	
686 Hill	56,124	
670 Hill	39,270	
660 Hill	21,858	
650 Hill	21,868	
640 Hill	42,731	
626 Hill	33,238	
600 Hill	25,717	
142 Church	32,416	
128 Church	16,255	
120 Church	13,524	
112 Church	18,827	
102 Church	17,621	
100 Church	10,045	
96 Church	10,579	
19 Indian Hill	22,022	
16 Indian Hill	31,194	
14 Indian Hill	46,365	
12 Indian Hill	62,540	
11 Indian Hill	37,200	
10 Indian Hill	39,000	
9 Indian Hill	81,752	
8 Indian Hill	23,795	
7 Indian Hill	24,249	
6 Indian Hill	25,147	
5 Indian Hill	85,290	subject
4 Indian Hill	27,302	
4-1/2 Indian Hill	21,167	
3 Indian Hill	24,740	
2 Indian Hill	24,875	
1 Indian Hill	23,353	
4 Golf Ln	21,855	
3 Golf Ln	69,525	
2 Golf Ln	36,093	
1 Golf Ln	42,772	
<b>38 lots existing</b>	<b>34,754</b>	<b>average lot area</b>
	<b>85,290</b>	<b>largest lot</b>
	<b>10,045</b>	<b>smallest lot</b>

# TAB 5

VIEW OF ENTRY INTO 1-4 INDIAN HILL ROAD -  
AREA OPPOSITE 4 INDIAN HILL ROAD



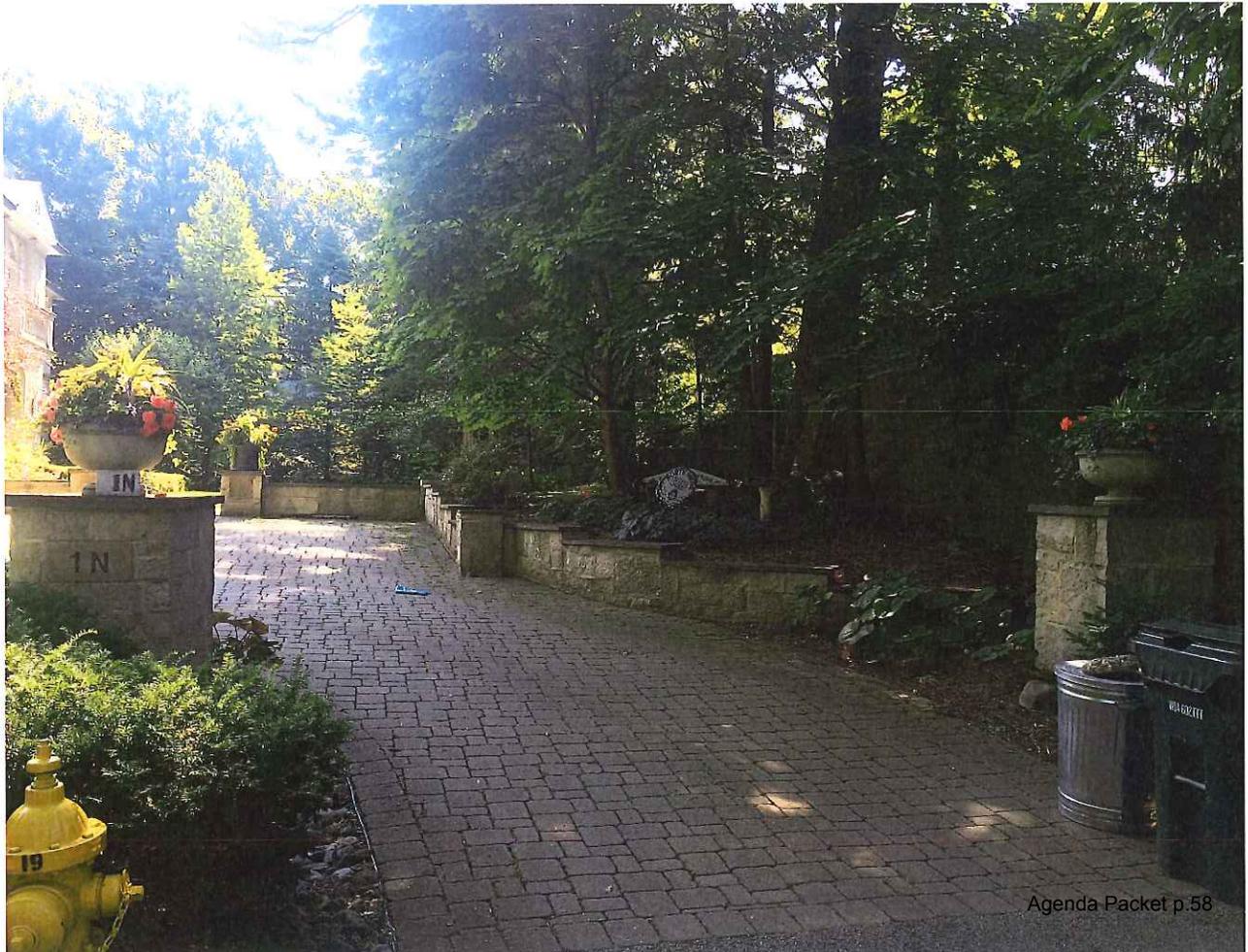
LOOKING SOUTH  
VIEW FROM 3 INDIAN HILL ROAD



LOOKING SOUTH  
VIEW FROM 2 INDIAN HILL ROAD

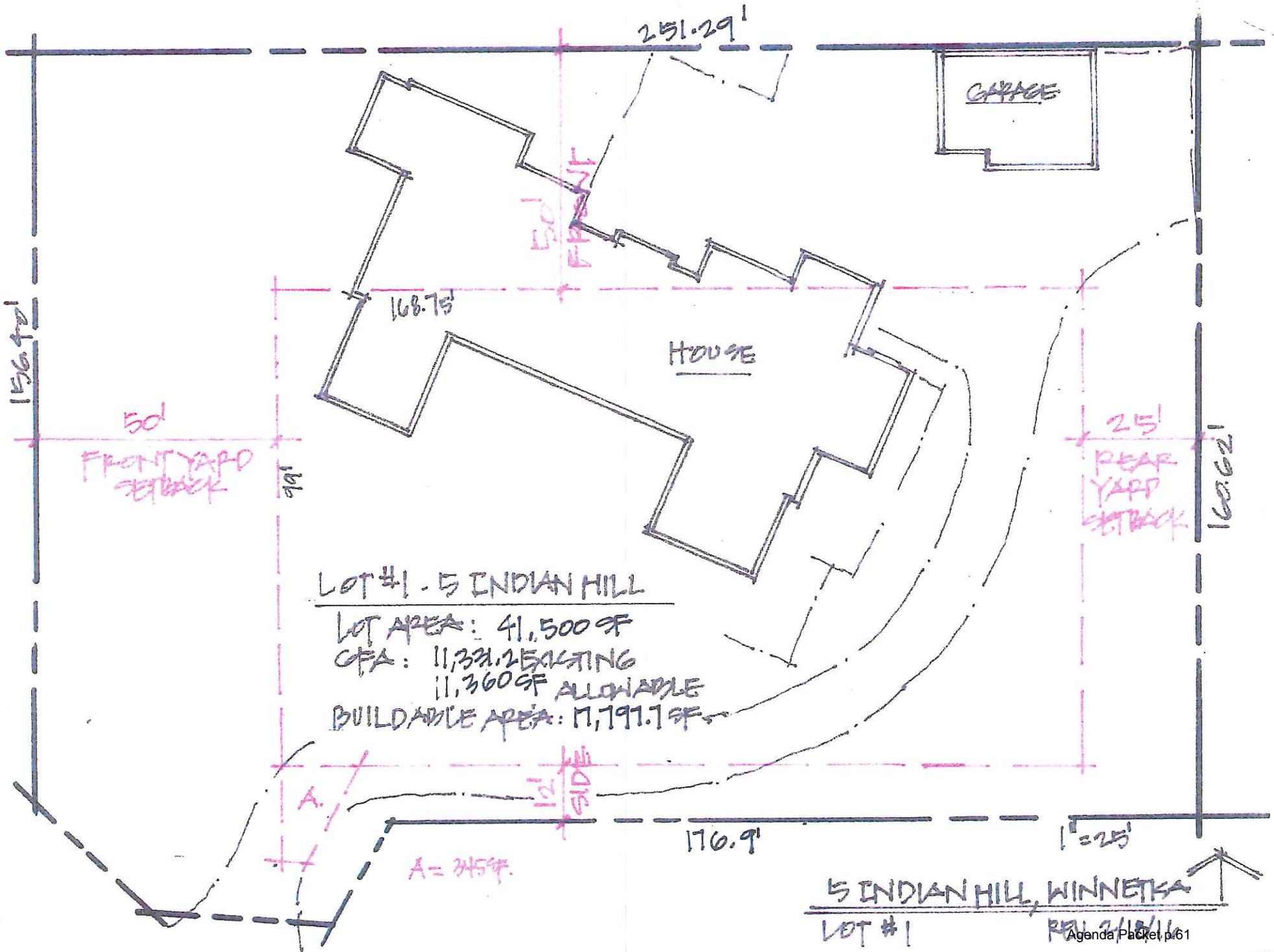


VIEW ENTERING 1 INDIAN HILL ROAD





# TAB 6



LOT #1 - 5 INDIAN HILL

LOT AREA: 41,500 SF

CFA: 11,321.25 sq ft

11,360 SF ALLOWABLE

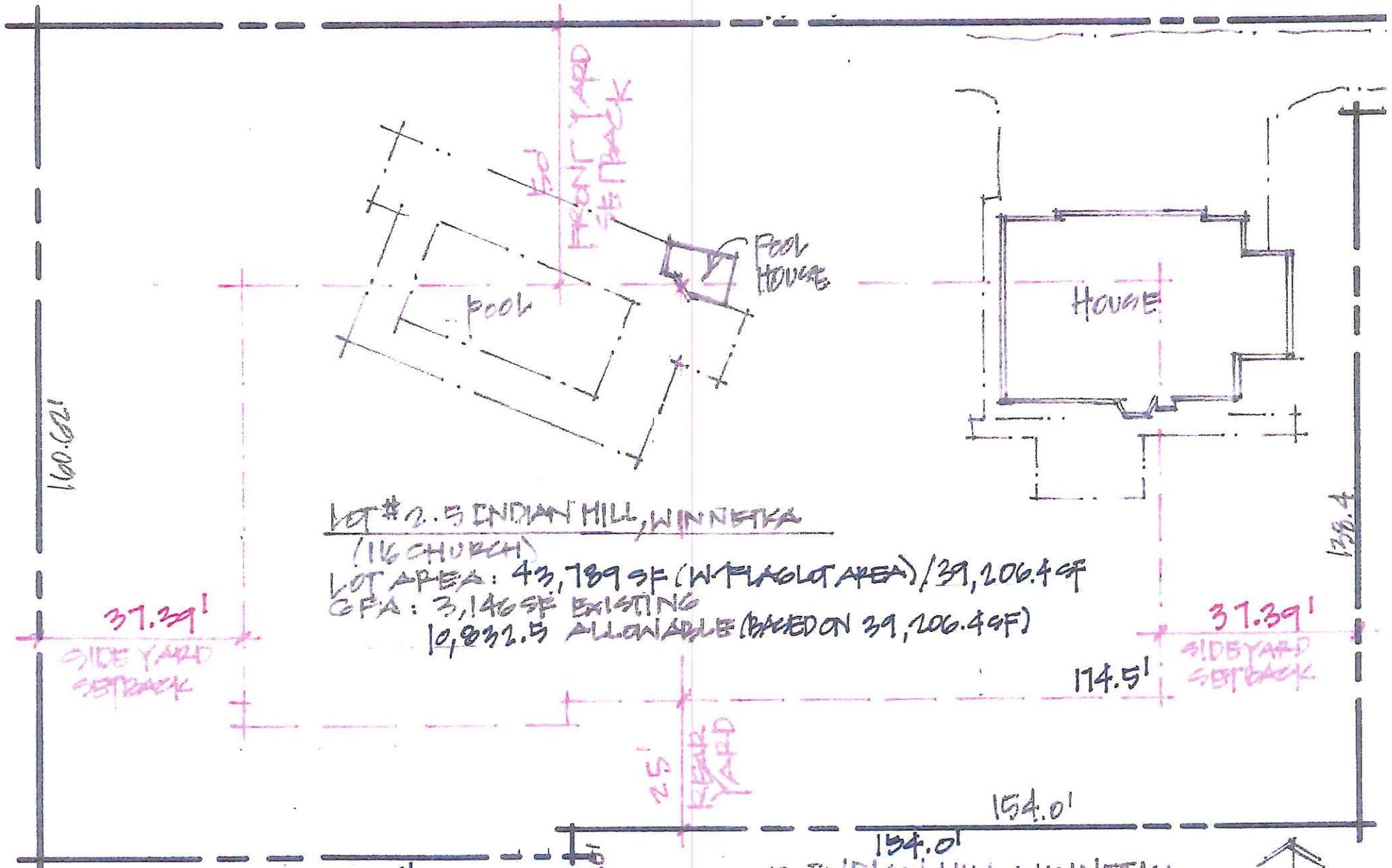
BUILDABLE AREA: 11,191.7 SF

A = 345 SF

5 INDIAN HILL, WINNETKA

LOT #1

REL 2/18/16  
Agenda Packet p.61



LOT #2.5 INDIAN HILL, WINNETKA

(1/6 CHURCH)

LOT AREA: 43,789 SF (W/ FLAG LOT AREA) / 39,206.4 SF

GFA: 3,146 SF EXISTING

10,832.5 ALLOWABLE (BASED ON 39,206.4 SF)

37.39'  
SIDE YARD  
SETBACK

37.39'  
SIDE YARD  
SETBACK

25'  
REAR  
YARD  
SETBACK

95.27'

46'

154.0'  
154.0'  
154.0'  
S INDIAN HILL, WINNETKA  
LOT #2

REV. 2/18/16  
1" = 25'

# TAB 7

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October 21, 2015 minutes. No comments were made at this time. She then asked for a motion.

A motion was made by Mr. Thomas and seconded by Mr. Golan to approve the Plan Commission meeting minutes from October 21, 2015. The meeting minutes were unanimously approved.

**Consideration of Proposed Subdivision of 5 Indian Hill Road (Continued From November 2015 Meeting)**

Chairperson Dalman noted that she was not at the meeting but that she read the minutes. She then swore in everyone who would be speaking on this matter.

Mr. Norkus stated that he would provide a brief staff discussion first. He began by stating that the request was introduced at the October meeting and that following the applicants' presentation and public comment, the matter was continued to request that the Village staff provide additional background information. Mr. Norkus stated that in addition to public comment, in the packets of material and as stated at the October meeting, two communications were received in November which were erroneously left out of the packet. He noted that the emailed and hard copies are here. Mr. Norkus then stated that with regard to the October meeting, the Commission requested that the Village staff provide additional context to the specific application since the request is for relief from the subdivision code and the zoning code.

Mr. Norkus then stated that to provide the Commission with additional context, included in the packet of materials as Attachment C is the result of the Village staff's lookback at the Commission's request in connection with the history of subdivision applications from 1990 to the current date. He indicated that there is a summary in the report from page nos. 18 to 31 describing the 50 subdivision requests submitted to the Village and summarizing that 17 applications of these 50 that include a request from the zoning code or subdivision code relief. Mr. Norkus then stated that he would like to point to one particular element of the report in that it breaks down the subdivision by the different types and variations involving lot splits. He noted that they are highlighted from page nos. 25 to 34. Mr. Norkus also stated that of the lot split applications, there are nine total lot splits with five of those having variations approved. He added that one lot split variation was denied and that three were withdrawn by the applicant.

Mr. Norkus also stated that provided in the package on page 2 are the identities of the location of subdivision property in the boundaries of the surrounding R-2 zoning district and included an attachment of the rundown of lot sizes in the R-2 district which includes a wide range of lot sizes ranging from 10,000 square feet to 85,000 square feet for the subject property. He indicated that it is rather unique in that there is quite a bit of variation in lot size in the R-2 district.



Mr. Norkus informed the Commission that the variations being requested with this subdivision are discussed on page nos. 5 to 9 of the agenda report. He noted that there are four categories of relief being requested by the subdivision which are described in detail in the packet.

Mr. Norkus then stated that in October, the first variation was for the lot to have less than the minimum 200 foot lot depth. He referred the Commission to an illustration and also referred to Figure 3 in the packet of information on page 5 and that the illustration showed the measurement

Ms. Adelman asked how did they get into the other property if it is not accessed by Indian Hill.

Mr. Norkus stated that the east lot access continued from the flag.

Chairperson Dalman stated that the applicant is saying that part of the hardship is that the property is surrounded by three streets so what is the front yard. She stated that it is dictated by code.

Ms. Case asked if the driveway was added and if the applicants were always there. She also asked if the east lot would only have Church Road access.

The applicants confirmed that is correct.

Mrs. Gill added that there is a brick wall there.

Chairperson Dalman asked if there were any other comments for Mr. Norkus.

Mr. Thomas stated that to clarify, the scrivener's error was a typo which was not caught.

Mr. Golan asked why is the side yard and rear yard conflict a part of the Commission's jurisdiction versus zoning.

Mr. Norkus responded that it is the standard of the subdivision code. He also stated that it was seen at the time of the amendment as an approach mechanically to address this concept. Mr. Norkus stated that it is assumed because it is quantitative in nature and more quality in nature in terms of a side yard abutting a rear yard and that it is best to have it as a subdivision standard.

Mr. Golan then asked how many side yard-rear yard conflicts exist. He noted that he has five near him and that he imagined that they are commonplace in the Village.

Mr. Norkus indicated that he cannot guess but that they are not infrequent.

Chairperson Dalman agreed that it is common.



Mr. Norkus stated that the illustration identified two instances where they exist on adjoining properties.

Chairperson Dalman asked if the problem was the adopted restriction in 2002.

Mr. Norkus stated that it was the Village's attempt to minimize the creation of additional conflicts.

Chairperson Dalman asked if there were any other questions.

Ms. McCarthy stated that the larger home is on the west lot. She then asked that by subdivision, what did that mean for the existing structure. Ms. McCarthy also asked if any consideration was given on the existing home.

# TAB 8

VIEW OF EXISTING SIDE YARD-TO-REAR YARD  
CONDITIONS



**5 INDIAN HILL ROAD  
WINNETKA ZONING BOARD OF APPEALS -- CASE NO. 15-27-V2  
REQUEST FOR VARIATION FROM MINIMUM LOT DEPTH REQUIREMENT**

**FACTORS RELEVANT TO THE CONSIDERATION OF THE VARIATION REQUEST**

1. **The irregular shape of the lot**--The existing lot and Lot 2, which will be created by the proposed subdivision of 5 Indian Hill, are both irregular in shape in that they are considered to be "flag lots" under the Zoning Ordinance given the driveway that extends out to Church Road.

**See** Section 17.04.030 (F)(2) of the Zoning Ordinance:

*Flag Lot. "Flag lot" means an irregularly shaped lot which consists of two sections: the primary mass of the lot (the "flag" portion), which is set back from the street frontage access and is behind one or more other lots; and a narrow access corridor (the "flagpole" portion), which is less than fifty (50) feet wide and extends for a distance of at least forty (40) feet from the primary mass of the lot toward the street, or which has a street frontage of less than fifty (50) feet and extends for a distance of at least forty (40) feet from the street toward the primary mass of the lot.*

2. **The presence of three or more street frontages**—5 Indian Hill Road is surrounded on the east by Church Road and on the north and west by Indian Hill Road. Given this fact and the fact that the west lot is a corner lot with two street frontages, the lot depth of each lot in the proposed subdivision is measured with a different orientation (east-west [Lot 1] versus north-south [Lot 2]).
3. **A dwelling unit currently exists on the lot for which the variation is being sought.**
4. **5 Indian Hill is, and the two lots that will exist if the subdivision is approved will be, significantly larger than any of the lots that surround them**—The existing lot is 85,290 square feet and the two lots that will be created if the subdivision is approved will be **41,500 square feet (Lot 1 [the west lot])** and **43,789 square feet (Lot 2 [the east lot])**, respectively. The zoning district in which the existing property is situated requires a minimum lot size of only 24,000 square feet for interior lots and 25,200 square feet for corner lots. The lots that surround the subject property are all significantly smaller than the two lots that will be created if the subdivision is approved, as noted below:

- i. Lot 96 Church Road—10,579 s.f.
- ii. Lot 100 Church Road—10,045 s.f.
- iii. Lot 102 Church Road—17,621 s.f.
- iv. Lot 112 Church Road—18,827 s.f.
- v. Lot 120 Church Road—13,524 s.f.
- vi. Lot 128 Church Road—16,255 s.f.
- vii. Lot 1 Indian Hill Road—23,353 s.f.
- viii. Lot 2 Indian Hill Road—24,875 s.f.
- ix. Lot 3 Indian Hill Road—24,740 s.f.
- x. Lot 4 Indian Hill Road—24,302 s.f.
- xi. Lot 6 Indian Hill Road—25,147 s.f.
- xii. Lot 7 Indian Hill Road—24,249 s.f.



5. **The proposed 156.62 feet lot depth of Lot 2 in the proposed subdivision will not be out of character with the lots situated directly across the street on Indian Hill Road.** Those lot depths are as follows:
  - i. Lot 1 Indian Hill Road—156 ft
  - ii. Lot 2 Indian Hill Road—162.6 ft
  - iii. Lot 3 Indian Hill Road—169.95 ft
  - iv. Lot 4 Indian Hill Road—197.6 ft

**FACTORS NOT RELEVANT TO THE CONSIDERATION OF THE VARIATION REQUEST**

1. The property owners' motivation in seeking the subdivision or variation.
2. The fact that the applicants no longer live in Winnetka.
3. The fact that multiple neighbors are objecting to the variation.
4. The desire to maintain the existing appearance of the neighborhood.
5. Speculation that granting the variation might result in new construction on Indian Hill Road or an increase in the amount of impermeable area on the property.
6. The fact that there has been new construction on Indian Hill Road over the past several years which has disturbed some neighbors peaceful enjoyment of their properties.
7. The adequacy of the Village's sanitary sewer and water systems in the area.
8. The fact that neighbors might have been told by a local realtor when they bought their home that their backyard, which "backed up to an expansive "open" property" could not be subdivided.

## Harold Francke

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**From:** Debra Gill <[REDACTED]>  
**Sent:** Friday, March 04, 2016 10:19 PM  
**To:** Brian Norkus  
**Cc:** Harold Francke; Lesa Rizzolo; Dan Gill  
**Subject:** 5 Indian Hill Subdivision

Chairman Joni Johnson and Members of the Zoning Board of Appeals,

My name is Debbie Gill and I am the owner of 5 Indian Hill Rd and am requesting a subdivision for that property. My husband will be attending the March meeting. Unfortunately I am out of town, but wanted to get my views and feelings known.

5 Indian Hill is a very unusual property in Winnetka, in that it is surrounded by four streets, in fact it may be the only "island" in Winnetka. These streets lead to difficulties. The "front" of the house is totally arbitrary based on regulations, and has no basis on the actual front of the home. The current property, for example, technically faces front to the west, where there is a solid brick wall and 6 foot fence. The actual front door faces north, while the access to the driveway is to the south. In the eastern parcel, if it was subdivided, the technical front would be to the north, through an at least eight foot stone wall with no access to the street beyond since the property directly behind the stone wall is owned by our neighbors. The driveway access, which already exists, is to the east out to Church Rd, which is what I would call the front of the home.

The 5 Indian Hill property is also unusual in that it is almost two full acres, and we are requesting to subdivide into two almost one acre parcels. These parcels are significantly larger than the required half an acre by the village. As it currently stands, on the west parcel is a large brick 1920's home which we restored in 2000. On the eastern lot, there is a three bedroom, three bath, three car garage existing home. At this smaller home for the past eight years I have had up to five friends park their cars for New Trier, and in addition for the last four have had a friend living there with her college age children. As a result, there have been 5-7 cars already using that driveway regularly, so a subdivision would not lead to increased traffic to Church Rd,

These properties have been recognized by both the Village of Winnetka, and the Federal Government as individual properties since before we purchased the home in 1999. The eastern parcel has an address of 116 Church Rd. and receives mail. I also receive separate water, electric, gas and refuse collection there, thereby paying garbage collection twice on this property, even when no one was residing there.

We have been trying to sell this property for almost three years, and have dropped the price by over \$3million, but that is not a hardship, and we have never stated it is. Our hardship is the property's configuration and the streets surrounding it.

My understanding, as having gone to zoning committees for variances on two previous occasions, (we seem to have a propensity to purchase non-conforming and corner properties), is that the purpose is to uphold the village laws, while the zoning board, planning commission, and Village Council is also to understand those properties that are exceptions and make allowances accordingly. Corner lots are an exception, and are given different setbacks than standard lots. My lot has four corners!!

If this lot did not have streets surrounding it, there would be no variance required and the subdivision would be granted without any issues. What we are asking is definitely in keeping with the village goals and vision. Two homes already exist on these properties, and subdividing them would have no bearing on any neighbor. Views

are not a reason to deny a subdivision, and not wanting another home, especially a possible "builder" home to be built on the property is not a reason to deny. These are the reasons my neighbors have told me in person why they are challenging this. If you drive around the home, you would see that no one is affected, and that our request is reasonable.

Winnetka residents have the right to subdivide. There are properties in Winnetka that are unusual and require special consideration. Requests for variances and exceptions should be reviewed with regard as to what is the ultimate goal of the rules and regulations. The lot depth requirement of 200', I am sure was instituted to avoid having too small of lots. In this case, our proposed subdivided lot has a dimension of over 249 x 157. That would seem more than adequate to meet the village goals.

If this lot did not have four streets around it, which is a hardship as compared to all other lots, then it would be permitted. And I ask you to please allow this, and to not allow the fears of neighbors for what might, or what might not be built, be the determining factor in this decision.

I very much appreciate your consideration.

Sincerely,

Debra L Gill

Address	Lot area (sq. ft.)	
830 Hill	46,371	
808 Hill	51,286	
770 Hill	47,812	
710 Hill	44,880	
686 Hill	56,124	
670 Hill	39,270	
660 Hill	21,858	
650 Hill	21,868	
640 Hill	42,731	
626 Hill	33,238	
600 Hill	25,717	
142 Church	32,416	
128 Church	16,255	
120 Church	13,524	
112 Church	18,827	
102 Church	17,621	
100 Church	10,045	
96 Church	10,579	
19 Indian Hill	22,022	
16 Indian Hill	31,194	
14 Indian Hill	46,365	
12 Indian Hill	62,540	
11 Indian Hill	37,200	
10 Indian Hill	39,000	
9 Indian Hill	81,752	
8 Indian Hill	23,795	
7 Indian Hill	24,249	
6 Indian Hill	25,147	
5 Indian Hill	85,290	subject
4 Indian Hill	27,302	
4-1/2 Indian Hill	21,167	
3 Indian Hill	24,740	
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1 Indian Hill	23,353	
4 Golf Ln	21,855	
3 Golf Ln	69,525	
2 Golf Ln	36,093	
1 Golf Ln	42,772	
<b>38 lots existing</b>	<b>34,754</b>	<b>average lot area</b>
	<b>85,290</b>	<b>largest lot</b>
	<b>10,045</b>	<b>smallest lot</b>



## **CONSOLIDATIONS (5)**

(Lot areas *increased*)

- *Five (5) variations approved*
- *None denied*

**Essex Consolidation (357 Sunset – 222 Essex)**

**ZONING VARIATION (NONCONFORMING SETBACK CREATED)**

**VARIATIONS GRANTED**

In May 2002 the Plan Commission considered a request to consolidate 222 Essex and 357 Sunset into a single lot (shown below).



Consolidation of two lots into a single lot created a nonconforming corner (front yard) setback for the existing residence due to the increase in lot width.

Zoning Variation and plat of subdivision approved.

The Village Council approved the request subject to restrictive covenants limiting future additional improvements on the property. In addition, the plat of subdivision was subject a restrictive covenant which reverts the consolidated lot into the original two-lot configuration if the structure is voluntarily demolished at any point in the future.

**Odle's Subdivision (769-777 Locust)**

**ZONING VARIATION (NONCONFORMING SETBACK CREATED)**

**VARIATIONS GRANTED**

In February 2011 the Plan Commission considered a request to consolidate 769 and 777 Locust for purposes of allowing an expansion to the 769 Locust residence.



Consolidation of two lots into a single lot created a nonconforming side yard setback for the existing residence due to the increase in lot width.

Zoning Variation and plat of subdivision approved.

The Village Council approved the request subject to restrictive covenants limiting future additional improvements as well as imposing additional side yard and front yard setback requirements.

**Larkin Subdivision (988 & 992 Oak)**

**ZONING VARIATION (NONCONFORMING SETBACK CREATED)**

**VARIATIONS GRANTED**

In November 2013 the Plan Commission considered a request to consolidate 988 and 992 Oak for purposes of allowing an expansion to the 988 Oak residence.



Consolidation of two lots into a single lot created a nonconforming side yard setback for the existing residence due to the increase in lot width.

The Village Council approved the request subject to restrictive covenants limiting future additional improvements as well as imposing a restrictive covenant reverting back to the original two lots if the existing structure is demolished.

**Berlet Pilipovic Subdivision (984 & 992 Ash)**

**ZONING VARIATION (NONCONFORMING SETBACK CREATED)**

**VARIATIONS GRANTED**

In December 1997 the Plan Commission considered a request to consolidate three existing 50 foot lots into two 75 foot wide lots..



Increase in lot size created a nonconforming side yard setback for the existing residence due to the increase in lot width.

Zoning Variation and plat of subdivision approved

Bartels Subdivision **(984 & 992 Ash)**

**ZONING VARIATION (NONCONFORMING SETBACK CREATED)**

**VARIATIONS GRANTED**

In July 2014 the Plan Commission considered a request to consolidate three existing lots at 265 through 277 Poplar into two lots.



Increase in lot size increased the degree of zoning nonconformity on the corner lot at 277 Poplar, requiring consideration of zoning relief by the ZBA.

Zoning Variation and plat of subdivision approved

## **LOT SPLITS**

**(9)**

- **Five (5) variations granted**
- **One (1) variation denied**
- **Three (3) cases withdrawn**

**Mains – Beharry Subdivision (1065 Fisher Lane)**

**ZONING VARIATIONS (1) nonconforming lot size (2) nonconforming lot width**

**VARIATIONS GRANTED**

In July 1992 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the two lots had a minimal nonconformity, deficient in lot width by .02 feet (1/4 inch), and deficient in lot area by 3.8 square feet.

Zoning Variation and plat of subdivision approved.

**Hahn Subdivision (734 Lincoln)**

**SUBDIVISION CODE VARIATION - side lot line not perpendicular to street**

**VARIATIONS GRANTED**

In August 1997 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the subdivision had an existing side lot line which was, and would remain at an irregular angle. The Plan Commission voted to recommend denial of the subdivision due to the nonconforming side lot line.

The Village Council approved the request, subject to the imposition of conditions including minimizing the size of house that could be built on the lot, and imposing setbacks greater than the minimum, in order to mitigate the impact of the side lot line.

**Page Flannery Subdivision (120 Thorntree)**

**SUBDIVISION CODE VARIATION - side lot line not perpendicular to street**

**VARIATIONS GRANTED**

In May 2000 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the subdivision had an existing side lot line which was not perpendicular to the curved street line. The Plan Commission voted to recommend approval of the subdivision.

The Village Council approved the request.

**Harza Subdivision (655 Sheridan Road)**

**SUBDIVISION CODE VARIATION - extension of nonconforming private street**

**VARIATIONS GRANTED**

In October 1998 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



The proposed subdivided lots did not have required frontage on an existing street. The Plan Commission granted relief from the subdivision ordinance, allowing the lots to be served by a new private roadway easement.

The Village Council approved the subdivision

**O'Neill's Subdivision (889 Sheridan Road)**

1. **SUBDIVISION CODE VARIATION - side lot line not perpendicular to street line**
2. **ZONING CODE VARIATION – minimum lot area**
3. **ZONING CODE VARIATION – minimum rectangular area**

**VARIATIONS DENIED**

In October 1999 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



The proposed subdivided lots did not have provide the required minimum lot area or minimum rectangular area. The Plan Commission voted to recommend approval of the subdivision, and the Zoning Board of Appeals voted to recommend approval of the zoning variations;

The Village Council denied the requested subdivision.

**Radcliffe Subdivision (1177 Ash Street)**

**ZONING CODE VARIATION – minimum lot width**

**VARIATION GRANTED**

In June 2000 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the subdivided lots did not have provide the required minimum lot width of 60 feet. . The Plan Commission voted to recommend approval of the subdivision, and the Zoning Board of Appeals voted to recommend approval of the zoning variations;

The Village Council approved both the zoning variation and subdivision.

**Reinert Subdivision – 854 Prospect**

**ZONING CODE VARIATION – minimum lot area**

**APPLICATION WITHDRAWN**

In January 2014 the Zoning Board of Appeals considered a request to divide the single parcel into the two lots shown below. As proposed, the subdivided lots did not have provide the required minimum lot area of 16,000 square feet.



The application was withdrawn prior to coming to a vote by either the ZBA or Plan Commission.

**Marren’s Subdivision – 936 Sunset**

**ZONING CODE VARIATIONS – (1) minimum lot area, (2) minimum rectangular area**

**APPLICATION WITHDRAWN**

In February 2014 the Zoning Board of Appeals considered a request to divide the single parcel into the two lots shown below. As proposed, the subdivided lots did not have provide the required minimum lot area of 24,000 square feet, and did not provide the required minimum rectangular area.



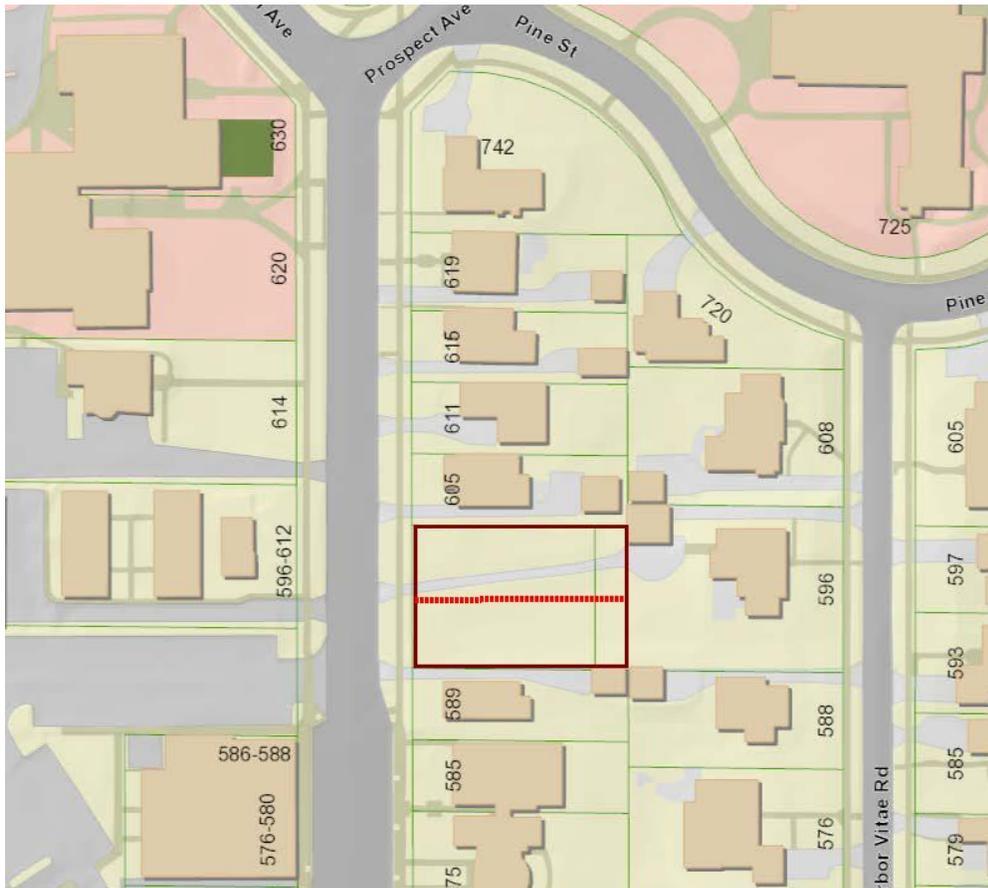
The application was withdrawn prior to coming to a vote by either the ZBA or Plan Commission.

**Webster Subdivision – 596 Arbor Vitae / 595 Lincoln**

**ZONING CODE VARIATIONS – (1) minimum lot area, (2) minimum lot width, (3) minimum rectangular area**

**APPLICATION WITHDRAWN**

In August 2008 the Zoning Board of Appeals considered a request to divide the 100 foot wide parcel facing Lincoln Avenue into two 50 foot wide lots. As proposed, the subdivided lots did not have provide the required 60 foot lot width, the required lot area of 8,400 square feet, or the rectangular buildable area of 5445 square feet.



The ZBA voted to recommend denial of the request in August 2008 and the application was withdrawn prior to coming to a vote by the Plan Commission.

## **RECONFIGURATION OF EXISTING LOTS (3)**

*(no increase in the number of buildable lots)*

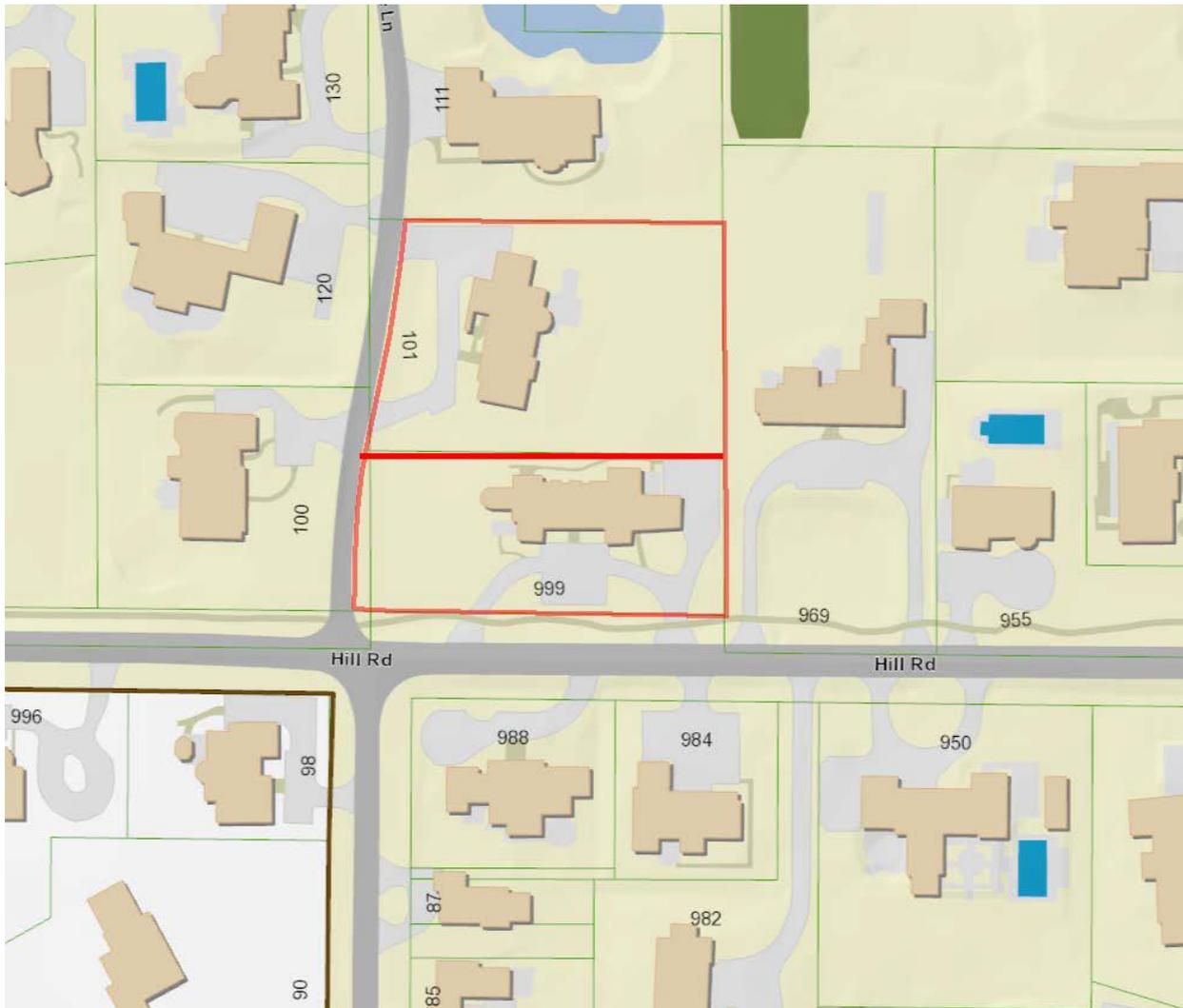
- Three (3) variations granted
- None denied

**Byrne Heller Subdivision (999 Hill Rd-101 Thorntree Ln)**

**SUBDIVISION CODE VARIATION - side lot line not perpendicular to street**

**VARIATION GRANTED**

In May 2000 the Plan Commission considered a request to adjust the location of the lot lined dividing the two parcels shown below, increasing the size of the south lot.



As proposed, the subdivision had an existing side lot line which was not perpendicular to the curved street line. The Plan Commission voted to recommend approval of the subdivision.

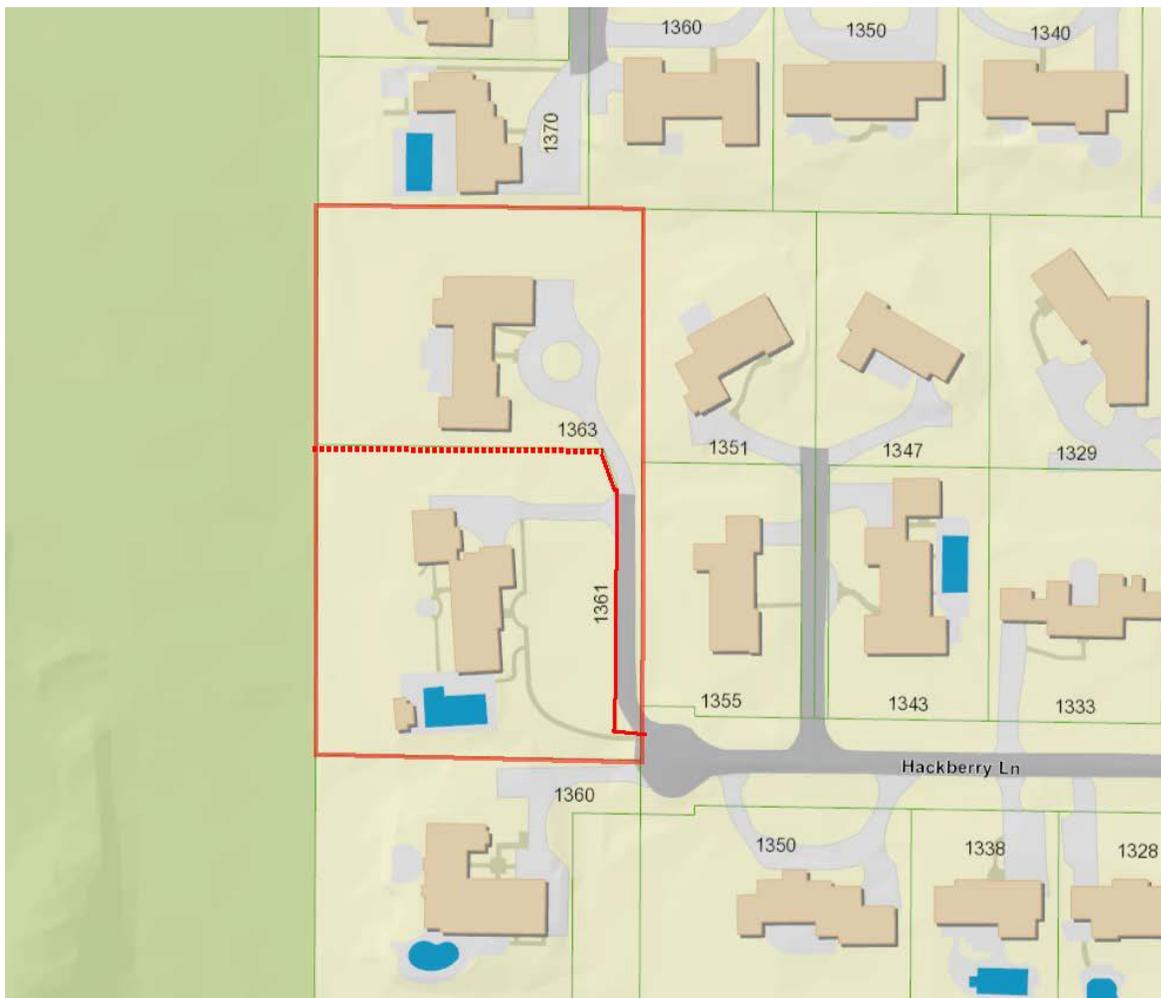
The Village Council approved the request.

**Hackberry West Subdivision (1361-1363 Hackberry Ln)**

**SUBDIVISION CODE VARIATION - side lot line not perpendicular to street**

**VARIATIONS GRANTED**

In May 2000 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the subdivision had an existing side lot line which was not perpendicular to the curved street line. The Plan Commission voted to recommend approval of the subdivision.

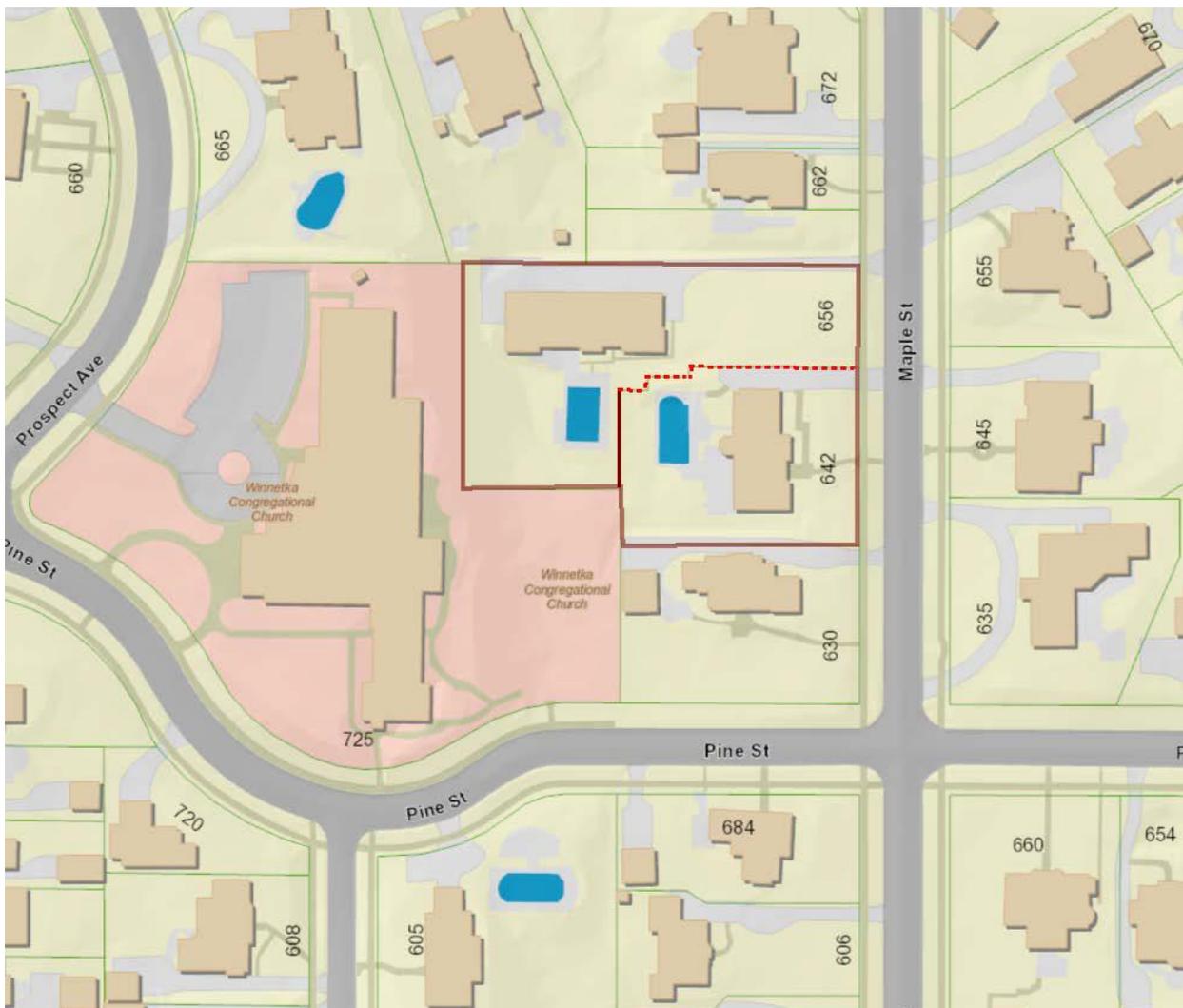
The Village Council approved the request.

**McKinven Subdivision (120 Thorntree)**

**SUBDIVISION CODE VARIATION - side lot line not perpendicular to street**

**VARIATIONS GRANTED**

In May 2000 the Plan Commission considered a request to divide the single parcel into the two lots shown below.



As proposed, the subdivision had an existing side lot line which was not perpendicular to the curved street line. The Plan Commission voted to recommend approval of the subdivision.

The Village Council approved the request.

**WINNETKA PLAN COMMISSION  
EXCERPT OF MEETING MINUTES  
OCTOBER 21, 2015**

**Members Present:** Tina Dalman, Chairperson  
John Golan  
Caryn Rosen Adelman  
Mamie Case  
Jack Coladarci  
Dana Fattore Crumley  
Keta McCarthy  
Jeanne Morette  
John Thomas

**Members Absent:** Carol Fessler  
Louise Holland  
Chris Blum  
Paul Dunn

**Village Staff:** Brian Norkus, Assistant Director of Community  
Development

**Consideration of Proposed Subdivision of 5 Indian Hill Road**

Chairman Golan stated that he would like to request that when they do have public comment, it would be limited to five minutes or less in order to move the process along. He then asked Mr. Norkus to provide an overview.

Mr. Norkus stated that the proposed subdivision of the existing property located at 5 Indian Hill is proposing to take a lot which is just shy of two acres and 85,290 square feet and divide it into two lots measuring 38,700 square feet approximately and 46,600 square feet approximately on the larger lot. He noted that the parcel is located in the R-2 zoning district which is the second largest lot classification within the Village. Mr. Norkus then stated that the R-2 district required a minimum lot size of 25,200 square feet for corner lots such as the west lot which is proposed here and a slightly smaller lot area of 24,000 square feet for other interior lots which would be the lot to the east.

Mr. Norkus informed the Commission that both lots as proposed do comply with these minimum lot area standards however the proposed subdivision is nonconforming in connection with other aspects of the zoning ordinance. He then stated that because the subdivision does have these other nonconforming properties, the applicants have filed an application concurrent with it for relief under the zoning variations which would be considered by the ZBA. Mr. Norkus stated that the variations that are to be considered are issues that the ZBA would be considering but that since the request is a subdivision and these variations are created by the subdivision, it is important for the Commission to understand what those variations are.

Mr. Norkus then stated that the ZBA would be considering variations at its November 16, 2015

meeting with regard to the fact that both lot nos. 1 and 2 do not meet the minimum rectangular area requirement of the zoning ordinance. He stated that hopefully the Commission had an opportunity to read the agenda materials describing the rectangular area requirement and that he would illustrate to the Commission and that the intent of the agenda report was to give the Commission a visual.

Mr. Norkus then referred the Commission to the graphics in the agenda report to the extent that the proposed lots do not comply with the rectangular requirement, he stated that there are shaded areas which are intended to show the extent to which each of the two lots do not meet the minimum rectangular area requirement. He stated that in addition to that requirement, lot no. 2 to the east does not comply with the zoning ordinance's minimum depth requirement and that the R-2 district required that lots have a minimum depth of 200 feet. Mr. Norkus informed the Commission that the lot as proposed measuring north to south measured 160.62 feet.

Mr. Norkus also stated that the request involved a variation from the maximum GFA for the westerly lot. He then stated that the size of the existing structures will exceed the maximum permitted footprint for the size of the lot that is proposed. Mr. Norkus reiterated that these are all variations that the ZBA would be considering.

Mr. Norkus stated that the Commission's discussion of the standards for the evaluation of this request is located on page 5 of the agenda report. He noted specifically that the Village's subdivision ordinance stipulated that subdivisions shall not result in what is referred to as not being permitted to create side lot lines which abut rear lot lines. Mr. Norkus stated that the agenda report provided quite a bit of background in terms of the creation of that standard as well as the rationale behind that standard. He stated that the proposed subdivision would result in two such situations where side yards abut rear yards. Mr. Norkus then stated that the side yard of the proposed east lot would abut the rear yard of the proposed west lot as well as the side yard of the east lot and abutting the rear yard of the neighboring properties to the east on Church Street. He stated that those are the variations that the Commission is to consider whether to grant relief from standards of the subdivision code. Mr. Norkus stated that the subdivision does provide for the Commission to consider variations from standards such as that and permits variations to be granted when the Commission feels that the strict application of the rules would result in real difficulties and substantial hardships or injustices and that it may vary the application of those standards accordingly.

Mr. Norkus stated that lastly, in addition to those variations, the Commission has seen as recently as last month where they had the opportunity to review existing nonconformities and to make a finding and referred to the DeWindt-Sunset subdivision at the previous meeting which had existing zoning nonconformities on which the Commission made a finding. He stated that this subdivision has similarly existing nonconformities which relate to the structures on both lots which are currently nonconforming with regard to several aspects of the zoning ordinance and which are identified in the agenda report. Mr. Norkus informed the Commission that the existing residence is located 5.2 feet from the north lot line whereas 50 feet is required and that the existing garage is located within 3 inches of the north lot line and is required to have a 50 foot setback. He also stated that the swimming pool is located in the minimal front yard and that the existing coach house is located closer than 50 feet to both the east and north lot lines. Mr. Norkus informed the

Commission that the Commission is to consider those existing nonconformities and to evaluate those in the context of the proposed subdivision and make a finding as to whether there would be a “material increased adverse impact” due to these nonconformities.

Mr. Norkus added that the agenda report concludes by listing both the three zoning variation requests which are to be considered by the ZBA and the six subdivision ordinance matters which are before the Commission. He stated that the applicants are present and that he would be happy to answer any questions now or after they make their presentation.

Chairman Golan asked if the original home was built in 1922 and if there were different rules in 1922 which allowed building at 5 feet from the lot line or if the property was subdivided with a road put through it.

Mr. Norkus stated that the first the zoning ordinance of the Village was adopted in 1922 and that it may be a combination of predating modern zoning requirements and resubdivision activity as well.

Chairman Golan asked if there were any other questions for Mr. Norkus.

Ms. Morette stated that she did not understand the rectangular build requirement and asked what that meant. She then stated that if they were to subdivide, tear the structures down, would they have to build within this rectangle.

Mr. Norkus stated that as shown in the exhibits, there are setback requirements which are outlined with blue dashed lines for each of the lots. He then stated that there are underlying zoning setbacks which are resulting from any subdivision which is based on the lots’ setback requirements from each lot line and determined by the lots’ size and width as well as the zoning district that it is located in. Mr. Norkus noted that any construction on either one of these two lots will need to do one of two things, which are that it would need to be constructed wholly within those setback lines concentrated in the center of the lot or if any construction happened in the future, and that if it does not fall within those setback lines such as expansion of the existing structures that are nonconforming, any construction of that nature would need to receive zoning variations. He then stated that the rectangular area requirement is separate and in addition to the Village’s minimum lot area requirement of 24,000 square feet. Mr. Norkus stated that the rectangular buildable area requirement is a layer on top of the minimum lot requirement and is more restrictive in many respects such that you would need to have this minimum area within those setback lines measuring 16,335 square feet in order to assure that every lot has a large enough rectangle to actually build on. He stated that the Village has a few areas where there are irregularly shaped lots and that the rectangular area requirement is intended to have regularly shaped lots with a minimum size.

Chairman Golan then asked how is a minimum rectangular buildable area determined and asked if there is a formula.

Mr. Norkus responded that it is somewhat flexible and that the area must be a minimum of 16,000 plus square feet but that it would have to have a width of at least 90 feet and that if you have a combination that meets any of those two criteria, it would comply. He stated that the graphics in front of the Commission intended to show the extent.

Chairman Golan stated that by the time you apply the setbacks to the lot, the minimum rectangular buildable area is not big enough to satisfy the requirement.

Ms. Morette then asked with regard to this minimal area, what size home could be built there.

Chairman Golan stated that he read through the materials three times and that he is not sure that the minimum house size is relevant to the discussion. He then stated that while they are considering that, for the applicant to make their presentation.

Ms. Case asked Mr. Norkus to explain in connection with this area of Indian Hill Road which is very dense. She then stated that if you take into account the three properties to the north of this property and those homes behind this property on Indian Hill and Church Road, most of the properties are the larger properties.

Mr. Norkus stated that he can give the Commission an explanation of how the areas are zoned differently as well as how historically that came to be. He then stated that the areas including 5 Indian Hill and the homes to the immediate north are the zoning classification and more relatively speaking are more densely developed with the R-2 district being the second largest lot classification. Mr. Norkus also stated that with regard to the area to the immediate west, a large portion of the Indian Hill area proper north of the country club and to the west a very large portion of the Indian Hill Road area is zoned R-1 which is a larger lot size requirement of over one acre. He stated that the R-2 zoning classification also applies to the properties immediately to the north as well as to the immediate east and west.

Ms. Case then asked if there are a lot of R-1's and that there are a lot of sprinkled properties which measure almost two acres on that side a little further down.

Mr. Norkus responded that the R-1 district included several larger lots.

Ms. Case stated that some of those larger properties have older homes which are weirdly skewed on the property and that her question is how does dividing a property like this impact those properties down the road.

Mr. Norkus responded that to the extent there are different zoning classifications.

Ms. Case then asked would they start running into the issue of those larger lots asking to be subdivided with regard to homes in the R-1 zoning district and two acre lots in the R-2 zoning district.

Chairman Golan stated that Ms. Case's question related to precedent setting.

Mr. Norkus stated that he is not sure that the answer to the question would be whether it would be precedent setting but that it is worth pointing out that in the agenda report, within the last 15 years or so, the minimum lot size was increased in terms of their requirements to what they are today. He noted that the R-2 district previously had a minimum lot size which measured precisely ½ acre

or approximately 21,700 square feet and that now, it is 24,000 square feet. Mr. Norkus stated that in terms of approving one subdivision establishing a precedent for others, they should each be evaluated on their own merits.

Chairman Golan then asked for the applicant to make their presentation.

Debra Gill, 5 Indian Hill Road, introduced herself to the Commission and stated that she has lived in Winnetka for over 25 years. She then informed the Commission that the pool is nonconforming and that when they purchased the home, it was conforming and that the regulations were subsequently changed. Mrs. Gill also stated that when they purchased the home 15 years ago, a developer had a contract on it to split it into three lots. She stated that they convinced the seller to sell to them and that they restored the home which she commented was a tremendous job and that they value it.

Mrs. Gill then identified the main home as the west lot and that there is an existing coach home on the eastern lot which is a two story, 3 bedroom home with 3 full bathrooms and a 3 car garage that her friends live in. She stated that the home is recognized as its own separate entity with its own address, etc. and that it functioned as an independent home. Mrs. Gill then stated that their home may be the only one in Winnetka which has roads on all four sides which resulted in them having multiple front lots and which created a lot of weird setbacks. She stated that they have two acres which they want to split into approximately one acre each but that because of the setbacks and the roads, that is where the variations come in.

Mrs. Gill then stated that in connection with all of their neighbors, none of them have an acre lot so that both of their lots would be bigger than that of their neighbors. She stated that is because they have the hardship of having streets on all four sides of their property. Mrs. Gill stated that they did a lot of research and began the application process last October as well as working with Mr. Norkus. She described it as a mess because of the lot having four roads on all four sides.

Mrs. Gill informed the Commission that they have two driveways, one of which comes off of Indian Hill and the original driveway which came in off of Church. She then asked the Commission if they had any questions.

Chairman Golan asked if there were any questions for the applicant.

Mr. Thomas indicated that there seemed to be a thread running through some of the neighbors' comments that there is an assumption that either one or both of these homes would be torn down and that if the property is subdivided, a new home would be built there. He then stated that Mr. Norkus went through an elaborate rectangular thing and asked if that only came into play if there is a new home to be built there. Mr. Thomas then asked why would the rectangular explanation come into play unless something new is going to be built there.

Mr. Norkus stated that the rectangular area requirement has little or nothing to do with what is built on the lot. He stated that the rectangular area requirement is very similar to the lot area requirement in that it determines whether any subdivision is conforming or not. Mr. Norkus described it as a more complex standard for determining whether the lot is adequately sized. He

then stated that the setbacks which are shown in the other series of lines will be the zoning requirement that dictates where any future construction occurred. Mr. Norkus stated that they happen to be very similarly located and almost identically sized and that the graphics are confusing in that it is an attempt to show how the setbacks do not meet that rectangular area requirement.

Ms. Fessler referred to lot 1 and the setbacks which are shown on the table and asked in terms of built area versus total area, impermeable surface, etc., how did it fit within those zoning constraints. She also asked for the proposed lot 1, how did it meet those standards.

Mr. Norkus responded that the proposed lot 1 meets all zoning standards with the exception of GFA and that the variation requested amounted to 49 square feet.

Ms. Fessler then asked if the lot line was moved to the east by a small amount, would it also fall within the buildable area.

Mr. Norkus stated that the applicant's architect might inform them to what lead to the line being proposed for the location that it is. He also stated that there is a certain amount of fluidness as to where that line would be located. Mr. Norkus indicated that it may have been an attempt to balance the lot area.

Lesla Rizzolo introduced herself to the Commission as the architect and noted that she originally worked on the home with the applicants 15 years ago on restoring the home. She informed the Commission that they initially moved the line back and forth which would have resulted in making lot 1 bigger and both lots complying. Ms. Rizzolo stated that with regard to all of the nonconformities on lot 2 and after a lot of meetings with the Village, they felt that by making both lots close to equal and referred to lot 2 being a flag lot, all of that square footage is 4,500 square feet which did not get considered into the lot area and GFA. She agreed that it was a very fluid line and that at some point, they had to make a decision.

Ms. Fessler also stated that with regard to the driveway access, she referred to the Church Street address and suggested that rather than calling it Indian Hill property, she referred to Indian Hill Road which ran along the north perimeter of lot 1 and halfway into lot 2, she stated that if there is concern about elevated traffic getting out onto Church, she asked what is the decision with regard to having the address be on Church as opposed to Indian Hill Road.

Dan Gill informed the Commission that is the way it has always been with regard to the main home and the coach home which he stated were both redone. He reiterated that it has always been that way and why should they change it.

Ms. Rizzolo then informed the Commission that Indian Hill owned the property outside of the fence and that they would not be allowed to put a driveway out without their permission. She also referred to a brick wall along that side of the property.

Mr. Gill stated that he is not sure that he can comment on how often the driveway is used going out to Church but informed the Commission that there is someone living in the coach home for the last four or five years and that they use that driveway.

Ms. Fessler stated that in an attempt to understand the driveway situation, the applicants have a driveway which exited south onto southern Indian Hill Road and asked if that is the main access.

Mr. Gill stated that he wanted to caution referring to main access and that they go in and out both ways.

Ms. Fessler questioned the proposed lot 1's access to Indian Hill.

Mrs. Gill identified the driveway for the Commission.

Ms. Fessler then asked with regard to the garage in the northeast corner on lot 1 which would be 3 inches away from the lot line, would it have to be reoriented.

Mrs. Gill stated that there are garage doors on both sides of the structure to the south and east.

Mr. Gill stated that to be clear, the garage being located 3 inches away is near a stone/brick wall.

Mrs. Gill confirmed that they own and maintain the brick wall.

Ms. Fessler then asked if drainage for the western property is being used as the drainage area for their property.

Mrs. Gill responded that across from the pool, there is a manhole cover which accepted water drainage and that to the southwest part of lot 1, water would drain there.

Ms. Fessler stated that she is asking what role did the second lot play in terms of water retention.

Mrs. Gill responded that each has their own right now.

Chairman Golan stated that when the applicants purchased the property, there was someone who wanted to divide it into three lots and asked if that had been presented to the Village.

Mrs. Gill stated that supposedly, there was an agreement and that it was for the R-2.

Mr. Gill informed the Commission that the previous owners had been there for 50 years and that the owners were infirmed and the home fell into disrepair. He noted that it was the estate for the property which entertained that concept.

Chairman Golan asked the applicants what did they plan to do with the property if the subdivision is approved.

Mrs. Gill stated that they moved to Kenilworth and that they are not living in the home.

Chairman Golan then referred to the minimal rectangular buildable area and that while in theory, it is not quite enough. He then stated that by the time you put a coach home and a pool on lot 2

which is already built, the rectangular buildable area is much less than the calculations would be with the existing structures.

Mr. Gill reminded the Commission that they did the main home which is located on lot 1 and that lot 2 has an existing 3 bedroom home.

Ms. McCarthy stated that she is wondering that living in Winnetka and she is sure that they have beautiful homes on their property, suppose that a developer wanted to purchase the property and subdivides and is forced to use this as the model with regard to buildable lot, she asked what effect would that have on the neighbors and water. She added that she believed that the neighbors are concerned about that.

Mr. Norkus stated that the attempt for the setbacks which are depicted in the agenda report as far as the impact to the neighborhood, he stated that the best way to respond to that is to say new construction would have to be located within those setbacks. He then stated that with regard to drainage, the Village's drainage requirements require that for most development, the rate or runoff to adjoining properties is no greater than it currently is under existing conditions. Mr. Norkus stated that it would be worth having an engineer answer that more specifically.

Ms. McCarthy then asked if new sewers or infrastructure would be required on the property for redevelopment of lot 2.

Mr. Norkus responded that if a new home is going to be built, he is relatively certain that new water and sewer services would be required.

Chairman Golan asked if the Village would have to come in and expand the sewer services or if they would have to figure out to hook up the existing.

Mr. Norkus stated that they would have to come up with a plan to hook up to existing services which would be borne by whoever is proposing to build on that lot.

Ms. Fessler then stated that in terms of the impact to the east, she stated that the coach home is very close to the adjacent property but that under new construction, it would have to be further in. She then questioned the tree coverage on the second lot.

Ms. Rizzolo stated that to address the new construction, as an architect, she stated that it is more stringent than adding on. She then stated that with new construction, if someone was to tear down the coach home or the main home, they would be following the codes of the Village which are more stringent than for existing properties. Ms. Rizzolo stated that it is a fairly open lot and that there are trees along the property lines and that there are no trees where they are proposing the lot line. She added that there are beautiful, old trees on the property and reiterated that it is not dense.

Chairman Golan asked if there were any questions from the Commission. No additional questions were raised at this time. He then asked if there were any comments from the audience.

Dana Connell, 2 Indian Hill, introduced himself to the Commission. He thanked the Commission

for the opportunity to provide public comment on the proposal. Mr. Connell stated that he and his wife, Laura, live at one of the properties which was mentioned and noted that they live across the stone wall. He informed the Commission that they purchased their property approximately 12 years ago and that his wife was born and raised in the Village.

Mr. Connell then stated that they would be directly and negatively impacted by this change and that the neighbors are worried that this property which is for sale would be sold and parceled out with something built on lot 2. He informed the Commission that the property is listed for sale for \$5,999,999 and that they are worried with regard to the request being made to chop the property into two which would be sold and that a builder would build on lot 2. Mr. Connell then stated that it would depersonalize it, change their life and view, the property and its value as well as result in more construction and the addition to the Village's impermeable surfaces, increase in density on Indian Hill and the loss of another estate type property in the Village. He stated that the Commission knew what standards to evaluate better than he did and referred to the perceived financial gain of the owners to chop up the property versus preservation of the property in the neighborhood.

Mr. Connell also stated that they have heard comments with regard to the efforts which have been made and the way in which it could be done and that it would result in the owners getting very significant variances from the ZBA and that he believed that those standards will not be met. He stated that his testimony represented their concerns and that he is trying to be as nice about it as possible but that when you add all of those considerations together, you shudder to think about the precedent that is set if owners are allowed to chop up properties of this type and for the Village to condone it and grant variances. Mr. Connell stated that for all of those reasons, he hoped that the Commission would conclude that the request be denied. He added that the Commission should have received their written comments as well.

Mr. Thomas asked Mr. Connell if his home is across the road from the second lot and if there is a big stone wall there. He also asked what is the height of that wall.

Mr. Connell responded that you can see it and identified the wall as approximately 12 feet in height. He referred to the brick wall which the applicants own as well as a stone wall which they and the McVickers own.

Mr. Thomas then asked how much of their current view because of these two walls would be changed.

Mr. Connell informed the Commission that their home sat up on the lot and that they look down. He also stated that if new construction is built there, it would impact them and they would see it as opposed to them looking now into greenery and sky.

Chairman Golan asked if there were any other comments.

Thomas Lilla stated that he and his wife live at 100 Church Road which is in the cul-de-sac and that their view looked out onto Indian Hill Road. He then stated that their concern is not necessarily the view because the Indian Hill Club owned the property right behind their home.

Mr. Lilla stated that their concerns related to the sewer systems and drainage systems which might be affected. Mr. Lilla stated that last year, there have been a lot of problems with sewage and construction which was done on the property line in the club.

Ms. Fessler asked Mr. Lilla if he is talking about storm water or sanitary sewer.

Mr. Lilla confirmed that he is talking about storm water. He then stated that with regard to the long list of variances being requested and in terms of what would be able to be built there, they are concerned that it would affect the services and the impermeable land. Mr. Lilla also stated that he sent an email.

Ernie McVicker, 1 North Indian Hill Road, informed the Commission that he concurred with all of the reasons previously stated. He stated that he would like to add that if the property is split, without a doubt, the second property would have another home built on it and that it would be a large home which would block part of their view and that Mr. Connell's view would be more impacted by that. Mr. McVicker stated that what appealed to them when they purchased their property was being on a private road and having that type of privacy. He also stated that it would add to more congestion and that while he appreciated the fact that someone is allowed to maximize the value of their property, it would damage others. Mr. McVicker informed the Commission that he has already suffered a substantial decline in the value of his home and that he is convinced that if another large home is built, it would change the ambiance of the neighborhood and that they would suffer in terms of the value of their home.

Chairman Golan asked if there were any other comments. No additional comments were made at this time. He then asked the Commission members for their comments. Chairman Golan stated that he would start the decision and that it is a little overwhelming to him knowing that the applicants have been working on this for a year to have a packet for a week and be able to come to a conclusion about it. He described it as a big task. Chairman Golan then stated that he asked Mr. Norkus earlier and that he would like for him to clarify for the Commission what they are to weigh in on. He then referred to page 5 which contained the issues of the setbacks and the nonconforming issue is something for the ZBA to look at. Chairman Golan also referred to Section 16.12.010 and that the Commission is supposed to address whether granting a variation here and allowing the owners to develop their property, would it impact public health, public safety, public welfare and public convenience which represented the four questions that the Commission is asked to address here.

Mr. Thomas stated that as he looked at Mr. Norkus' report under Section 3 where it talked about Section 16.12.010, in the context of whether it would result in the increased adverse impact upon the public health, safety and welfare, he has heard the testimony of the neighbors but that he cannot see where it would have a real impact on health, safety and welfare in that area. He then stated that if he lived there, he might feel differently but that he did not see any negative impact. Mr. Thomas also stated that there are a lot of technical factors that the applicants spent a year discussing and that it appeared to be alright to him because he did not see that there is a real adverse impact on the public health, safety and welfare.

Ms. Fessler began by stating that she is a nonvoting member of the Commission and would weigh

in on the request once it is presented to the Village Council. She stated that this is an area which is zoned for smaller property sizes and that these two new lots would both be the appropriate size for the R-2 district. Ms. Fessler then stated that the plan for the Village has put them in that area and that they would not be violating where they would want to have the larger estates versus that. She stated that with regard to homeowners, she referred to having an oversized lot in that area and that is the premise. Ms. Fessler also stated that there are a lot of other issues which are to be dealt with and that the Commission should weigh in on what kind of constraints they might want to impose on the subdivision or any recommendations that they wish to make.

Ms. Fessler stated that it is not as though you are taking a normal sized lot and splitting it in half. She stated that the question then is whether all of the mitigating services and situations are too much to approve and allow those variations or are they doable.

A Commission member asked Ms. Fessler with regard to her comments, for clarification, she asked if each lot is almost an acre subdivided which she commented is a good sized lot.

A Commission member stated that this has been one of the most difficult things which has been put forth before the Commission. She stated that she is not usually at a loss for an opinion but that the issues here which strike her as more zoning related and that what the ZBA would have to say is more crucial than what the Commission would have to say. She then stated that she is a big proponent of property rights but that she found it very difficult. She also stated that if they were to get a list of all of the things that they would be voting on and that in the packet, it is three words and referred to whether the subdivision would result in a material increased adverse impact on the public health, safety and welfare which is a criteria on which they have to vote and that she would have to agree with Mr. Thomas' comments. She also stated that she is not particularly comfortable that is all that they are voting on.

Ms. Case stated that she thought that the Commission did rule on side yard and rear yard setbacks.

Chairman Golan confirmed that is correct but that the Commission did not rule on rectangular building area.

Mr. Coladarci stated that it gets down to whether the Commission may vary or modify the requirements so that the owners are allowed to develop the land in a reasonable manner provided that the public health, safety and welfare and convenience are protected. He then stated that if the Commission agreed with the creation of the side yards abutting rear yards, they have to make the determination that the public health, safety, welfare and convenience are protected.

Ms. Case stated that in the Winnetka Comprehensive Plan, it said that they do not want to create side yards abutting rear yards and questioned why would they go out of their way to create a situation like this if it has been said that is something that they do not want.

Mr. Coladarci stated that whether the Commission's duties under the Comprehensive Plan impact their decision on a subdivision and do they operate separately with a different jurisdiction.

Mr. Norkus stated that the Comprehensive Plan is the document that provides broad land use

policy and objectives that are more general in nature. He also stated that the Comprehensive Plan is the document that ultimately serves as the foundation for the zoning ordinance and the subdivision ordinance regulations which are more precise in nature. Mr. Norkus then stated that some of them have a relationship between the Comprehensive Plan and subdivisions and that the Comprehensive Plan rather than being the bible of subdivisions on a case by case basis, he stated that it is more the foundation for the regulations.

Mr. Coladarci stated that the Commission should use the Comprehensive Plan to interpret their duties under the subdivision ordinance. He then stated that when they are attempting to determine whether the public health, safety, welfare and convenience, it is not what they thought as individuals but that the definition of that might be under the Comprehensive Plan.

Mr. Norkus stated that the Comprehensive Plan certainly has language in it pertaining to the future development within residential neighborhoods and that for example, it would speak to the issues of development being consistent with the scale and character of surrounding properties, that broad goal or objective is ultimately expressed more precisely in the form of zoning regulations such as lot area requirements as well as a subdivision ordinance requirement that this evening would result in the Commission considering two variations from the subdivision code.

Mr. Coladarci then asked if it would make sense for them to get further information for how the Comprehensive Plan would address their duty under the subdivision ordinance in a broader category to allow them to interpret these terms more specifically so that they can take into account a lot of the factors which they may be struggling with. He then stated that he is struggling with how to interpret public health, safety, welfare and convenience without having the broader document and the broader parameters to tell him what that meant in this circumstance.

A Commission member stated that most of them are pretty comfortable in stating what is the role of the Commission. He stated that in looking at the application, he can give it thumbs up or down but that he is not sure that he has a good understanding of why they are being asked this question in addition to the ZBA.

Ms. McCarthy stated that it looked like in what was written, in terms of the original nonconformity of the buildings that are on the land, she stated that lead them to looking at it in terms of that. She stated that she is not 100% clear either.

Mr. Norkus stated that he could simplify it a little for the Commission and described it as very complex. He then stated that the variations which are going to be considered by the ZBA are specifically limited to the rectangular buildable area that is complex, as well as the less complex lot depth requirement for lot 2 and the 49 square foot GFA variation. Mr. Norkus noted that there are two matters before the Commission, the first of which is the creation of side lot lines abutting rear lot lines condition which is a variation request which the Commission only has the responsibility of recommending to the Village Council whether it is appropriate to allow a situation like that to be created. He stated that lastly, the existing nonconformities which were outlined with regard to the location of the existing structures, those are not variations from the subdivision ordinance but are existing nonconformities that the Commission needs to consider and make a finding as to whether in this subdivision, for those nonconformities which are already existing, whether there is an

adverse impact arising out of this new division which is being proposed.

Ms. Holland stated that the problem she is having is that when the side yard abutting rear yard was put into an ordinance, the concern was not in a parcel this large but was in smaller lots east of Green Bay Road where you have front yards and rear yards where another home was horseshoed in. She informed the Commission that she lives in a home where another home was horseshoed in with one home facing Elm Street, one home facing Oak Street and another home with side yards abutting a rear yard. Ms. Holland described them as very small lots which measure a little over 8,000 square feet. She stated that the lot which measured 17,000 square feet was subdivided in 1937 and built a home in the middle of that block.

Ms. Holland stated that it occurred often on the east side of Winnetka where you have larger block faces and when you have homes horseshoed in when you had a corner situation. She then stated that in this situation, you have very large lots and that if these two lots are going to be redeveloped, that problem would not exist and that is the future. Ms. Holland added that to her, it did not apply to this size lot and asked when was it put into effect.

Mr. Norkus responded 10 to 12 years ago is when the amendment happened to prohibit the side yards abutting rear yards. He then stated that the example which is in the agenda report is at the corner of Ash and Linden and that the Historical Society now occupied 411 Linden. Mr. Norkus stated that property now has a home in what was 411 Linden's former rear yard area. He then stated that to Ms. Holland's comment, the concern was not only side yards abutting rear yards which is the language in the code that was used to address that particular development pattern that was of concern, but that the issue that it was attempting to be addressed was not just the creation of lots that were smaller than the neighbors, but the reorientation of entire block faces to create yards within blocks that formerly had no homes facing the street. Mr. Norkus stated that it was also related to the creation of lots which were atypical for the neighborhood because it is squarer and less rectangular in nature than the development pattern that the Village had always been. He stated that all of these things were coming together to represent a concern.

Ms. Holland added that density was also a big concern.

Mr. Norkus also stated that the side yard abutting rear yard standard was the tool that was crafted to help address that.

A Commission member stated that a neighbor mentioned a low lying area and questioned whether the area was in a flood plain.

Mr. Coladarci indicated that it may not be in the flood plain and that it may only be a low lying spot.

Ms. Fessler stated that looking at lot 2 in terms of where its orientation would be, it currently looked like it is oriented to be facing northward. She also asked if there is no prospect of changing the orientation to face south to Indian Hill Road.

The applicant answered Ms. Fessler's questions.

Ms. Fessler stated that the matter is really the division of the lot and that it would come up once there is a proposal for building a new structure to go on that lot and that she is trying to keep away from that in terms of the fact that the Commission is not approving anything that is not going to have to go through a tremendous process hereafter. She also stated that drainage would be addressed and that unless it is obvious that this is a low point and is the draining pond for everyone, that is something that would be dealt with at the time of building permitting. Ms. Fessler stated that with respect to the rear yards abutting side yards issue which first caused the amendment to be made, for a property of this size the situation is very different. She then stated that if the coach home would be gone, the new home would be much further away from those rear yards.

Chairman Golan asked Mr. Norkus that if the request was approved and the lot was sold, would part of the requirement for the new home being built is that everything else would have to be brought into conformity, including removing the pool and the coach home so that the new building would conform to the building codes or is that another separate issue.

Mr. stated that the construction of a new home on this property would require the coach home itself to be removed because under the Village's zoning regulations in the single family zoning district, they would not be permitted to have more than one dwelling unit on a property, and that any new home proposed would require elimination of the existing dwelling unit.

Mr. Norkus cautioned that elimination of the dwelling unit could be satisfied under the zoning code in other ways short of demolition, such as converting the structure to a garage or otherwise remove the elements which make it a residential dwelling unit such as the kitchen and/or sleeping rooms. He then stated that to take question a step further, the Commission could in light of the nonconforming setback of the existing coach, could recommend the inclusion of a restrictive covenant which would require demolition of the coach house prior to construction of any new home.

Mr. Norkus then stated that if the Commission is concerned about the location of the coach house, they could see the elimination of that nonconformity by putting a restrictive covenant that required it be removed. He indicated that if the Commission's intent is to see its ultimate removal, versus conversion, the Commission would want to consider specific conditions to require that.

Mr. Norkus also stated that the same thing is true of the pool, in that it may remain in its current location unless the Commission specifies otherwise.

Ms. Fessler then stated that if it was a garage at that point and that it was being viewed as the side, the front, the back, etc., these landlocked properties are theoretical constructs which do not necessarily always match the situation. She stated that on the rear side of the Church Street properties, their rear property lines are abutting the eastern edge of lot 2 and that to the extent that they would put a garage against that line, there is a possibility and would be similar to what you would do with these two properties abutting each other. Ms. Fessler stated that whether there is a need for that type of condition or not, she did not know and that she could see a situation where there is not a need for it and that whether the Commission felt that is an important thing, she did not know.

Mr. Thomas stated that he is significantly less conflicted about the meanings of public health, safety, welfare and convenience and that he did not think that the 2020 Plan spoke to that at all. He stated that when you read something and use the term “reasonable,” that irritated lawyers and that definition can be two entirely different things. Mr. Thomas stated that he is not conflicted in making up his mind but that if others felt differently, he would not argue with them.

Mr. Thomas stated that the other part of it is that he balanced off strongly are property rights and the right of the people who own the property to do something that is legal but that on the other hand, he would have to respect the property rights of the neighbors. He then stated that none of the neighbors in their testimony said to him clearly that their property rights are in any way being necessarily violated although they may not like the view and that he did not see that their property rights outweigh the right of the applicants to have the lot that they own cut in half and sold off in the way in which they want to.

A Commission member stated that if the Commission did grant the subdivision, they do have to put something in saying that the coach home needs to be removed.

Mr. Connell commented on the subdivision.

Mr. Norkus agreed that Mr. Connell is correct and that at this point in the process, the Commission is evaluating the request for preliminary approval. He informed the Commission that when a subdivision such as this one includes requests for zoning relief, it would be presented to the ZBA for a determination and a recommendation to the Village Council. Mr. Norkus then stated that the ZBA’s recommendation on the zoning variations together with the Commission’s preliminary recommendations on the subdivision would go to the Village Council for the final decision. He stated that if the variations are granted, the subdivision would come back to the Commission for a second time for final approval and added that the final approval would be more ministerial in nature where there would be the approval of utility easements and precise language on restrictive covenants. Mr. Norkus informed the Commission that if they were to make a recommendation of approval with conditions, the Village staff and the Village Council would appreciate it if they could outline those conditions at least conceptually.

Chairman Golan asked if there were any other comments.

Ms. McCarthy stated that the lots are very large and that to build on a lot that large seemed reasonable to her. She suggested that the Commission include a condition to demolish the coach home and referred to the fact that the request would go before the ZBA. Ms. McCarthy also referred to the information that Mr. Norkus carefully included in the packet of information as to what they have to agree or disagree on are the noncompliance. She then stated that she felt that the Commission could move ahead with it and that the owners have spent enough time on trying to get this organized.

Mr. Golan stated that he is having trouble understanding how this related to what the Commission’s real job here is and that for that to be articulated a little bit differently and discussing it again at the next meeting is something that he would feel more comfortable with. He

then stated that while he did not understand the complexities, he understood it with regard to safety and public health and that he agreed with the fact that it would not be impacted by the subdivision.

Mr. Golan then stated that there are more issues related to the 2020 Comprehensive Plan that they are not seeing quite well articulated before.

Mr. Coladarci stated that in looking at the compliance with the subdivision ordinance standard and referred to Section 16.12 which stated that “whenever land to be subdivided is such an unusual size or shape for the R-2 district whereas it is surrounded by such development or unusual conditions that a strict application of this section” and noted that the wording stated “shall” as opposed to “may” and that it went on to state that “...would result in real difficulty or substantial hardships or injustices,” he stated that is the burden on the applicant. He stated that the Commission may vary or modify such requirements. Mr. Coladarci then stated that he agreed with the idea of coming back to the Commission which would help them to make a decision and that they would have to look at whether the desire to subdivide is based on what some of them interpret to be a desire to split off the property and sell it. He questioned whether that is a real difficulty or substantial hardship or injustice which was an issue that was raised by the neighbors.

Mr. Coladarci then stated that in terms of coming up with what the Commission is supposed to be doing, he stated that it related to whether they allow the applicants to subdivide the property and has there been a showing of real difficulty, substantial hardships or injustices.

Chairman Golan stated that he would take a straw vote and asked who on the Commission would be comfortable voting on the request tonight. The straw poll resulted in two Commission members in favor of voting tonight.

Mr. Thomas stated that he would like to comment on stalling the request for another month for people. He stated that the Village has been trying to streamline the process and that if the Commission cannot move this ahead to the ZBA and then on to the Village Council, he commented that the Commission is not doing their job. Mr. Thomas stated that to say that the applicants would be coming back to the Commission anyway is unconscionable and unfair to the applicants.

Chairman Golan noted that the applicants do not have to come back but that the Village Council and the Village staff has to help the Commission understand.

Ms. Holland noted that the next ZBA meeting is November 16, 2015 and that One Winnetka is being presented to the ZBA at that meeting.

Chairman Golan asked Mr. Norkus if the Commission has to vote before the ZBA saw the application and whether there is a sequential order which has to occur.

Mr. Norkus informed the Commission that he would be happy to come back with additional information and clarification they can provide and respectfully suggested that some of the burden of establishing the practical difficulties and hardship, he would say a significant burden rested with the Village staff. He indicated that it would be inappropriate for them to articulate why this is a

hardship.

Mr. Coladarci stated that is something that the application needed to address a little more.

Ms. Fessler referred to the DeWindt subdivision which was similar in that it there was an oversized property for that area and that it sounded like the Commission is asking for this application to jump over an extra bar.

Ms. Holland noted that it was not a buildable lot and that what was being subdivided was way under what was necessary.

Ms. Fessler asked about the Hubbard Woods property across from the school.

Ms. Holland stated that they were both buildable lots which did not require a variation.

Ms. Fessler then asked if there were other properties like this which have been subdivided in memorable history. She stated that she is trying to get a sense of how high is the bar that they are asking the applicants to jump over in order for them to make their case.

Mr. Norkus stated that one of the pieces that might help the Commission would be for staff to come back with a history of recent and not so recent subdivisions in order to put the request in a broader view and context which might be helpful.

Mr. Thomas noted that in the applicants' submission, for lot nos. 1 and 2, they were given a list of hardships.

Mr. Gill stated that he did not presume to know the order in which things needed to go, but that his understanding is that the decision by the ZBA would be the critical first step for this group and that this group cannot make the kind of decision it needed to make until they know whether the request would conform with the zoning requirements which they would not know unless the variations are granted. He then suggested that the ZBA do its job first before this group can rule on the issues. Mr. Gill also stated that he did not understand the timing of the next ZBA meeting but that if the variations are not granted, the Commission would be in a position where they cannot grant the subdivision request because it has nonconforming land.

Chairman Golan stated that he would like to add that the Commission is an advisory board to the Village Council and that whether the Commission said yes or no did not mean to the Village Council that they would listen to their advice. He then asked if there were any other comments from the audience. Chairman Golan also asked if anyone wanted to propose a motion.

Ms. Holland moved to adjourn the meeting.

Chairman Golan suggested that the Commission table the request until the next meeting with the addition of and that he did not want the Village to make the case for the applicants but that he would like for the Village to give the Commission a historical perspective.

Ms. Holland also referred to how it tied into the Comprehensive Plan.

Ms. McCarthy also asked for clarification on these issues which the Commission discussed and suggested that they be identified with bullet points.

The motion was seconded. A vote was taken and the motion was passed to table the discussion until the next meeting to allow Mr. Norkus and the Village staff to gather additional information for the Commission to make a decision.

AYES: Case, Coladarci, Crumley, Golan, Holland, McCarthy, Morette, Thomas

NAYS: None

NON-VOTING: Fessler

Mr. Gill stated that they need a lot of approvals and this is one which is needed and referred to the discussion as to what the Commission needed in order to vote which is not their business and which is up to the Village to figure out. He then stated that they have been working with Mr. Norkus for a long time to lay that out for the Commission. Mr. Gill then stated that he is concerned that when they come back and they have what they need in order to make a ruling.

Chairman Golan agreed that is their understanding and that most of the Commission members are overwhelmed by the magnitude of the proposal along with more of how it tied in with their job which is to ensure that the Village's 2020 Comprehensive Plan is preserved and acted upon appropriately. He stated that most of the Commission members are unclear with regard to what they are voting on.

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Respectfully submitted,

Antionette Johnson

**DRAFT**

**WINNETKA PLAN COMMISSION  
EXCERPT OF MEETING MINUTES  
JANUARY 27, 2016**

**Members Present:** Tina Dalman, Chairperson  
Caryn Rosen Adelman  
Mamie Case  
Jack Coladarci  
Dana Fattore Crumley  
John Golan  
Keta McCarthy  
Jeanne Morette  
John Thomas

**Non-voting Members Present:** None

**Members Absent:** Chris Blum  
Paul Dunn  
Carol Fessler  
Louise Holland

**Village Staff:** Brian Norkus, Assistant Director of Community  
Development

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**Consideration of Proposed Subdivision of 5 Indian Hill Road (Continued From November 2015 Meeting)**

Chairperson Dalman noted that she was not at the meeting but that she read the minutes. She then swore in everyone who would be speaking on this matter.

Mr. Norkus stated that he would provide a brief staff discussion first. He began by stating that the request was introduced at the October meeting and that following the applicants' presentation and public comment, the matter was continued to request that the Village staff provide additional background information. Mr. Norkus stated that in addition to public comment, in the packets of material and as stated at the October meeting, two communications were received in November which were erroneously left out of the packet. He noted that the emailed and hard copies are here. Mr. Norkus then stated that with regard to the October meeting, the Commission requested that the Village staff provide additional context to the specific application since the request is for relief from the subdivision code and the zoning code.

Mr. Norkus then stated that to provide the Commission with additional context, included in the

packet of materials as Attachment C is the result of the Village staff's lookback at the Commission's request in connection with the history of subdivision applications from 1990 to the current date. He indicated that there is a summary in the report from page nos. 18 to 31 describing the 50 subdivision requests submitted to the Village and summarizing that 17 applications of these 50 that include a request from the zoning code or subdivision code relief. Mr. Norkus then stated that he would like to point to one particular element of the report in that it breaks down the subdivision by the different types and variations involving lot splits. He noted that they are highlighted from page nos. 25 to 34. Mr. Norkus also stated that of the lot split applications, there are nine total lot splits with five of those having variations approved. He added that one lot split variation was denied and that three were withdrawn by the applicant.

Mr. Norkus also stated that provided in the package on page 2 are the identities of the location of subdivision property in the boundaries of the surrounding R-2 zoning district and included an attachment of the rundown of lot sizes in the R-2 district which includes a wide range of lot sizes ranging from 10,000 square feet to 85,000 square feet for the subject property. He indicated that it is rather unique in that there is quite a bit of variation in lot size in the R-2 district.

Mr. Norkus informed the Commission that the variations being requested with this subdivision are discussed on page nos. 5 to 9 of the agenda report. He noted that there are four categories of relief being requested by the subdivision which are described in detail in the packet.

Mr. Norkus then stated that in October, the first variation was for the lot to have less than the minimum 200 foot lot depth. He referred the Commission to an illustration and also referred to Figure 3 in the packet of information on page 5 and that the illustration showed the measurement of the lot depth for both proposed lots. Mr. Norkus noted that the west lot is measured in depth from east to west based on the ordinance definitions and procedures which stipulate that lot depth be measured from its extreme line. He then stated that for the east lot, by virtue of the adjacent street to the north, the lot depth is measured from the street to the north to south lot line. Mr. Norkus also stated that the east lot would have a nonconforming 160 foot depth. He then stated that he would like to remind the Commission that the lot depth variation request is under the jurisdiction of the zoning ordinance but that it is also a component of the subdivision request.

Mr. Norkus went on to state that the second request is for relief from the minimum rectangular area requirement. He stated that the October agenda report noted that the application required relief from the rectangular area requirement for both lots. Mr. Norkus then stated that in researching the subdivision variation history, it was determined that the application did not require relief from that standard. He stated that there is a lot of information in the packet and that they determined that there was a scrivener's error in 2002 when zoning was introduced and the unintended change to the zoning language and made the rectangular area requirement more difficult to achieve than was previously written. Mr. Norkus also stated that there was consultation with the Village Attorney and the Village staff determined that the application did not need relief from the rectangular area requirement.

Mr. Norkus then stated that with regard to the third variation request for GFA, due to the fact that the west lot would have a proposed size of 38,698 square feet and that while it complied with the minimum lot area requirements, it would be inadequately sized to accommodate the size of the

existing home and garage. He also stated that the Village has a limit of the bulk of structures on residential lots in relation to the lot's size. Mr. Norkus stated that for the existing improvements on the west lot based on the proposed configuration of the two lots, the home and garage would exceed the maximum permitted GFA for the west lot by 262 square feet. He added that with regard to the variation, it is a standard variation request considered by the ZBA.

Mr. Norkus informed the Commission that the Commission's jurisdiction in terms of requests for relief related to standard no. 4 which prohibited the creation of a condition where a side yard would abut a rear yard. He then referred the Commission to Figure 6 on page 8 of the agenda report which was used in October to illustrate the basis for the amendment to the subdivision code in 1999 and that the new language related to the fact that a subdivision shall not be created which would result in a side yard abutting a rear yard. Mr. Norkus also referred the Commission to an illustration and stated that there is one particular difficulty in that side lots abutting rear lots is perceived to be more disruptive than regular lots. He stated that the illustration was a significant factor to amending that code. Mr. Norkus also referred the Commission to an illustration of other side yards abutting rear yards.

Ms. Adelman asked Mr. Norkus if the history is because of the Historical Society.

Mr. Norkus responded that the Ash and Linden subdivision complied with the code at that time.

Ms. Adelman asked if it applied after that.

Mr. Norkus stated that language was drafted which prohibited conditions like that. He then referred the Commission to an illustration of the current application which has a similar condition with side lot lines abutting rear lot lines. Mr. Norkus stated that with regard to the easterly lot, he identified the side lot line as well as the front yard and the other side yard. He noted that it abutted the rear yard of the Church Road property. Mr. Norkus also stated that the west lot would be nonconforming existing between lots 1 and 2 and that the west lot has a rear lot line which he identified for the Commission which abutted the side line of the other lot.

Ms. Adelman questioned the flag portion of the lot.

Mr. Norkus stated that by definition, it is referred to as a flag lot which is owned by the applicants and which provided access to the subject property.

Ms. Adelman asked if it counted toward square footage.

Mr. Coladarci responded that it did not.

Chairperson Dalman asked if it counted toward the total coverage.

Mr. Norkus informed the Commission that there was a similar recent amendment which excluded the access way to not be considered as part of the lot area.

Mr. Thomas asked how did they count impermeable and permeable surface.

Mr. Norkus stated that to some degree, it is relevant and that to the extent that the lot area is considered a part of the lot area for zoning purposes, while it is saying that it is not a part of the lot area, all impermeable surfaces in that access way would count toward the maximum permitted.

Chairperson Dalman stated that to be clear, although they are seeking a subdivision which needed four variations and three of which are under the ZBA's purview, one is before the Commission. She also confirmed that there is no overlapping jurisdiction over the other three.

Mr. Norkus confirmed that is correct.

Ms. McCarthy asked with regard to the east lot, is the side lot going toward west lot.

Mr. Norkus confirmed that is correct and that is only to consider lot lines.

Ms. McCarthy then asked if the flag is the driveway.

Mr. Norkus confirmed that is correct and that it is used to access the coach home. He then referred to it as private property and a private drive.

Chairperson Dalman asked why the easterly lot line is not the front yard.

Mr. Norkus responded that when a lot has an abutting street as on north, by definition, it is the front yard.

Ms. Adelman asked how did they get into the other property if it is not accessed by Indian Hill.

Mr. Norkus stated that the east lot access continued from the flag.

Chairperson Dalman stated that the applicant is saying that part of the hardship is that the property is surrounded by three streets so what is the front yard. She stated that it is dictated by code.

Ms. Case asked if the driveway was added and if the applicants were always there. She also asked if the east lot would only have Church Road access.

The applicants confirmed that is correct.

Mrs. Gill added that there is a brick wall there.

Chairperson Dalman asked if there were any other comments for Mr. Norkus.

Mr. Thomas stated that to clarify, the scrivener's error was a typo which was not caught.

Mr. Golan asked why is the side yard and rear yard conflict a part of the Commission's jurisdiction versus zoning.

Mr. Norkus responded that it is the standard of the subdivision code. He also stated that it was seen at the time of the amendment as an approach mechanically to address this concept. Mr. Norkus stated that it is assumed because it is quantitative in nature and more quality in nature in terms of a side yard abutting a rear yard and that it is best to have it as a subdivision standard.

Mr. Golan then asked how many side yard-rear yard conflicts exist. He noted that he has five near him and that he imagined that they are commonplace in the Village.

Mr. Norkus indicated that he cannot guess but that they are not infrequent.

Chairperson Dalman agreed that it is common.

Mr. Norkus stated that the illustration identified two instances where they exist on adjoining properties.

Chairperson Dalman asked if the problem was the adopted restriction in 2002.

Mr. Norkus stated that it was the Village's attempt to minimize the creation of additional conflicts.

Chairperson Dalman asked if there were any other questions.

Ms. McCarthy stated that the larger home is on the west lot. She then asked that by subdivision, what did that mean for the existing structure. Ms. McCarthy also asked if any consideration was given on the existing home.

Mr. Norkus stated that reducing the lot size had many consequences such as they cannot do a future addition or expand the size of the home without zoning relief.

Ms. McCarthy stated that the pool overlapped but questioned if the other structures fit.

Mr. Norkus stated that the existing nonconformity is explained in the agenda report and that the home and garage are both closer than the required setback from the north property line. He also stated that the pool would be closer than the requirement setback from the north lot line and that the coach home would be closer than required to the setback.

Ms. Adelman referred to the intent of owners in the future.

Mr. Coladarci stated that is part of the subdivision ordinance. He then referred the Commission to page 9 and the last paragraph and stated that they had that question at the last meeting. Mr. Coladarci stated that with regard to what the neighbors are getting at with their comments, the burden is on the petitioner to show difficulty, hardship and injustice. He noted that increasing salability is not what the ordinance intended to address and that as it was stated back then, the applicants can subdivide the property and can sell it for money. Mr. Coladarci stated that the question was how hardship was demonstrated in the past.

Mr. Norkus stated that he cannot provide ample samples.

Chairperson Dalman stated that Ms. Case's concern is if it is approved, it creates a nonconformity for the existing structure and that it would be very difficult for future owners to ask for a variation. She stated that it would be very difficult to satisfy that once the subdivision is created. Chairperson Dalman also stated that the nonconformity would not be created over time but when the action was that of an owner and that it is reasonable to expect that a future owner would have a hard time getting a variation.

Mr. Coladarci asked what if they were to level everything and clear the lot.

Chairperson Dalman stated that they can do that and the new construction would have to conform.

Mr. Thomas referred to the ZBA and the new building not creating a variation.

Ms. Case stated that if the west lot is cleared, the front is the small side and the back is the side yard of the abutting lot.

Chairperson Dalman indicated that it is important to hear from the applicants and how they thought about the issues. She stated that the Commission would give them an opportunity to respond to the comments.

Lisa Rizzolo introduced herself to the Commission as the architect and stated that she would provide background. She informed the Commission that the two homes and the coach home were built in 1922 as the Wynwyd Estate. Ms. Rizzolo then stated that in 1999, the applicants restored the home and coach home and added a pool and a pool house. She informed the Commission that the current lot measured 1.96 acres and that the uniqueness of the lot is that it contained roads on all four sides. Ms. Rizzolo added that she is not sure if there is another lot in Winnetka like this. She also stated that it is noteworthy that the main home is addressed as 5 Indian Hill and that the coach home has an address of 116 Church Road with separate utilities and bills.

Chairperson Dalman asked did they consider it an historical lot prior to the establishment of the plat act regulations.

Ms. Rizzolo responded that they did not.

Chairperson Dalman then asked when were the separate addresses established.

Mrs. Gill responded before they bought the home.

Mr. Norkus informed the Commission that the zoning ordinance is silent on street addresses as far as that being a standard for being a determination of a lot's status.

Ms. Rizzolo then stated that they spent a lot of time with Mr. Norkus to figure out where the front side yard is, etc. She also stated that in terms of the surrounding neighborhoods, she identified the north lot ranges on an illustration with the lot sizes of the homes. Ms. Rizzolo also identified the rear yard, front yard and side yard of both lots and stated that the lots would still be substantially

larger than the surrounding lots. She then identified the lots to Church and the lot sizes which are smaller than the proposed lots.

Ms. Rizzolo stated that the request is to subdivide the property into two lots. She identified lot 1 on the illustration for the Commission which has the home, coach house and garage. Ms. Rizzolo also identified the entrance which would remain the same and the driveway to Church. She then identified lot 2 and the entrance off of Church and informed the Commission that the new lot would contain the guest home, pool and the existing pool home. Ms. Rizzolo noted that they would not be touching any trees with the subdivision. She then stated that the lots meet the minimum lot size requirement of 24,000 square feet and 25,200 square feet for the corner lot.

Ms. Rizzolo informed the Commission that what they were struggling with is the side yard to rear yard which she identified for the Commission. She stated that she would like to point out that they understand why the code is in effect. Ms. Rizzolo stated that now, it is a 220 foot deep lot and that they have garages in the backs of the properties and noted that their side lot goes to their garages. She also stated that the side lot in the R-2 district is a 12 foot minimum and that there is 39.23 feet which she indicated is substantially further away than the code requirement. Ms. Rizzolo then identified the 25 foot backyard on the east and 39 feet which resulted in 64.23 feet from the side yard to the back yard.

Ms. Adelman stated that with regard to the lots on Church, she referred to the home closet to the driveway and 112 Church and asked if their garage is not accessed from the driveway.

Ms. McCarthy stated that there is a separate driveway.

Ms. Rizzolo stated that the subdivision stated that there must be unusual conditions and that this lot is an unusual condition. She stated that it contained roads on all four sides and that it is an oversized lot and that by the subdivision, it would still be larger than any of the larger properties around them. Ms. Rizzolo referred the neighbors' concerns with regard to changing the character of the neighborhood and stated that it would be much larger. She also stated that if the home on lot 2 was to come down, it would have to meet the requirements of the footprint which would result in a win-win with the new home being located further away. Ms. Rizzolo added that with regard to impervious surface and the neighbors' concerns, that is a zoning issue. She informed the Commission that with regard to the traffic to Church and Indian Hill, lot 2 would always exit to Church. Ms. Rizzolo also referred to the openness to the golf course as well as the fact that there is an abundance of trees. She then referred the Commission to an illustration of the trees and reiterated that the lots would be substantially larger than the neighboring lots.

Ms. Case asked if they cannot access the east lot off of Indian Hill.

Ms. Rizzolo responded that they could not and referred to 6 to 12 foot wall. She noted that the other side is owned by the golf course. Ms. Rizzolo indicated that they could pursue talking to the country club and that they would not be thrilled if a hole was cut in the wall.

Ms. Case questioned whether they would want access off of Indian Hill and is that allowable.

Ms. Rizzolo responded that the land is owned by the country club.

Chairperson Dalman stated that with regard to changing the access, would that change the character of the rear yard, side yard, etc.

Mr. Norkus stated that they would have to drive through that and that they would have to acquire a portion of the property and it would become additional front yard. He also stated that the rear yard would become the front yard.

Ms. Rizzolo asked if they wanted a driveway there, would they have to come before the Commission.

Mr. Norkus confirmed that is correct.

Ms. McCarthy stated that the other issues would still be there.

Mr. Golan asked why would the west lot be small enough which makes the home nonconforming.

Ms. Rizzolo stated that as they looked at it, part of it related to trees. She informed the Commission that there is a 30 foot high evergreen and that they want to stay away from those.

Mr. Norkus informed the Commission that it would require another variation by jogging the side lot lines and that it would not be permitted under the subdivision code. He also stated that the subdivision ordinance contemplated side lines perpendicular to front lot lines and for them to be straight.

Chairperson Dalman asked if there were any other questions. She then asked how does hardship affect the variance request.

Mr. Golan stated that if there was no road to the north, the front of the home would be the rear yard.

Mr. Norkus stated that if Indian Hill did not abut, he identified the front yard for lot 2 and the side yard and rear yard for lot 2.

Mr. Golan stated that either way, it would be nonconforming.

Ms. Adelman stated that you can replace trees or a wall and asked what if they did not own part of the wall.

A gentleman in the audience identified the front doors and rear yard and stated that the ordinance flips the yard.

Mr. Thomas asked why can the property line not be run through trees.

Chairperson Dalman stated that would create difficulty.

Mr. Coladarci asked why the wall that fronts on the street is not fully owned by the property.

Ms. Rizzolo responded that is where it falls on the property. She then stated that it is a private street and is part of the other property.

The gentleman stated that it was back in time before the subdivision and that part of the wall was theirs and other properties.

Chairperson Dalman asked if there were any other questions. No additional questions were raised by the Commission at this time. She then asked if there were any questions from the audience. Chairperson Dalman asked for the audience to be mindful of repeat commentary.

Dana Connell informed the Commission that he and his wife live at 2 Indian Hill and that there would be other neighbors who would like to speak whose time might be limited and that he would like to explain their position. He also stated that he was confused when they first got together in October and that he worked hard to understand what the issues were. Mr. Connell informed the Commission that he provided a six page letter signed by 14 of them against the request and that as Mr. Norkus noted, the letter was not initially in the packet and has since been rectified. He stated that he initially planned to focus on the side yard and rear yard issue and if there was an existing zoning conformity issue that they need to decide. Mr. Connell then stated that if they deny the request on the side yard abutting the rear yard issue, but that if there was an existing zoning conformity issue, he referred to Section 16.12.10(b)4 and stated that it should be left to the Commission.

Mr. Connell then stated that the burden is on the applicant to show why the subdivision request should be granted. He stated that it is undisputed that the proposed subdivision would result in two side lot lines that would abut rear lot lines. Mr. Connell informed the Commission that if the subdivision is granted, there would be two neighbors at 102 Church and 112 Church who would have their rear yards abut the side yards of the neighbors from lot 2. He stated that the opposition was understandable and made known.

Mr. Connell also stated that the proposed situation is expressly prohibited by the ordinance which he read to the Commission. He stated that with regard to the history of the provision, it was passed in 1999 by the Village Council with regard to the ordinance and resolution which noted that the placement of side yards abutting rear yards is not favored by the American Planning Association and site planning which he commented is for obvious reasons. Mr. Connell then stated that Mr. Coladarci pointed out that the only way for the applicants to get around this express prohibition is if they can fit into the exception from Section 16.12. He informed the Commission that they have addressed this on page nos. 3 to 4 of their letter which he referred to as a narrowly drawn exception and that it created a series of at least four hurdles that the applicants would have to get over.

Mr. Connell stated that the first hurdle is that the applicants have to show that the property has an unusual size or shape or that it is surrounded by such development or unusual conditions. He then stated that the property does not have an unusual shape and that it is rectangular. Mr. Connell stated that secondly, the roads which surround the property are the same roads that were there

when the applicants purchased the property. He stated that the second hurdle is that the applicants have to show that the application of subdivision rules would create real difficulties and substantial hardships or injustices which he stated is not the case here and that there are no real difficulties or substantial hardships. Mr. Connell informed the Commission that the property is currently listed for sale for \$5,695,000. He added that of all of those 50 subdivision applications, this is only the second one since 1990 where the applicants have to make everything work and have to get permission from the ZBA and the Commission in terms of the subdivision and zoning requirements. Mr. Connell stated that he had a lot of trouble seeing that there is a hardship or injustice here.

Mr. Connell then stated that with regard to the third hurdle, the applicants have to show that they would be developing the land in a reasonable manner. He stated that the applicants have asked to ignore the requirement. Mr. Connell then stated that the fourth hurdle with the subdivision related to the public health, safety, welfare and convenience being protected. He noted that their welfare and convenience as neighbors would be impacted.

Mr. Connell then referred to the discussion about the different cases before the Commission and to show why the applications were denied. He noted that an overwhelming majority of the subdivisions did not require relief and that only 17 required relief. Mr. Connell noted that with regard to the five which were granted, there were a lot less significant issues in connection with the rear yard abutting the side yard. He stated that he asked Mr. Norkus has the Commission since 1999 when the ordinance was passed ever approved an exception to ignore the side yard and rear yard issue and that the answer was that it never happened. Mr. Connell noted that there was only one application in 50 which involved rear yards abutting side yards which was not approved and was withdrawn. He stated that if the Commission concluded to approve the subdivision for a side yard abutting a rear yard, they would be creating a precedent. Mr. Connell also stated that there has never been such a subdivision of a lot that was granted since the ordinance was passed in 1999. He concluded by stating that explained why the neighbors were opposed and why the Commission should deny question.

Chairperson Dalman stated that to clarify and elaborate, regardless of the subdivision, it would not be conforming.

Mr. Connell referred the Commission to page 10 with regard to other factors for consideration which identify four and that in the event of an existing nonconformity, the ordinance required the Commission to make a determination.

Mr. Norkus stated that they touched briefly on the nonconformities of the coach home relative to the setback and the other nonconformity. He stated that in addition to the rear yard and side yard, the Commission is also to consider the nonconformity in the context of the subdivision and to determine whether there would be a material increased adverse impact.

Ms. Morette questioned whether the solid brick line which is the outer line existed today. She also asked if the subdivision line is in the middle. Ms. Morette then referred to 112 Church and 102 Church which are nonconforming already.

Mr. Norkus responded that the current single lot front yard of lot 1 is identified and that for lot 2, the rear yard is abutting the rear yard. He stated that the crux is whether it would be worthy of granting relief. Mr. Norkus noted that the ordinance provides precise language in terms of what constituted a rear yard, front yard and side yard and that the front is the narrower of the two streets and that the others then fall into place.

Mr. Connell stated that it is close and that the burden is on the claimant. He then stated that because there would be a clear violation of the subdivision ordinance, the issue is whether they have met the burden and that there are four hurdles for the Commission to consider to grant the subdivision.

Chairperson Dalman asked if there were any other comments.

Joan Hudson informed the Commission that they did a subdivision a few years ago and that the lot was subdivided from the original lot. She also stated that part of the side yard abutted a backyard and that they had success with that three years ago.

Chairperson Dalman asked if there were any other comments.

Ernie Macvicar, 1 Indian Hill, stated that he supported the points Mr. Connell made. He stated that he would like to add that first, the property is unique in that it is bordered on four sides. Mr. Macvicar then stated that if one of the roads was imposed on the property after its purchase by the applicants, they would have his sympathy. He noted that the property is as it was then and that there has been no change. Mr. Macvicar also stated that the property already had multiple variations and that to do a subdivision would be adding more. He then stated that when it is done, at what point are there too many variations on a property. Mr. Macvicar stated that lastly, with regard to permeable land and the way that the lot lines are drawn, the subdivided property to the east would be bigger. He stated that the home which was built is massive and that there is lot of square footage. Mr. Macvicar referred to riding bicycles and that when there is a lot of rain, the road flooded. He added that the water would run to the west and would impact the other neighbors.

Chairperson Dalman asked if there were any other comments.

Laura Connell, 2 Indian Hill, stated that in the Village, there have been so many new construction homes with the maximum allowable buildable area on a property. She noted that theirs is the only one which is not new construction and that so much has been built that fulfilled the requirements that when one is proposed that does not fulfill the requirements, it should be denied.

Karen Hawkins, 3 Indian Hill, stated that she would like to reiterate Ms. Adelman and Mrs. Connell's comments. She added that she signed the document.

Barb Sheridan, 7 Indian Hill, informed the Commission that she lived to the west of the applicants and agreed with the comments made.

Chairperson Dalman asked if there were any other comments. No additional comments were

made by the audience at this time. She then stated that there would be discussion and deliberation from the Commission. Chairperson Dalman asked the Commission members if they had any other questions for Mr. Norkus.

Ms. McCarthy asked will it set a precedent or exceptions as identified in the packet.

Chairperson Dalman stated that there would only be a precedent if all of the facts are the same. She noted that there are a lot of distinguishing characteristics and that she did not know how many lots of this size have similar restrictions and character.

Mr. Coladarci stated that the decisions are not a precedent to subsequent cases.

Chairperson Dalman asked the Commission to remember that they are making a recommendation to the Village Council and that they are not the final decision maker. She noted that the request would also go to the ZBA and the Village Council.

Mr. Thomas asked if the Village recommended that it would be ok, would that set a precedent.

Ms. Adelman stated that whether or not they like the subdivision, but the rear yard to side yard issue set aside is taking into consideration the increase in the amount of the existing nonconformity.

Chairperson Dalman confirmed that is correct.

Mr. Coladarci referred the Commission to page 7 of the materials with regard to the buildable area as a result from the subdivision demonstrates a bind of the neighbors. He noted that the property has been for sale for a while and that it is a big amount of land. Mr. Coladarci stated that the lot is supposed to be big in this district. He also stated that with regard to the square footage of all of the surrounding properties, this one being the biggest would not make it out of character with others in the area. Mr. Coladarci stated that the question comes down to whether the case has been made for the subdivision and referred to the Connells' letter which said it. He stated that when you say that you have to show and the burden is on the petitioner to show that there is more than to the potential to sell the east lot. Mr. Coladarci then stated that in connection with the size of the buildable lot, it is a big property and taking into account the trees, it will be bigger than other homes in the neighborhood. He stated that it is more than just having streets on three sides and that condition was prior to the applicants' purchase. Mr. Coladarci stated that the code tells them that they have to have a showing and not just lip service of hardship which has not been shown yet. He stated that is the reason that the ordinance was written the way it was and that it is the Commission's job to preserve the character of the neighborhood. Mr. Coladarci concluded by stating that the applicants have not met that burden.

Mr. Thomas stated that he did not agree with Mr. Coladarci's comments and that he is glad that he is not on the ZBA. He referred to the side yard and rear yard not rattling the cage. Mr. Thomas added that the 102 Church and 112 Church neighbors did not bother him and that he would approve the request.

Ms. Morette referred to having a property on the market a long time and difficulty in selling it and that it is large is a big hardship to her. She noted that the issue existed already on the west lot as the subdivision goes and described it as a matter of semantics. Ms. Morette also stated that they would not be changing anything and that the subdivision would go down the middle of the property. She then stated that the lots after the subdivision would be so large and would have green spaces between the yards which are larger than most. She concluded by stating that there would be not public health or safety issues.

Ms. Adelman stated that she is all over the place. She then referred to the brick wall and garages and the one piece which looked at the golf course. Ms. Adelman described it as a great property and that there is an opportunity to have two great properties. She indicated that she did not see the hardship with that and that the Commission is responsible for dealing with the rear yard to side yard issue. Ms. Adelman stated that there are lots of other rear yard to side yard situations and that she would abstain from the vote and is not comfortable with the decision.

Ms. Case stated that she agreed with Mr. Coladarci's comments and that she did not feel that the burden has been met. She also stated that technically, it would not set a precedent, but that if they were to look at the entire R-2 district in the Indian Hill area, there are lot of other larger properties but that if the applicants cannot sell the property or if the home is skewed awkwardly on the property, she stated that she felt that they would go right go down the same route as well. Ms. Case stated that she found that the fact that there is an ordinance, there is a reason for this and that they should not mess with it.

Ms. McCarthy stated that she is undecided. She indicated that she understood the concerns of the neighbors and that there are two very large properties. Ms. McCarthy also stated that is very evident when there. She also stated that she is uncomfortable how the lot would be divided in terms of square footage. Ms. McCarthy stated that on the other hand, Mr. Coladarci stated that the lots would be smaller and that the average size of all of the lots is 34,000 square feet and that these would be 34,000 square feet and 36,000 which she commented are big lots. She then stated that made her think that the lot could be divided and that she should say yes but that there are other concerns. Ms. McCarthy concluded by stating that she did not know which way she would be leaning toward the fact and that since they are large lots, perhaps it should be but that unfortunately, divided.

Mr. Golan stated that he agreed with all of the comments made and at the end of the day, the burden is on the owners to show that there is a hardship which he stated he is not sure was done. He also stated that they have to show that the property would be developed in a reasonable manner and that they have no idea how the property will be developed and if it would be developed in a reasonable manner.

Ms. Crumley stated that she would agree and that in order to determine whether there is a hardship, they do not have all of the facts and information. She then stated that it is going to be difficult to sell at over \$5 million and that it would not be a property which would sell instantly since the available buyers would not be the same pool of buyers of a smaller lot. Ms. Crumley stated that in and of itself constituted a hardship. She stated that she also agreed that the lots would be big regardless which she did not see as an issue but that if they were go to what the ordinance says, she

is not sure that it has been met.

Chairperson Dalman stated that she would like to echo the pros and cons. She described it as a challenging application and that they rarely see a subdivision application where it resulted in two lots satisfying the minimum lot requirements and that it is an extremely large lot. Chairperson Dalman indicated that it is one of the largest lots in Winnetka. She then stated that while it meets the minimum lot requirements, but they have no good provision with regard to the rear yard and side yard issue.

Chairperson Dalman then stated that with regard to bulk in the Village, there are conflicts all over and that there is unfairness there yet there was something which was recently adopted. She described the proposal as being thoughtfully done but that she did not see justification for the variance request. Chairperson Dalman also stated that if they approve the subdivision, she questioned how they would address the nonconformity with the existing structure. She indicated that she is not comfortable making a recommendation to approve.

Mr. Thomas asked how long has the property been on the market.

Chairperson Dalman stated that is not in the official record and that it is clear that if it has been a long time, there is a hardship. She also stated that they would be looking at a couple of homes' views being wiped out if the second lot is sold.

Ms. Adelman stated that they cannot take the real estate market as a contention.

Mrs. Gill stated that is not their intention.

Chairperson Dalman stated that there has been good evidence, testimony and discussion to be sent to the Village Council to make a determination. She then asked for a motion on a recommendation. Chairperson Dalman referred to there not being enough votes to support and questioned whether they should make a recommendation for nonconforming buildings.

Mr. Norkus stated that they should not.

Chairperson Dalman then referred the Commission to page 10 in the packet of materials and asked for a motion to recommend to the Village Council the denial of the application for variance from Section 16.12.010(d) with regard to no side lot line abutting a rear yard lot line.

A motion was made by Mr. Thomas and seconded by Mr. Golan. A vote was taken and the motion was passed 5 to 2 with one abstention.

AYES:	Dalman, Case, Coladarci, Golan, McCarthy
NAYS:	Morette, Thomas
ABSTAINED:	Adelman

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Respectfully submitted,

Antionette Johnson

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

**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)

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**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, Purtil & 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 is one lot is a corner lot the reason why 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.

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 eliminated 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 would 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 flag lots in the immediate neighborhood.

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.

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 after the Plan Commission's October meeting, staff determined that the correct interpretation of a zoning provision eliminated the need for a variation from the minimum rectangular lot area standard for proposed Lot 1. Chairperson Johnson noted that there are no minutes for either Plan Commission meeting yet. She then stated that it is difficult to characterize why the Plan Commission decided the case the way they did. 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 if the Board recommends 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. She stated that she agreed with Chairperson Johnson's comments about the ZBA approving a variance for a subdivision with the recommendation of conditions if the coach house were torn down and replaced with new construction on Lot 2. Ms. Hickey stated she felt that conditions such as housing size, placement of new construction – due to the slope/elevation of Lot 2 is in the purview of the Council.

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 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 asked about the fact that there are separate PINs.

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 according to 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 whether even though two of the roads surrounding the applicant's property were truncated and were dead-ends, they were still legally 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 de minimus 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 when the applicants added windows to the main home it was nonconforming. She then stated that in Ms. Rizzolo's letter, 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 considering Lot 2 for subdivision, that it does impact Lot 1 with the current main house. She stated by subdividing, Lot 1 loses its "backyard" and significantly decreases the property footprint for Lot 1. Ms. Hickey stated it becomes a very large house on a significantly smaller piece of property. 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 not 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 that created those lots 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 concluded by stating, 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 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 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 she did not believe a continuance was necessary. She noted that the Board is making a recommendation to the Village Council and that the applicant can present their arguments to the Council. Chairperson Johnson noted that there have already been two hearings before the Plan Commission. She added that the two-page letter could have been submitted earlier. She also noted that there are 5 ZBA members present tonight. Chairperson Johnson then asked Mr. D'Onofrio whether the property as a whole constituted a rear yard abutting a side yard or vice versa.

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

Chairperson Johnson then stated that another reason she could not recommend approval was because creating a rear yard abutting a side yard would negatively affect the character of the locality. 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 added that creating a lot with a rear yard abutting a side yard would negatively affect 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.

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Respectfully submitted,

Antionette Johnson

June 13, 2016

Dear Winnetka Village Council:

We understand that the application to subdivide 5 Indian Hill Road, and related multiple requests for variations, will be before you next Tuesday, June 21st.

We are owners of the surrounding properties who would be impacted.

We have previously opposed these applications/requests before the Winnetka Plan Commission and the Winnetka Zoning Board of Appeals. We have attached our statements in those matters for your convenience, as Exhibits A and B.

We offer the following additional comments, which include reference to the findings and recommendations of the two Village Commissions/Boards, both of which have recommended that the requested Subdivision application be denied.

Thank you for your consideration.

**I. THE RECOMMENDATION OF THE WINNETKA PLAN COMMISSION DESERVES TO BE FOLLOWED**

As you know, the Winnetka Plan Commission reviewed this issue at its meetings on October 21, 2015 and January 27, 2016. After that extensive review, the Plan Commission voted and recommended to the Village Council to deny the application for variance from Section 16.12.010(d) with regard to the side lot line abutting rear yard lot line requirement.

Respectfully, as referenced in the attached, we believe that this was and is the proper outcome. It is undisputed that the proposed Subdivision here would result in two side lot lines abutting rear lot lines. Section 16.12.010(D)(6) of the Village Code expressly states – in mandatory language -- that “No plan for any land subdivision shall be approved if it results in the creation of one or more lots having side lot lines abutting rear lot lines.”<sup>1</sup>

We have addressed in our attached statement the many reasons why the general exception language in Village Code Section 16.12.010(F) does not apply. See Exhibit A, attached. The Winnetka Plan Commission clearly agreed.

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<sup>1</sup> This Code section was passed in 1999. See Exhibit C, attached.

## **II. THE FINDINGS OF THE WINNETKA ZONING BOARD OF APPEALS DESERVE TO BE FOLLOWED**

It is also undisputed that the Subdivision request does not comply with the Village's Zoning Ordinance. The east lot does not meet the minimum lot depth requirement. The minimum lot depth requirement under the Winnetka Zoning Ordinance for this type of property (R-2) is 200 feet, and the proposed east lot is only 156.62 feet deep.

Under the Winnetka Zoning Ordinance, a variation shall not be granted unless there is an affirmative finding that each of eight conditions is met. The first three conditions include: (1) that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district; (2) that the plight of the owner is due to unique circumstances; and (3) that the variation, if granted, will not alter the essential character of the locality.

The Zoning Board of Appeals reviewed this issue at its meeting on March 14, 2016. The Applicant was represented by counsel who had every opportunity to convince the Zoning Board of Appeals that the required eight conditions were all present. After that extensive review, the Zoning Board of Appeals issued detailed findings that the Applicants had not satisfied not just one but all three of the first three requirements noted above. Specifically, the Zoning Board of Appeals found: (1) that the property in question can yield a reasonable return; (2) that the plight of the owner is not due to unique circumstances; and (3) that the variation, if granted, will alter the essential character of the locality.

## **III. HISTORICAL INFORMATION REGARDING OTHER SUBDIVISION REQUESTS FURTHER SUPPORTS YOUR DENIAL OF THIS PROPOSED SUBDIVISION**

In connection with the proceedings before the Plan Commission and the Zoning Board of Appeals, the Village's Assistant Director of Community Development prepared a report on November 12, 2015 addressing the extent to which the Village has considered other Subdivision requests which involved a variation from Subdivision and/or Zoning Ordinance standards.

We believe that the report shows the following which may be relevant to your review:

- Of 50 requested Subdivisions in the time period from January 1, 1990 to the present, 33 did not require any relief whatsoever.
- There was only one request, other than this one, which required both Subdivision and Zoning Ordinance relief. That request was denied.

- There is no history in this time period where the any Village body, including the Village Council, has approved a Subdivision that resulted in the creation of one or more lots having side lot lines abutting rear lot lines.
- Of the 17 requests for relief, only 10 have involved a request for a variation under the Winnetka Zoning Ordinance, and none of those have involved a property which did not meet the minimum depth requirement.
- A good number of these 10 requests for a zoning variation involved a consolidation of two properties into one, which is not a useful comparison here.
- Of the remaining requests for a zoning variation in connection with a Subdivision, the vast majority were either denied or withdrawn.<sup>2</sup>

As this historical data reveals and confirms, the Subdivision application before the Village Council is well beyond anything that has been approved. In addition to everything else noted above and in the attached, we believe that this historical data further supports denial of the Application.

Thank you for your consideration of these issues, which are very important to all of us.

Sincerely,

Dana and Laura Connell  
 ■ Indian Hill Road

Ernie and Janice MacVicar  
 ■ North Indian Hill Road

Dave and Karen Hawkins  
 ■ Indian Hill Road

Kevin and Barb Sheridan  
 ■ Indian Hill Road

Tom and Cindy Lillard  
 ■ Church Road

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<sup>2</sup> One of the very few requests for a variation in connection with a Subdivision that was granted involved a minimal nonconformity: the lot was deficient in lot width by 1/4 inch and lot area by 3.8 square feet (as compared to the substantial deficiency in minimum lot depth in this case).

Baird and Patrice Smart  
[REDACTED] Church Road

Jim and Connie Aslaksen  
[REDACTED] Church Road

November 11, 2015

Dear Winnetka Plan Commission:

Thank you for your Village service.

We write, as Village residents and owners of the surrounding properties, in connection with the up-coming meeting on November 18th regarding the application to subdivide 5 Indian Hill Road. Our opposition is well known, and many of us have written to the Plan Commission, or spoke at the last meeting on October 21. That requested Subdivision, of course, would create a flag lot on Church Road. We would be glad to speak further with respect to our objections not only with respect to that aspect, but also to the water/sewer issues in the past, the inevitable increase in impermeable surface, the impact on the neighborhood, and the impact on Winnetka.

We are writing today, however, to directly address the specific issues identified in the Agenda materials from the earlier meeting. We understand that these will likely be your focus in the meeting on November 18th.<sup>1</sup> We believe that the following information may be helpful to you in considering those issues, and in developing the written findings for recommending the denial of the Subdivision request.<sup>2</sup>

We note, at the outset, that we will not be addressing here the multiple zoning variances that have been requested by the Applicants. (See Agenda pp. 2-4). We understand that those would be addressed by the Winnetka Zoning Board of Appeals ("ZBA"). In the (unlikely, we hope) event that you were to approve this Subdivision request, we expect that you would condition that approval on approval from the ZBA, since under Section 16.12.010(D), "all lots created by any plan for land subdivision shall comply with all standards of the Zoning Ordinance."

#### I. THE BURDEN IS ON THE APPLICANT

We begin with the obvious: our understanding that the burden is on the Applicants to show that the Subdivision request should be granted.

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<sup>1</sup> We apologize for not realizing before the last meeting on October 21 that these Agenda materials were posted on the website, and for not realizing the specific issues on which you are focused.

<sup>2</sup> References herein to the Agenda materials refer to those from the October 21 meeting.

## **II. THE SUBDIVISION REQUEST IS NON-CONFORMING**

We note and emphasize that this Subdivision request does not fit within all the rules. There must be Subdivision requests that do – this is not one of them. We will proceed to discuss the various non-conforming issues presented by this particular Subdivision request.

## **III. THE SUBDIVISION WOULD RESULT IN SIDE LOT LINES ABUTTING REAR LOT LINES, IN DIRECT VIOLATION OF THE VILLAGE CODE**

First, the proposed Subdivision here would result in side lot lines abutting rear lot lines. This issue is referenced in the chart on Agenda p. 9 and discussed on p. 5.

### **A. Section 16.12.010(D)(6) Of The Village Code And Its “Shall Not” Wording**

Section 16.12.010(D)(6) of the Village Code expressly states that “No plan for any land subdivision shall be approved if it results in the creation of one or more lots having side lot lines abutting rear lot lines.” We note the mandatory nature of this language. We also note that this language applies throughout the Village of Winnetka, and is not limited to certain portions of the Village or property sizes. We read this language to mean that if the proposed subdivision would result in the creation of any lots having side lot lines abut rear lot lines, it must be denied.<sup>3</sup>

It is undisputed that the proposed Subdivision here would result in *two* side lot lines abutting rear lot lines. Therefore, pursuant to the mandatory wording of the Village Code, we believe the Subdivision request must be denied.

### **B. This Issue Presents Itself Not Just Within The Proposed Subdivision But Also Directly Impacts Adjoining Properties**

It is worth emphasizing here that the Subdivision request does not just create a “side lot lines abutting rear lot lines” situation as between what would be the Applicant’s two properties. It also creates that situation for two adjacent properties: the properties at 102 Church Road and 112 Church Road. If this Subdivision is granted, the Applicant’s new property will have a side yard (with lesser required setback than a backyard) that abuts the backyards of those two properties. That is exactly what Section 16.12.010(D)(6) was designed to prevent. Those property owners are joined here by their other neighbors in believing that their properties should not be impacted in that fashion.

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<sup>3</sup> Unless it falls within the narrowly-drawn high standards of the general exception in Section 16.010(F) of the Village Code, which we discuss herein in Section IV and its subparts.

**C. A Comparison To The Winnetka Historical Society Subdivision Emphasizes The Extent Of Non-Compliance Here**

The October Agenda materials reference a previous subdivision by the Winnetka Historical Society that was approved by the Village. The Agenda materials note that this was "felt to have disrupted a regular grid form of the neighborhood by placing structures closer to neighbors than had previously been permitted." (See p. 5).

We agree with that sentiment and encourage you to study the drawing of that property on page 6 of the Agenda materials and compare it to the present situation. In that case, the side lot lines of the newly-created property abut the rear lot line of the property from which it was created and the *side lot line* of the property next door. In the present case, it would be even worse: it is undisputed that one side lot line of the new Church road property would face the rear lot lines of 102 Church Road and 112 Church Road.

**IV. THE APPLICANTS HAVE FAILED TO PROVE THAT SECTION 16.010(F) WOULD APPLY TO CURE THIS DIRECT VILLAGE CODE VIOLATION**

As noted above in connection with the "Shall Not" language of 16.12.010(D)(6), there is only one exception built in the Village Code. That general exception language is contained in 16.12.010(F). That section provides as follows:

"Whenever the land to be subdivided is of such of unusual size or shape or is surrounded by such development or unusual conditions that the strict application of this section would result in real difficulties and substantial hardships or injustices, the Plan Commission may vary or modify such requirements so that the owner is allowed to develop the land in a reasonable manner; provided that, public health, safety, welfare and convenience are protected."

As discussed below, this exception is very narrowly drawn and creates a series of very high standards. If every word is considered, as they must be, it is clear that the Applicants have failed to establish that this exception should apply.

**A. The Applicants Have Failed To Show That The Property Is "of unusual size or shape or is surrounded by such development or unusual conditions that the strict application of [Section 16.12.010(d)(6)] would result in real difficulties and substantial hardships or injustices"**

The Applicants have not shown that they can meet this initial part of the exception. First, they have not shown that the property is of "such unusual size or shape," or that it is "surrounded by such development or unusual conditions."

The property is not of an unusual shape; it is rectangular. The property is also not of an unusual size. As noted above, Section 16.12.010(D)(6), with its "shall not" language, is not limited to only certain sizes of property, nor should it be.

Moreover, even if the Applicants could make the showing described above, they have not shown that any of the above would "result in real difficulties and substantial hardships or injustices." Words matter. In order to fit within the exception, the Applicants do not have to "just" prove a "difficulty" or a "hardship." They have to prove "real difficulties and substantial hardships or injustices." The inability to subdivide this property, with all of the issues it presents, clearly does not reach that high standard.

**B. Even If The Applicants Were Deemed To Have Met The High Standard Set Forth Above, The Plan Commission Should Still Deny This Request Based On The Wording Of Section 16.12.010(F)**

Even if the Applicants were able to make the showing described above in III-A, they still have not qualified for the exception set forth in Section 16.12.010(F). That provision goes on to state that, in that case, the Commission "may vary or modify such requirements so that the owner is allowed to develop the land in a reasonable manner; provided that, public health, safety, welfare and convenience are protected."

Thus, even if the showing in III-A above is made, the Commission can only "vary or modify" the requirement and only if the owner is developing the land in a "reasonable manner" and in doing so protects "public health, safety, welfare and convenience."

Again, words matter. Section 16.12.010(F) does not say that the Commission can *ignore* the "side lot lines abutting rear lot lines" requirement; it just says that it can "vary or modify" a zoning requirement if this showing is made. And it can only do so if the owner is developing the land in "a reasonable manner," which we do not believe is the case here, given all of the issues presented before the Plan Commission, the ZBA and otherwise. Finally, the protections of the public are an absolute requirement, and are not limited to "health and safety" but also include "welfare and convenience." There is no doubt that our welfare and convenience, as neighboring property owners, would be impacted by this Subdivision.

For all these reasons, the Applicants have not and cannot show that they have met the requirements for an exception to the "side lot lines abutting rear lot lines" requirement. Their request for this Subdivision should be denied.

V. IN ADDITION, THE APPLICANTS HAVE NOT MET THEIR BURDEN WITH RESPECT TO THE EXISTING ZONING NONCONFORMITIES UNDER SECTION 16.12.010(D) OF THE VILLAGE CODE

As the Agenda recognizes, the "side lot lines abutting rear lot lines" issue is not the only nonconformity before the Commission. Here, there are also a number of zoning nonconformities.

We will focus on these as they exist with respect to the existing home, depicted on page 3 of the Agenda materials. We encourage you to take a look at those materials. The existing residence is located with **5.2 feet** of the north lot line, when 50 feet is required. The two story structure there looms out over a brick wall. The garage, as well, is located with **3 inches** of the north lot line, when a 50 feet setback is required.

We assume that the burden on this point continues to rest with the Applicant and we leave it to the Plan Commission, if necessary, to determine if the Applicants have justified the continued existence of those structures as they relate to their desire for a Subdivision that none of us want. Have they shown that the existing nonconformities, in the context of the proposed Subdivision do not result in a material increased adverse impact upon the public health, safety or welfare?

Thank you for your consideration of these issues, which are very important to all of us.

Sincerely,

[Redacted]

[Redacted]

Dana and Laura Connell

Indian Hill Road

[Redacted]

Ernie and Janice MacVicar

North Indian Hill Road

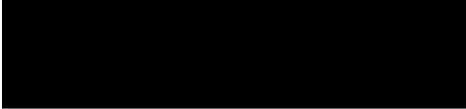
[Redacted]

Dave and Karen Hawkins

Indian Hill Road



Kevin and Barb Sheridan  
█ Indian Hill Road



Tom and Cindy Lillard  
█ Church Road



Baird and Patrice Smart  
█ Church Road



Jim and Connie Aslaksen  
█ Church Road

March 6, 2016

Re: Proposed Subdivision of 5 Indian Hill Road'

Dear Winnetka Zoning Board of Appeals:

We are Village residents and owners of the surrounding properties. We are writing to you to oppose the zoning Variation requested by the Applicant in connection with this Subdivision request. We are providing this to you before the up-coming meeting on March 14th.

In a related matter, the Winnetka Plan Commission voted on January 27, 2016 to recommend to the Village Council that the Applicant's application for a Subdivision be denied. In doing so, the Plan Commission recognized that the requested Subdivision violates the Winnetka Subdivision Ordinance, Village Code 16.12.10(D)(6), prohibiting the creation of lots (here, the "east lot") having side lot lines abutting rear lot lines.

It is our understating that the Application for Variation, as revised on February 19, 2016, is requesting a Variation from the Winnetka Zoning Ordinance because the east lot does not meet the minimum lot depth requirements.

We believe that the requested Variation is substantial. We also believe that the Applicant has failed to meet their burden of proving all of the eight elements required to show that the strict application of the zoning regulations of the Village of Winnetka would result in a "clearly demonstrated practical difficulty or particular hardship." For those reasons, we believe that the Zoning Board of Appeals should recommend to the Village Council that the application for this Variation be denied.<sup>1</sup>

#### **I. THE BURDEN IS ON THE APPLICANT**

We begin with the obvious: our understanding that the burden is on the Applicant to show that the zoning Variation should be granted.

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<sup>1</sup> We note that an additional means of non-compliance was initially noted; i.e., the proposed Subdivision's failure to meet the minimum rectangular buildable area requirements. Staff has apparently determined that the Application does not require relief from that standard. We are not in a position to agree/disagree with that Staff determination but assume that the Zoning Board of Appeals would review that Staff determination, if needed, before ever voting to grant the zoning Variation requested by the Applicant.

## **II. THE SUBDIVISION REQUEST VIOLATES THE WINNETKA ZONING ORDINANCE**

We note and emphasize that this proposed Subdivision does not comply with the Winnetka zoning ordinances. There are Subdivision requests that do – this is not one of them.

We will proceed to discuss the specific zoning Variation requested. As noted above, the “east lot” does not meet the minimum lot depth requirement. The requirement under the Winnetka Zoning Ordinance for this type of property (R-2) is that the minimum lot depth be 200 feet. The minimum lot of the proposed east lot is only 160.62 feet.

This is a significant variation from the Zoning Ordinance. The Applicant is requesting that they be allowed to “short” the minimum lot depth requirement by 39.38 feet. This is not just a few inches – this is *39.38 feet*. We believe this is a significant amount and should be viewed as such.

We note that it is this same lot – the “east lot” – which would have its side lot abut the neighbors' rear lots, which caused the Plan Commission to recommend to the Village Council that the Applicant's application for a Subdivision be denied.

## **III. THE APPLICANT HAS NOT PROVED THE EIGHT REQUIREMENTS UNDER THE WINNETKA ZONING ORDINANCE FOR A VARIATION**

As you know, under the Winnetka Zoning Ordinance, the Zoning Board of Appeals shall not recommend that the Village Council grant a variation unless the Zoning Board of Appeals makes an affirmative finding, based on evidence in the record or in a public document, that each of the following eight conditions is met in connection with the variation application:

1. that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district;
2. that the plight of the owner is due to unique circumstances;
3. that the variation, if granted, will not alter the essential character of the locality;
4. that an adequate supply of light and air to adjacent property will not be impaired;
5. that the hazard from fire and other damages to the property will not be increased;

6. that the taxable value of land and buildings throughout the Village will not diminish;

7. that the congestion in the public street will not increase; and

8. that the public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired.

Village Code 17.60.040(c) & 17.60.050.

The Application for Zoning Variation form used by the Village (see attached) clearly states that applications for variations “must provide evidence and explain in detail the manner wherein the strict application of the provisions of the regulations would result in a clearly demonstrated practical difficulty or particular hardship.” (Emphasis in original).

There have been three Applications for Variation filed in connection with this particular matter, the latest one filed on February 19, 2016. Respectfully, none of those Applications come close to meeting these eight requirements. Indeed, while the Applications are drafted to have a list of eight, they achieve that list by adding in other irrelevant facts or repeating some of the others to make it look like they have all eight covered. Notably, for example, the Applications themselves do not state that that the property cannot yield a reasonable return without the variation (the 1st requirement) and do not state that the plight of the owner is due to unique circumstances associated with the characteristics of the property in question (the 2nd requirement). And, as to all of the requirements, no evidence or specifics have been offered.

A case could easily be made here that none of the eight requirements have been met. We will focus for a moment below on three of the most obvious.

**A. The Applicant Has Not Satisfied the First Requirement, that the Property In Question Can Not Yield a Reasonable Return**

The first of the eight requirements is that “[t]he property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.”

As noted above, the Application and its “list of eight” does not even claim that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.

This requirement is not met here. The property is for sale for \$4,995,000 and can yield a reasonable return.

We note here that a desire to maximize the Applicant's return on the property does not meet this requirement. The Village application packet for zoning variations contains a page called "General Findings Upon Which Zoning Variations Have Been Denied." (See attached). That page notes that the burden rests with the applicant and that "personal convenience or preference" and/or a belief that the "property will be more readily saleable or could be sold at a higher price" do not constitute a practical difficulty or particular hardship which will justify the granting of a variation.

**B. The Applicant Has Not Satisfied the Second Requirement, that the Plight of the Owner is Due to Unique Circumstances**

The second of the eight requirements is that "[t]he plight of the owner is due to unique circumstances" which are associated with the property.

As noted above, the Application and its "list of eight" does not even claim that the plight of the owner is due to unique circumstances associated with the property.

The application, at most, seems to claim that the designation of the north side of the property as the "front" of the house causes the lot to "work against the zoning code" and causes the significant shortage on the minimum lot depth requirement.

Respectfully, this does not meet this second requirement. We have zoning laws for a reason. The property as it currently exists, without being subdivided, and accounting for the multiple variations on the property which have previously been granted, does not violate the zoning code. The only "plight" here is directly caused by the owners' desire to subdivide the property, which we cannot believe would meet this requirement.

**C. The Applicant Has Not Satisfied the Third Requirement, that the Variation Will Not Alter the Essential Character of the Locality**

In the Application, the Applicant states that the Variation, if granted, will not alter the essential character of the locality. They offer no specifics and no proof to back up that claim.

As neighbors, we have no doubt that chopping up this property, which is currently consistent with other large properties facing onto the Indian Hill Club golf course, would alter the essential character of the locality. We also believe that squeezing another house into the east lot, on a property that does not come close to meeting the minimum lot depth requirement and would also create a side lot facing some of our rear lots, would alter the essential character of the locality.

For all these reasons, we believe that the Applicant has not met their burden on the eight requirements and the Zoning Board of Appeals should recommend to the Village Council that the application for this Variance be denied.

### **III. HISTORICAL INFORMATION REGARDING OTHER SUBDIVISION REQUESTS FURTHER SUPPORTS THE DENIAL OF THE REQUEST FOR VARIATION**

In connection with the proceedings before the Plan Commission, the Village's Assistant Director of Community Development prepared a report on November 12, 2015 addressing the extent to which the Village has considered other Subdivision requests which involved a variation from Subdivision and/or Zoning Ordinance standards. We assume that you will also have access to that information.

We believe that the report shows the following relevant to this request for Variation:

1. Of 50 requested Subdivisions in the time period from January 1, 1990 to the present, 33 did not require any relief.
2. Of the 17 requests for relief, only 10 have involved a request for a variance under the Winnetka Zoning Ordinance.
3. Of the 10 requests for a variance in connection with a Subdivision, none have involved a property which did not meet the minimum depth requirement.
4. A good number of these 10 requests for a variance involved a consolidation of two properties into one, which is not a useful comparison here.
5. There was only one request, other than this one, which required both Subdivision and Zoning Ordinance relief. That request was denied.
6. Of the remaining requests for variance in connection with a Subdivision, the vast majority were either denied or withdrawn.
7. One of the very few requests for a variation in connection with a Subdivision that was granted involved a minimal nonconformity: the lot was deficient in lot width by 1/4 inch and lot area by 3.8 square feet (as compared to the 39.38 feet deficiency in minimum lot depth in this case).

We believe that this historical data further supports a recommendation to the Village Council that the Application for this Variation be denied.

Thank you for your consideration of these issues, which are very important to all of us.

Sincerely,

[Redacted]

[Redacted]

Dana and Laura Connell  
Indian Hill Road

[Redacted]

Ernie and Janice MacVicar  
North Indian Hill Road

[Redacted]

[Redacted]

Dave and Karen Hawkins  
Indian Hill Road

[Redacted]

[Redacted]

Kevin and Barb Sheridan  
Indian Hill Road

[Redacted]

[Redacted]

Tom and Cindy Lillard  
Church Road

[Redacted]

[Redacted]

Baird and Patrice Smart  
Church Road



Jim and Connie Aslaksen  
Church Road

<b>ZBA</b>	<b>VILLAGE OF WINNETKA, ILLINOIS</b> <b>DEPARTMENT OF COMMUNITY DEVELOPMENT</b>  <b>APPLICATION FOR</b> <b>ZONING VARIATION</b>
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It is recommended that all variation requests be discussed with village staff prior to submittal. Prior to submittal of an application for variation, the applicant, architect and other project representatives should direct attention to the Standards for Granting of Zoning Variations on page 4.

Only completed variation applications will be accepted. Application deadlines and meeting dates are listed below. All Zoning Board of Appeals (ZBA) hearings are held on the 2<sup>nd</sup> Monday of each month.

<b>Zoning Board Regular</b>			
<u>Application Deadline</u>	<u>Meeting Dates</u>	<u>Application Deadline</u>	<u>Meeting Dates</u>
December 11, 2013	January 13, 2014	December 10, 2014	January 12, 2015
January 8, 2014	February 10, 2014	January 7, 2015	February 9, 2015
February 5, 2014	March 10, 2014	February 4, 2015	March 9, 2015
March 12, 2014	April 14, 2014	March 11, 2015	April 13, 2015
April 9, 2014	May 12, 2014	April 8, 2015	May 11, 2015
May 7, 2014	June 9, 2014	May 6, 2015	June 8, 2015
June 11, 2014	July 14, 2014	June 10, 2015	July 13, 2015
July 9, 2014	August 11, 2014	July 8, 2015	August 10, 2015
August 6, 2014	September 8, 2014	August 12, 2015	September 14, 2015
September 10, 2014	October 13, 2014	September 9, 2015	October 12, 2015
October 8, 2014	November 10, 2014	October 7, 2015	November 9, 2015
November 5, 2014	December 8, 2014	November 11, 2015	December 14, 2015

1. A maximum of five zoning requests will be considered at each hearing. Submittal by the application deadline does not assure placement on the next agenda, therefore it is recommended that applications be submitted as soon as they are complete rather than waiting until the deadline.
2. Questions regarding upcoming meeting calendars and schedule availability may be directed to the Dept. of Community Development Administrative Assistant at 847.716.3527.
3. 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.
4. There are three types of variations, minor, standard and major. Minor variations are considered by the Zoning Administrator, standard variations are considered by the ZBA and major variations are considered by both the ZBA and Village Council. Minor and standard variations require one meeting before either the Zoning Administrator or the ZBA. Major variations require one meeting before the ZBA and two before the Village Council. Following submittal of a variation application village staff will inform you as to the type of variation you will be required to obtain.

**ZONING BOARD OF APPEALS  
APPLICATION REQUIREMENTS**

- \_\_\_\_\_ 1. Proof of ownership (in the form of a deed) and owner signature on application.

NOTE: Applications involving property held by a **land trust** must be signed as the owner of the property by the trust officer of the institution holding the trust as the owner of the property. The trust beneficiary(ies) and their current address(es) must be disclosed on the application form. The application must also be accompanied by a Certified copy of the Trust Agreement and a letter from the trustee certifying that the beneficiary (ies) shown on the application are correct and disclosing any beneficiary changes or lack thereof during the 12 months immediately preceding the filing of this application. Applications by contract purchasers must be accompanied by a copy of an executed contract and letter of authorization from property owner, in addition to above described proof of ownership.

- \_\_\_\_\_ 2. One copy of completed Lot Coverage and Gross Floor Area Calculation worksheet (attached).

- \_\_\_\_\_ 3. One (1) full size copy with complete and thorough dimensions [not reduced or enlarged] and one (1) set of reduced copies (8½" x 11") of the following:

**A. Existing Conditions/Plans**

- i. Plat of Survey. The plat must be an original survey (or complete and legible copy), prepared by an Illinois licensed land surveyor. The plat must be current, showing all improvements as they currently exist. In no case may a plat of survey be more than five (5) years old. The plat must show the lot area, legal description and all current improvements on the property. **Note: building permit requirements have separate more stringent survey requirements, including requirements for topographic information.**
- ii. Floor Plans. The floor plans must be fully dimensioned and show all levels of the structure or structures on the property and all rooms must be fully dimensioned. This information is also used to verify calculation worksheets.
- iii. Exterior Elevations. Elevations must be provided of the existing elevations that will be changing. All elevations must be fully dimensioned.

**B. Proposed Changes**

- i. Site Plan. Show and dimension all proposed additions and/or new structures. Provide dimensioned site plan, showing proximity of improvements to all adjacent property lines.
- ii. Floor Plans. Provide fully dimensioned floor plans of all levels of the structure where changes are proposed.
- iii. Exterior Elevations. Provide drawings of all elevations that are proposed to change. All elevations must be fully dimensioned.

**NOTE:** Limit one building detail, plan or image per page on reduced copies. All copies must be legible. 8 ½" x 11" reductions should maintain a scale of no less than 1/8" to assure legibility. Applications which are incomplete or illegible may be delayed and/or rejected.

- \_\_\_\_\_ 4. Minimum \$250 Filing Fee, payable to the Village of Winnetka. Final fee will be established upon complete review of application by village staff, with any balance due prior to initial hearing. Fee Schedule is as follows: Minor Variation - \$250; Standard Variation - \$400; and, Major Variation - \$800. (The Filing Fee covers the cost of publishing the legal notice, conducting a zoning analysis, preparation of agenda reports and writing of ordinances).

- \_\_\_\_\_ 5. Address the "Standards for Granting of Zoning Variations. (See page 4).

CASE NO. \_\_\_\_\_

**APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS**

**Owner Information:**

Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Home and Work Telephone Number: \_\_\_\_\_

Fax and E-mail: \_\_\_\_\_

**Architect Information: Name, Address, Telephone, Fax & E-mail:**

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

**Attorney Information: Name, Address, Telephone, Fax & E-mail:**

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

Date Property Acquired by Owner: \_\_\_\_\_

Nature of Any Restrictions on Property: \_\_\_\_\_

\_\_\_\_\_

Explanation of Variation Requested: \_\_\_\_\_  
(Attach separate sheet if necessary)

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

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

(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.**

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN DENIED**

Failure to prove a practical difficulty or particular hardship requires a denial of a variation request. The burden of proving such difficulty or hardship rests with the applicant.

The following do not constitute a practical difficulty or a particular hardship which justify the granting of a variation:

1. The appearance of the property or neighborhood will be improved;
2. Personal convenience or preference;
3. The property will be more readily saleable or could be sold at a higher price;
4. A physical disability or handicap pertaining to a family member;
5. An increase in the size of a family, the number of people living in the house, or the age of a family member;
6. Lack of awareness of a particular zoning provision;
7. Practical alternatives exist to the proposed request or the proposed improvement(s) can be placed in a conforming location;
8. The fact that neighbors do not object or are in favor of the variation request;
9. The hardship was created by how the property has been developed over time; or
10. It will be more expensive to comply with the zoning ordinance;

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN APPROVED**

The following may constitute a practical difficulty or particular hardship, which can serve as the basis for the granting of a variation:

1. Irregular lot shape or topography;
2. The presence of three or more street frontages;
3. Correction of an existing code deficiency;
4. Although a conforming location for an addition to a building exists, a nonconforming location is preferable from a Village Policy standpoint (e.g. a conforming location will require removal of significant trees that are protected under the Village's Tree Ordinance);
5. There is an existing legal nonconformity of a minimal degree, the proposed improvement requires the formalizing of the nonconformity without increasing the degree of nonconformity, the proposed improvement will enhance the utility and value of the property within the context of the established neighborhood, and there is no economically viable alternative that will cure the nonconformity (e.g., the house pre-dates the original zoning ordinance and encroaches 1 foot into the front yard, the owner proposes to extend the second floor to align the first floor to create a master suite, the proposed improvements are still within the FAR limitations and the only way to cure the nonconformity is to demolish the house and build anew); or
6. The lack of an available alternative where the degree of the existing legal nonconformity will not be increase and additional nonconformities will not be created.

1999

**ORDINANCE NO. MC-216-99**

**AN ORDINANCE AMENDING CHAPTERS 21 AND 22 OF THE WINNETKA VILLAGE CODE AS IT PERTAINS TO CERTAIN SUBDIVISIONS**

**WHEREAS**, as part of the process of developing a new comprehensive plan, professional planners retained by the Village have identified more than 200 lots which, based solely on their lot areas, could potentially be subdivided into at least two new lots; and

**WHEREAS**, the minimum lot width and lot area requirements for all single family residential zoning districts are such that they encourage and, in fact result in, the development of lots that are substantially longer than they are wide; and

**WHEREAS**, it is mathematically feasible for oversized lots that are long and narrow to be subdivided by drawing a line across the width of the lot, which results in lots that are relatively square rather than rectangular; and

**WHEREAS**, when interior lots are subdivided in this fashion, they result in the creation of flag lots, which are defined in Section 22.04 of the Winnetka Zoning Ordinance; and

**WHEREAS**, on October 7, 1997, the Council of the Village of Winnetka enacted Ordinance MC-180-97, which discourages the creation of flag lots and the negative impact that the Council found such lots have on the public health, safety and welfare, by excluding the “flagpole” portion of flag lots from the calculation of floor area ratio; and

**WHEREAS**, the Council of the Village of Winnetka have determined that recent requests to subdivide oversize corner lots into relatively square lots reflect some of the same negative characteristics of flag lots, in that they increase the density of development in the immediate vicinity, add more visible building bulk, reduce open space, and cut off light, air and privacy in rear yards that once abutted the side lot line along a rear yard; and

**WHEREAS**, the Council of the Village of Winnetka have further determined that such subdivisions of corner lots have other negative impacts both in the immediate neighborhoods and in overall land use patterns in the Village, in that creating a new lot at the rear of a corner lot creates a new block face of a single front yard flanked by corner (side) yards and by new setback requirements for adjoining lots by placing side yards abutting rear yards; and

**WHEREAS**, the placement of side yards abutting rear yards is not favored by American Planning Association’s site planning recommendations; and

**WHEREAS**, on January 5, 1999, on due notice thereof, the Council of the Village of Winnetka, sitting as a committee of the whole, conducted a public hearing on proposed amendments to the Winnetka Zoning Ordinance that would discourage two lot subdivisions that result in square or box shaped lots and have determined that discouraging such subdivisions is in the best interests of the health, safety and welfare of the Village of Winnetka and its residents.

**NOW, THEREFORE**, the Council of the Village of Winnetka do ordain:

**EXHIBIT C**

**SECTION 1** : That the foregoing recitals are hereby adopted as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2**: Subsection (d) of Section 22.05, “A-1 (One-Sixth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(d) Lot Area. No building shall be erected in this district on any interior lot having a lot area of less than 8,400 square feet, or on any corner lot having a lot area of less than 8,900 square feet. All lots shall be of sufficient shape and size for a minimum of 5,445 square feet of the lot area to be contained within rectangular borders with a minimum dimension of 55 feet along any one side of the rectangle. At least 20 percent of the area of any lot shall be contiguous tableland contained within the buildable area of the lot.

**SECTION 3**: Subsection (e) of Section 22.05, “A-1 (One-Sixth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(e) Width of Lot. No building shall be erected upon any interior lot that has an average width of less than 60 feet, an absolute width of less than 20 feet at the front street line or an absolute width of less than 60 feet measured along a horizontal line between points on the side lines of the lot at a distance of 45 feet from the front line (street line). No building shall be erected upon any corner lot that has an average lot width of less than 70 feet.

**SECTION 4**: Section 22.05, “A-1 (One-Sixth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended by adding a new subsection (p), which shall provide as follows:

(p) Lot Depth. No building shall be erected in this district on any lot having a lot depth of less than 120 feet.

**SECTION 5**: Subsection (d) of Section 22.05A, “A-5 (One-Fourth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(d) Lot Area. No building shall be erected in this district on any interior lot having a lot area of less than 12,600 square feet, or on any corner lot having a lot area of less than 13,300 square feet. All lots shall be of sufficient shape and size for a minimum of 5,445 square feet of the lot area to be contained within rectangular borders with a minimum dimension of 55 feet along any one side of the rectangle. At least 20 percent of the area of any lot shall be contiguous tableland contained within the buildable area of the lot.

**SECTION 6**: Subsection (e) of Section 22.05A, “A-5 (One-Fourth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(e) Width of Lot. No building shall be erected upon any interior lot that has an average width of less than 60, absolute width of less than 20 feet at the front street line or an absolute width of less than 60 feet measured along a horizontal line between points on the side lines of the lot at a distance of 45 feet from the front lot line (street line). No building shall be erected upon any corner lot that has an average lot width of less than 70 feet.

**SECTION 7**: Section 22.05A, “A-5 (One-Fourth Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is

amended by adding a new subsection (p), which shall provide as follows:

(p) Lot Depth. No building shall be erected in this district on any lot having a lot depth of less than 120 feet.

**SECTION 8:** Subsection (d) of Section 22.06, “A-2 (One-Third Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(d) Lot Area. No building shall be erected in this district on any interior lot having a lot area of less than 16,000 square feet, or on any corner lot having a lot area of less than 16,800 square feet. All lots shall be of sufficient shape and size for a minimum of 10,890 square feet of the lot area to be contained within rectangular borders with a minimum dimension of 65 feet along any one side of the rectangle. At least 20 percent of the area of any lot shall be contiguous tableland located within the buildable area of the lot.

**SECTION 9:** Subsection (e) of Section 22.06, “A-2 (One-Third Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(e) Width of Lot. No building shall be erected upon any interior lot that has an average width of less than 75 feet or an absolute width of less than 20 feet at the front street line. No building shall be erected upon any corner lot that has an average lot width of less than 85 feet.

**SECTION 10:** Section 22.06, “A-2 (One-Third Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended by adding a new subsection (o), which shall provide as follows:

(o) Lot Depth. No building shall be erected in this district on any lot having a lot depth of less than 150 feet.

**SECTION 11:** Subsection (d) of Section 22.07, “A-3 (One-Half Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(d) Lot Area. No building shall be erected in this district on any interior lot having a lot area of less than 24,000 square feet, or on any corner lot having a lot area of less than 28,200 square feet. All lots shall be of sufficient shape and size for a minimum of 16,335 square feet of the lot area to be contained within rectangular borders with a minimum dimension of 90 feet along any one side of the rectangle. At least 20 percent of the area of any lot shall be contiguous tableland located within the buildable area of the lot.

**SECTION 12:** Subsection (e) of Section 22.07, “A-3 (One-Half Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(e) Width of Lot. No building shall be erected upon any interior lot that has an average width of less than 100 feet or an absolute width of less than 20 feet at the front street line. No building shall be erected upon any corner lot that has an average lot width of less than 115 feet.

**SECTION 13:** Section 22.07, “A-3 (One-Half Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended by adding a new subsection (o), which shall provide as follows:

(o) Lot Depth. No building shall be erected in this district on any lot having a lot depth of less

than 200 feet.

**SECTION 14:** Subsection (d) of Section 22.07A, “A-4 (One Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(d) Lot Area. No building shall be erected in this district on any interior lot having a lot area of less than 48,000 square feet or on any corner lot having a lot area of less than 50,400 square feet; except that any special use permitted under paragraph 2 of subsection (b) above shall have a minimum lot area of not less than 5 acres.

**SECTION 15:** Subsection (e) of Section 22.07A, “A-4 (One Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended to provide as follows:

(e) Width of Lot. No building shall be erected upon any lot that has an average width of less than 150 feet or an absolute width of less than 20 feet at the front street line; except that any special use permitted under paragraph 2 of subsection (b) above shall have an average width of not less than 300 feet.

**SECTION 16:** Section 22.07A, “A-4 (One Acre) Single-Family Residential District Regulations” of the Winnetka Zoning Ordinance, Chapter 22 of the Winnetka Village Code, is amended by adding a new subsection (p), which shall provide as follows:

(p) Lot Depth. No building shall be erected in this district on any lot having a lot depth of less than 300 feet.

**SECTION 17:** Subsection (d) of Section 21.07, “Minimum Land Subdivision Standards,” of Chapter 21 of the Winnetka Village Code, “Land Subdivisions,” is amended by adding a paragraph, which shall be paragraph 5 and shall provide as follows:

5. No plan for any land subdivision shall be approved if it results in the creation of one or more lots having side lot lines abutting rear lot lines.

**SECTION 18:** This Ordinance shall take effect immediately upon passage, approval and posting.

**ADOPTED** this 19th day of January, 1999, pursuant to the following roll call vote:

AYES: Trustees Darning, Duhl, Lanphier, Lien and Meuer

NAYS: None

ABSENT: Trustee Hilton

Signed:

s/s Louise A. Holland

Village President

Countersigned:

s/s Douglas G. Williams

Village Clerk

Introduced: January 5, 1999

Posted: January 6, 1999

Passed and Approved: January 19, 1999

Posted: January 20, 1999

CHRISTINE ROBB

3/23/16

To Village Council of Winnetka -

I support the subdivision request  
for 5 Indian Hill.

As a resident on the road I see  
no problem with this subdivision

Sincerely,

Agenda Packet p.171

Chris and Bill Robb

March 6, 2016

Re: Proposed Subdivision of 5 Indian Hill Road'

Dear Winnetka Zoning Board of Appeals:

We are Village residents and owners of the surrounding properties. We are writing to you to oppose the zoning Variation requested by the Applicant in connection with this Subdivision request. We are providing this to you before the up-coming meeting on March 14th.

In a related matter, the Winnetka Plan Commission voted on January 27, 2016 to recommend to the Village Council that the Applicant's application for a Subdivision be denied. In doing so, the Plan Commission recognized that the requested Subdivision violates the Winnetka Subdivision Ordinance, Village Code 16.12.10(D)(6), prohibiting the creation of lots (here, the "east lot") having side lot lines abutting rear lot lines.

It is our understating that the Application for Variation, as revised on February 19, 2016, is requesting a Variation from the Winnetka Zoning Ordinance because the east lot does not meet the minimum lot depth requirements.

We believe that the requested Variation is substantial. We also believe that the Applicant has failed to meet their burden of proving all of the eight elements required to show that the strict application of the zoning regulations of the Village of Winnetka would result in a "clearly demonstrated practical difficulty or particular hardship." For those reasons, we believe that the Zoning Board of Appeals should recommend to the Village Council that the application for this Variation be denied.<sup>1</sup>

## **I. THE BURDEN IS ON THE APPLICANT**

We begin with the obvious: our understanding that the burden is on the Applicant to show that the zoning Variation should be granted.

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<sup>1</sup> We note that an additional means of non-compliance was initially noted; i.e., the proposed Subdivision's failure to meet the minimum rectangular buildable area requirements. Staff has apparently determined that the Application does not require relief from that standard. We are not in a position to agree/disagree with that Staff determination but assume that the Zoning Board of Appeals would review that Staff determination, if needed, before ever voting to grant the zoning Variation requested by the Applicant.

## **II. THE SUBDIVISION REQUEST VIOLATES THE WINNETKA ZONING ORDINANCE**

We note and emphasize that this proposed Subdivision does not comply with the Winnetka zoning ordinances. There are Subdivision requests that do – this is not one of them.

We will proceed to discuss the specific zoning Variation requested. As noted above, the “east lot” does not meet the minimum lot depth requirement. The requirement under the Winnetka Zoning Ordinance for this type of property (R-2) is that the minimum lot depth be 200 feet. The minimum lot of the proposed east lot is only 160.62 feet.

This is a significant variation from the Zoning Ordinance. The Applicant is requesting that they be allowed to “short” the minimum lot depth requirement by 39.38 feet. This is not just a few inches – this is *39.38 feet*. We believe this is a significant amount and should be viewed as such.

We note that it is this same lot – the “east lot” – which would have its side lot abut the neighbors' rear lots, which caused the Plan Commission to recommend to the Village Council that the Applicant's application for a Subdivision be denied.

## **III. THE APPLICANT HAS NOT PROVED THE EIGHT REQUIREMENTS UNDER THE WINNETKA ZONING ORDINANCE FOR A VARIATION**

As you know, under the Winnetka Zoning Ordinance, the Zoning Board of Appeals shall not recommend that the Village Council grant a variation unless the Zoning Board of Appeals makes an affirmative finding, based on evidence in the record or in a public document, that each of the following eight conditions is met in connection with the variation application:

1. that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district;
2. that the plight of the owner is due to unique circumstances;
3. that the variation, if granted, will not alter the essential character of the locality;
4. that an adequate supply of light and air to adjacent property will not be impaired;
5. that the hazard from fire and other damages to the property will not be increased;

6. that the taxable value of land and buildings throughout the Village will not diminish;

7. that the congestion in the public street will not increase; and

8. that the public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired.

Village Code 17.60.040(c) & 17.60.050.

The Application for Zoning Variation form used by the Village (see attached) clearly states that applications for variations “must provide evidence and explain in detail the manner wherein the strict application of the provisions of the regulations would result in a clearly demonstrated practical difficulty or particular hardship.” (Emphasis in original).

There have been three Applications for Variation filed in connection with this particular matter, the latest one filed on February 19, 2016. Respectfully, none of those Applications come close to meeting these eight requirements. Indeed, while the Applications are drafted to have a list of eight, they achieve that list by adding in other irrelevant facts or repeating some of the others to make it look like they have all eight covered. Notably, for example, the Applications themselves do not state that that the property cannot yield a reasonable return without the variation (the 1st requirement) and do not state that the plight of the owner is due to unique circumstances associated with the characteristics of the property in question (the 2nd requirement). And, as to all of the requirements, no evidence or specifics have been offered.

A case could easily be made here that none of the eight requirements have been met. We will focus for a moment below on three of the most obvious.

**A. The Applicant Has Not Satisfied the First Requirement, that the Property In Question Can Not Yield a Reasonable Return**

The first of the eight requirements is that “[t]he property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.”

As noted above, the Application and its “list of eight” does not even claim that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.

This requirement is not met here. The property is for sale for \$4,995,000 and can yield a reasonable return.

We note here that a desire to maximize the Applicant's return on the property does not meet this requirement. The Village application packet for zoning variations contains a page called "General Findings Upon Which Zoning Variations Have Been Denied." (See attached). That page notes that the burden rests with the applicant and that "personal convenience or preference" and/or a belief that the "property will be more readily saleable or could be sold at a higher price" do not constitute a practical difficulty or particular hardship which will justify the granting of a variation.

**B. The Applicant Has Not Satisfied the Second Requirement, that the Plight of the Owner is Due to Unique Circumstances**

The second of the eight requirements is that "[t]he plight of the owner is due to unique circumstances" which are associated with the property.

As noted above, the Application and its "list of eight" does not even claim that the plight of the owner is due to unique circumstances associated with the property.

The application, at most, seems to claim that the designation of the north side of the property as the "front" of the house causes the lot to "work against the zoning code" and causes the significant shortage on the minimum lot depth requirement.

Respectfully, this does not meet this second requirement. We have zoning laws for a reason. The property as it currently exists, without being subdivided, and accounting for the multiple variations on the property which have previously been granted, does not violate the zoning code. The only "plight" here is directly caused by the owners' desire to subdivide the property, which we cannot believe would meet this requirement.

**C. The Applicant Has Not Satisfied the Third Requirement, that the Variation Will Not Alter the Essential Character of the Locality**

In the Application, the Applicant states that the Variation, if granted, will not alter the essential character of the locality. They offer no specifics and no proof to back up that claim.

As neighbors, we have no doubt that chopping up this property, which is currently consistent with other large properties facing onto the Indian Hill Club golf course, would alter the essential character of the locality. We also believe that squeezing another house into the east lot, on a property that does not come close to meeting the minimum lot depth requirement and would also create a side lot facing some of our rear lots, would alter the essential character of the locality.

For all these reasons, we believe that the Applicant has not met their burden on the eight requirements and the Zoning Board of Appeals should recommend to the Village Council that the application for this Variance be denied.

### **III. HISTORICAL INFORMATION REGARDING OTHER SUBDIVISION REQUESTS FURTHER SUPPORTS THE DENIAL OF THE REQUEST FOR VARIATION**

In connection with the proceedings before the Plan Commission, the Village's Assistant Director of Community Development prepared a report on November 12, 2015 addressing the extent to which the Village has considered other Subdivision requests which involved a variation from Subdivision and/or Zoning Ordinance standards. We assume that you will also have access to that information.

We believe that the report shows the following relevant to this request for Variation:

1. Of 50 requested Subdivisions in the time period from January 1, 1990 to the present, 33 did not require any relief.
2. Of the 17 requests for relief, only 10 have involved a request for a variance under the Winnetka Zoning Ordinance.
3. Of the 10 requests for a variance in connection with a Subdivision, none have involved a property which did not meet the minimum depth requirement.
4. A good number of these 10 requests for a variance involved a consolidation of two properties into one, which is not a useful comparison here.
5. There was only one request, other than this one, which required both Subdivision and Zoning Ordinance relief. That request was denied.
6. Of the remaining requests for variance in connection with a Subdivision, the vast majority were either denied or withdrawn.
7. One of the very few requests for a variation in connection with a Subdivision that was granted involved a minimal nonconformity: the lot was deficient in lot width by 1/4 inch and lot area by 3.8 square feet (as compared to the 39.38 feet deficiency in minimum lot depth in this case).

We believe that this historical data further supports a recommendation to the Village Council that the Application for this Variation be denied.

Thank you for your consideration of these issues, which are very important to all of us.

Sincerely,

[Redacted]

[Redacted]

Dana and Laura Connell  
Indian Hill Road

[Redacted]

Ernie and Janice MacVicar  
North Indian Hill Road

[Redacted]

[Redacted]

Dave and Karen Hawkins  
Indian Hill Road

[Redacted]

[Redacted]

Kevin and Barb Sheridan  
Indian Hill Road

[Redacted]

[Redacted]

Tom and Cindy Lillard  
Church Road

[Redacted]

[Redacted]

Baird and Patrice Smart  
Church Road

[REDACTED]

Jim and Connie Aslaksen  
[REDACTED] Church Road

**ZBA****VILLAGE OF WINNETKA, ILLINOIS  
DEPARTMENT OF COMMUNITY DEVELOPMENT****APPLICATION FOR  
ZONING VARIATION**

It is recommended that all variation requests be discussed with village staff prior to submittal. Prior to submittal of an application for variation, the applicant, architect and other project representatives should direct attention to the Standards for Granting of Zoning Variations on page 4.

Only completed variation applications will be accepted. Application deadlines and meeting dates are listed below. All Zoning Board of Appeals (ZBA) hearings are held on the 2<sup>nd</sup> Monday of each month.

<b>Zoning Board Regular</b>			
<u>Application Deadline</u>	<u>Meeting Dates</u>	<u>Application Deadline</u>	<u>Meeting Dates</u>
December 11, 2013	January 13, 2014	December 10, 2014	January 12, 2015
January 8, 2014	February 10, 2014	January 7, 2015	February 9, 2015
February 5, 2014	March 10, 2014	February 4, 2015	March 9, 2015
March 12, 2014	April 14, 2014	March 11, 2015	April 13, 2015
April 9, 2014	May 12, 2014	April 8, 2015	May 11, 2015
May 7, 2014	June 9, 2014	May 6, 2015	June 8, 2015
June 11, 2014	July 14, 2014	June 10, 2015	July 13, 2015
July 9, 2014	August 11, 2014	July 8, 2015	August 10, 2015
August 6, 2014	September 8, 2014	August 12, 2015	September 14, 2015
September 10, 2014	October 13, 2014	September 9, 2015	October 12, 2015
October 8, 2014	November 10, 2014	October 7, 2015	November 9, 2015
November 5, 2014	December 8, 2014	November 11, 2015	December 14, 2015

1. A maximum of five zoning requests will be considered at each hearing. Submittal by the application deadline does not assure placement on the next agenda, therefore it is recommended that applications be submitted as soon as they are complete rather than waiting until the deadline.
2. Questions regarding upcoming meeting calendars and schedule availability may be directed to the Dept. of Community Development Administrative Assistant at 847.716.3527.
3. 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.
4. There are three types of variations, minor, standard and major. Minor variations are considered by the Zoning Administrator, standard variations are considered by the ZBA and major variations are considered by both the ZBA and Village Council. Minor and standard variations require one meeting before either the Zoning Administrator or the ZBA. Major variations require one meeting before the ZBA and two before the Village Council. Following submittal of a variation application village staff will inform you as to the type of variation you will be required to obtain.

**ZONING BOARD OF APPEALS  
APPLICATION REQUIREMENTS**

- \_\_\_\_\_1. Proof of ownership (in the form of a deed) and owner signature on application.

NOTE: Applications involving property held by a **land trust** must be signed as the owner of the property by the trust officer of the institution holding the trust as the owner of the property. The trust beneficiary(ies) and their current address(es) must be disclosed on the application form. The application must also be accompanied by a Certified copy of the Trust Agreement and a letter from the trustee certifying that the beneficiary (ies) shown on the application are correct and disclosing any beneficiary changes or lack thereof during the 12 months immediately preceding the filing of this application. Applications by contract purchasers must be accompanied by a copy of an executed contract and letter of authorization from property owner, in addition to above described proof of ownership.

- \_\_\_\_\_2. One copy of completed Lot Coverage and Gross Floor Area Calculation worksheet (attached).

- \_\_\_\_\_3. One (1) full size copy with complete and thorough dimensions [not reduced or enlarged] and one (1) set of reduced copies (8½" x 11") of the following:

**A. Existing Conditions/Plans**

- i. Plat of Survey. The plat must be an original survey (or complete and legible copy), prepared by an Illinois licensed land surveyor. The plat must be current, showing all improvements as they currently exist. In no case may a plat of survey be more than five (5) years old. The plat must show the lot area, legal description and all current improvements on the property. **Note: building permit requirements have separate more stringent survey requirements, including requirements for topographic information.**
- ii. Floor Plans. The floor plans must be fully dimensioned and show all levels of the structure or structures on the property and all rooms must be fully dimensioned. This information is also used to verify calculation worksheets.
- iii. Exterior Elevations. Elevations must be provided of the existing elevations that will be changing. All elevations must be fully dimensioned.

**B. Proposed Changes**

- i. Site Plan. Show and dimension all proposed additions and/or new structures. Provide dimensioned site plan, showing proximity of improvements to all adjacent property lines.
- ii. Floor Plans. Provide fully dimensioned floor plans of all levels of the structure where changes are proposed.
- iii. Exterior Elevations. Provide drawings of all elevations that are proposed to change. All elevations must be fully dimensioned.

**NOTE:** Limit one building detail, plan or image per page on reduced copies. All copies must be legible. 8 ½" x 11" reductions should maintain a scale of no less than 1/8" to assure legibility. Applications which are incomplete or illegible may be delayed and/or rejected.

- \_\_\_\_\_4. Minimum \$250 Filing Fee, payable to the Village of Winnetka. Final fee will be established upon complete review of application by village staff, with any balance due prior to initial hearing. Fee Schedule is as follows: Minor Variation - \$250; Standard Variation - \$400; and, Major Variation - \$800. (The Filing Fee covers the cost of publishing the legal notice, conducting a zoning analysis, preparation of agenda reports and writing of ordinances).

- \_\_\_\_\_5. Address the "Standards for Granting of Zoning Variations. (See page 4).

**APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS**

**Owner Information:**

Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Home and Work Telephone Number: \_\_\_\_\_

Fax and E-mail: \_\_\_\_\_

**Architect Information: Name, Address, Telephone, Fax & E-mail:**

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

**Attorney Information: Name, Address, Telephone, Fax & E-mail:**

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

Date Property Acquired by Owner: \_\_\_\_\_

Nature of Any Restrictions on Property: \_\_\_\_\_

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

Explanation of Variation Requested: \_\_\_\_\_  
(Attach separate sheet if necessary)

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

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

(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.**

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN DENIED**

Failure to prove a practical difficulty or particular hardship requires a denial of a variation request. The burden of proving such difficulty or hardship rests with the applicant.

**The following do not constitute a practical difficulty or a particular hardship which justify the granting of a variation:**

1. The appearance of the property or neighborhood will be improved;
2. Personal convenience or preference;
3. The property will be more readily saleable or could be sold at a higher price;
4. A physical disability or handicap pertaining to a family member;
5. An increase in the size of a family, the number of people living in the house, or the age of a family member;
6. Lack of awareness of a particular zoning provision;
7. Practical alternatives exist to the proposed request or the proposed improvement(s) can be placed in a conforming location;
8. The fact that neighbors do not object or are in favor of the variation request;
9. The hardship was created by how the property has been developed over time; or
10. It will be more expensive to comply with the zoning ordinance;

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN APPROVED**

**The following may constitute a practical difficulty or particular hardship, which can serve as the basis for the granting of a variation:**

1. Irregular lot shape or topography;
2. The presence of three or more street frontages;
3. Correction of an existing code deficiency;
4. Although a conforming location for an addition to a building exists, a nonconforming location is preferable from a Village Policy standpoint (e.g. a conforming location will require removal of significant trees that are protected under the Village's Tree Ordinance;
5. There is an existing legal nonconformity of a minimal degree, the proposed improvement requires the formalizing of the nonconformity without increasing the degree of nonconformity, the proposed improvement will enhance the utility and value of the property within the context of the established neighborhood, and there is no economically viable alternative that will cure the nonconformity (e.g., the house pre-dates the original zoning ordinance and encroaches 1 foot into the front yard, the owner proposes to extend the second floor to align the first floor to create a master suite, the proposed improvements are still within the FAR limitations and the only way to cure the nonconformity is to demolish the house and build anew); or
6. The lack of an available alternative where the degree of the existing legal nonconformity will not be increase and additional nonconformities will not be created.

**From:** [Barb Sheridan](#)  
**To:** [Brian Norkus](#)  
**Cc:** [Kevin Sheridan](#)  
**Subject:** Opposition to Subdividing Property Indian Hill Road #5  
**Date:** Wednesday, October 07, 2015 5:12:01 PM

---

Hello Brian -

It has recently been brought to our attention that our neighbors (the Gills) directly East of our property at 7 Indian Hill Road are looking to subdivide their land into two lots. We are opposed to this proposition. We feel that more building on Indian Hill Road will detract from its beauty; which is enjoyed by the members of the Indian Hill Golf course, as well as the countless neighbors who walk around its perimeter. In addition, there has been a significant amount of construction on this road over the past few years; clearly disrupting the peace of a private road. We are also concerned about the infrastructure of the sewage and water systems, knowing that these systems are very old and have already had some problems that have affected both the #5 property and our property as well.

We intend to come to the October 21st meeting for further discussion.

Thank you for your consideration,  
Barb and Kevin Sheridan

Indian Hill Road  
Winnetka

**From:** [Kevin Sheridan](#)  
**To:** "[Barb Sheridan](#)"; [Brian Norkus](#)  
**Subject:** RE: Opposition to Subdividing Property Indian Hill Road #5  
**Date:** Thursday, October 08, 2015 8:07:23 AM

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Indeed Brian. I have not spoken with a single neighbor who feels this partitioning proposal is a good idea.

In addition to the great points outlined by my wife below, the reality is that the Gills don't even live at the property. As such, I believe their motivation is strictly economic and driven by money, as opposed to what is simply right for the neighborhood.

In addition, it looks as though the partitioning proposal is in direct contradiction to how the property is zoned (R-2). It is my understanding that R-2 zoning is meant to preserve a neighborhood with "large yards and an abundance of trees," which of course would be decimated by sub-dividing the property.

Lastly, the partitioning of the as such zoned property would result is very questionable "variations" of both of the subdivided properties.

Thank you for the opportunity to express our opinion and we will indeed attend the meetings.

All the best,

Kevin

Kevin Sheridan  
Leading Expert on Employee Engagement & Managing Virtual Workers, Keynote Speaker, Consultant

Check out the Related Videos at this web site: [www.kevinsheridanllc.com](http://www.kevinsheridanllc.com)

Kevin Sheridan LLC [REDACTED] Indian Hill Road, Winnetka, IL 60093  
Office Phone: [REDACTED]  
Cell Phone: 312 [REDACTED]

-----Original Message-----

From: Barb Sheridan [REDACTED]  
Sent: Wednesday, October 7, 2015 5:12 PM  
To: [bnorkus@winnetka.org](mailto:bnorkus@winnetka.org)  
Cc: Kevin Sheridan [REDACTED] >  
Subject: Opposition to Subdividing Property Indian Hill Road #5

Hello Brian -

It has recently been brought to our attention that our neighbors (the Gills) directly East of our property at 7 Indian Hill Road are looking to subdivide their land into two lots. We are opposed to this proposition. We feel that more building on Indian Hill Road will detract from its beauty; which is enjoyed by the members of the Indian Hill Golf course, as well as the countless neighbors who walk around its perimeter. In addition, there has been a significant amount of construction on this road over the past few years; clearly disrupting the peace of a private road. We are also concerned about the infrastructure of the sewage and water systems, knowing that these systems are very old and have already had some problems that have affected both the #5 property and our property as well.

We intend to come to the October 21st meeting for further discussion.

Thank you for your consideration,  
Barb and Kevin Sheridan

██████ Indian Hill Road  
Winnetka  
████████████████████

**From:** [Connell, Dana S.](#)  
**To:** [Brian Norkus](#)  
**Cc:** [Laura Connell](#)  
**Subject:** Opposition to Requested Subdivision and Multiple Variations at 5 Indian Hill Road and 116 Church Street.  
**Date:** Friday, October 09, 2015 5:41:07 PM  
**Attachments:** [Pages from ZBA Application \(2015 calendar\).pdf](#)

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Dear Brian:

We are writing to oppose the application for Land Subdivision and related requests for multiple variations at 5 Indian Hill Road and 116 Church Street.

Our home is directly to the north of the property at issue and would be negatively impacted by the request.

Please share this statement of opposition with both the Winnetka Plan Commission and the Winnetka Board of Zoning Appeals.

We recognize that the Plan Commission and Board of Zoning Appeals have far greater experience in these matters than we do. Nevertheless, we offer the following observations in support of our opposition:

1. The applications do not recognize/disclose any of the following: (a) that the property and house is for sale, for \$5,999,999; (b) that the purpose of the subdivision request is to maximize the financial return on the property; and (c) that the petitioners do not currently live on the property. See

<http://www.thehudsoncompany.com/real-estate/5%20Indian%20Hill/Winnetka/08165813.php>

2. The chopping up of the property – which is described in the applications as containing a “Significant Architectural Structure” – will not benefit Winnetka or the neighborhood. It will also result in adding more impermeable surface in the Village.

3. The property is zoned R-2. The Winnetka 2020 Comprehensive Plan (and perhaps other authorities) describe R-2 properties as those that “have a small estate character,” and “buildings on the property are generally subordinate to the landscape” and are characterized by houses “with large yards and an abundance of trees.” That is the case now. It would certainly not be the case if the current property is split in two.

4. The request for subdivision cannot stand on its own but rather is dependent on the granting of variations on both properties. Under the Village Code, it is our understanding that a subdivision request can only be granted if the resulting lots comply with all standards of the zoning ordinance, including but not limited to lot depth requirements. See Village

Code 16.12.010(D) and subparts. That is not the case here.

5. The requested variations are significant – as we read the applications, the existing structure on 5 Indian Hill Road is too big by over 10%, and the proposed lot on 116 Church Street does not come close to meeting the minimum depth requirements.

6. The Application for Zoning Variation form used by the Village (see p. 4 of attached) clearly states that applications for variations “must provide evidence and explain in detail the manner wherein the strict application of the provisions of the regulations would result in a clearly demonstrated practical difficulty or particular hardship.” (Emphasis in original). There is no practical difficulty or particular hardship here. In this case, there is an existing structure and home, on sale for almost \$6 M.

7. There are eight standards under the Village Code, each of which has to be met for the granting of a zoning variation. See Village Code 16.12.010(D) 17.60.040(C). See also the Application for Zoning Variation form used by the Village (p. 4 of attached). As described below, at least several of these standards – the first two – clearly are not met in this case.

8. The first of the eight standards is that “[t]he property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.” This standard is not met here. As noted above, the property is for sale for almost \$6M and can yield a reasonable return.

9. The second of the eight standards is that “[t]he plight of the owner is due to unique circumstances,” which is associated with the property. Again, this standard is not met here. The only “plight” here, leading to the request for the variations, has been caused by the owners’ desire to subdivide.

10. The application for variations does not address those first two of the eight standards at all. They are careful to have a list of eight, but they achieve it by adding in other facts or repeating some of the others to make it look like they have all eight covered.

11. The Village application packet for zoning variations contains a page called “General Findings Upon Which Zoning Variations Have Been Denied.” (See p. 5 of attached). That page notes that the burden rests with the applicant and that “personal convenience or preference” and/or a belief that the “property will be more readily saleable or could be sold at a higher price” do not constitute a practical difficulty or particular hardship which will justify the granting of a variation.

Thank you for the opportunity to provide this information. We will plan to attend the scheduled hearings on October 21 and November 16. In the meantime, please do not

hesitate to contact us if you or others in Village positions have any questions regarding our opposition.

Dana and Laura Connell  
■ Indian Hill Road  
Winnetka, Illinois 60093

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**ZBA**

**V I L L A G E O F W I N N E T K A , I L L I N O I S**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

**APPLICATION FOR**  
**ZONING VARIATION**

It is recommended that all variation requests be discussed with village staff prior to submittal. Prior to submittal of an application for variation, the applicant, architect and other project representatives should direct attention to the Standards for Granting of Zoning Variations on page 4.

Only completed variation applications will be accepted. Application deadlines and meeting dates are listed below. All Zoning Board of Appeals (ZBA) hearings are held on the 2<sup>nd</sup> Monday of each month.

**Zoning Board of Appeals Regular Meeting Dates**

**Application Deadline**

December 10, 2014  
January 7, 2015  
February 4, 2015  
March 11, 2015  
April 8, 2015  
May 6, 2015  
June 10, 2015  
July 8, 2015  
August 12, 2015  
September 9, 2015  
October 7, 2015  
November 11, 2015

**Meeting Dates**

January 12, 2015  
February 9, 2015  
March 9, 2015  
April 13, 2015  
May 11, 2015  
June 8, 2015  
July 13, 2015  
August 10, 2015  
September 14, 2015  
October 12, 2015  
November 9, 2015  
December 14, 2015

1. A maximum of five zoning requests will be considered at each hearing. Submittal by the application deadline does not assure placement on the next agenda, therefore it is recommended that applications be submitted as soon as they are complete rather than waiting until the deadline.
2. Questions regarding upcoming meeting calendars and schedule availability may be directed to the Dept. of Community Development Administrative Assistant at 847.716.3527.
3. 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.
4. There are three types of variations, minor, standard and major. Minor variations are considered by the Zoning Administrator, standard variations are considered by the ZBA and major variations are considered by both the ZBA and Village Council. Minor and standard variations require one meeting before either the Zoning Administrator or the ZBA. Major variations require one meeting before the ZBA and two before the Village Council. Following submittal of a variation application village staff will inform you as to the type of variation you will be required to obtain.

**ZONING BOARD OF APPEALS  
APPLICATION REQUIREMENTS**

- \_\_\_\_\_1. Proof of ownership (in the form of a deed) and owner signature on application.

NOTE: Applications involving property held by a **land trust** must be signed as the owner of the property by the trust officer of the institution holding the trust as the owner of the property. The trust beneficiary(ies) and their current address(es) must be disclosed on the application form. The application must also be accompanied by a Certified copy of the Trust Agreement and a letter from the trustee certifying that the beneficiary (ies) shown on the application are correct and disclosing any beneficiary changes or lack thereof during the 12 months immediately preceding the filing of this application. Applications by contract purchasers must be accompanied by a copy of an executed contract and letter of authorization from property owner, in addition to above described proof of ownership.

- \_\_\_\_\_2. One copy of completed Lot Coverage and Gross Floor Area Calculation worksheet (attached).

- \_\_\_\_\_3. One (1) full size copy with complete and thorough dimensions [not reduced or enlarged] and one (1) set of reduced copies (8½" x 11") of the following:

**A. Existing Conditions/Plans**

- i. Plat of Survey. The plat must be an original survey (or complete and legible copy), prepared by an Illinois licensed land surveyor. The plat must be current, showing all improvements as they currently exist. In no case may a plat of survey be more than five (5) years old. The plat must show the lot area, legal description and all current improvements on the property. **Note: building permit requirements have separate more stringent survey requirements, including requirements for topographic information.**
- ii. Floor Plans. The floor plans must be fully dimensioned and show all levels of the structure or structures on the property and all rooms must be fully dimensioned. This information is also used to verify calculation worksheets.
- iii. Exterior Elevations. Elevations must be provided of the existing elevations that will be changing. All elevations must be fully dimensioned.

**B. Proposed Changes**

- i. Site Plan. Show and dimension all proposed additions and/or new structures. Provide dimensioned site plan, showing proximity of improvements to all adjacent property lines.
- ii. Floor Plans. Provide fully dimensioned floor plans of all levels of the structure where changes are proposed.
- iii. Exterior Elevations. Provide drawings of all elevations that are proposed to change. All elevations must be fully dimensioned.

**NOTE:** Limit one building detail, plan or image per page on reduced copies. All copies must be legible. 8 ½" x 11" reductions should maintain a scale of no less than 1/8" to assure legibility. Applications which are incomplete or illegible may be delayed and/or rejected.

- \_\_\_\_\_4. Minimum \$250 Filing Fee, payable to the Village of Winnetka. Final fee will be established upon complete review of application by village staff, with any balance due prior to initial hearing. Fee Schedule is as follows: Minor Variation - \$250; Standard Variation - \$400; and, Major Variation - \$800. (The Filing Fee covers the cost of publishing the legal notice, conducting a zoning analysis, preparation of agenda reports and writing of ordinances).

- \_\_\_\_\_5. Address the "Standards for Granting of Zoning Variations. (See page 4).

CASE NO. \_\_\_\_\_

**APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS**

**Owner Information:**

Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Home and Work Telephone Number: \_\_\_\_\_

Fax and E-mail: \_\_\_\_\_

**Architect Information:** Name, Address, Telephone, Fax & E-mail:

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

**Attorney Information:** Name, Address, Telephone, Fax & E-mail:

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

Date Property Acquired by Owner: \_\_\_\_\_

Nature of Any Restrictions on Property: \_\_\_\_\_

Explanation of Variation Requested: \_\_\_\_\_  
(Attach separate sheet if necessary)

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

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

(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.**

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN DENIED**

Failure to prove a practical difficulty or particular hardship requires a denial of a variation request. The burden of proving such difficulty or hardship rests with the applicant.

**The following do not constitute a practical difficulty or a particular hardship which justify the granting of a variation:**

1. The appearance of the property or neighborhood will be improved;
2. Personal convenience or preference;
3. The property will be more readily saleable or could be sold at a higher price;
4. A physical disability or handicap pertaining to a family member;
5. An increase in the size of a family, the number of people living in the house, or the age of a family member;
6. Lack of awareness of a particular zoning provision;
7. Practical alternatives exist to the proposed request or the proposed improvement(s) can be placed in a conforming location;
8. The fact that neighbors do not object or are in favor of the variation request;
9. The hardship was created by how the property has been developed over time; or
10. It will be more expensive to comply with the zoning ordinance;

## **GENERAL FINDINGS UPON WHICH ZONING VARIATIONS HAVE BEEN APPROVED**

**The following may constitute a practical difficulty or particular hardship, which can serve as the basis for the granting of a variation:**

1. Irregular lot shape or topography;
2. The presence of three or more street frontages;
3. Correction of an existing code deficiency;
4. Although a conforming location for an addition to a building exists, a nonconforming location is preferable from a Village Policy standpoint (e.g. a conforming location will require removal of significant trees that are protected under the Village's Tree Ordinance;
5. There is an existing legal nonconformity of a minimal degree, the proposed improvement requires the formalizing of the nonconformity without increasing the degree of nonconformity, the proposed improvement will enhance the utility and value of the property within the context of the established neighborhood, and there is no economically viable alternative that will cure the nonconformity (e.g., the house pre-dates the original zoning ordinance and encroaches 1 foot into the front yard, the owner proposes to extend the second floor to align the first floor to create a master suite, the proposed improvements are still within the FAR limitations and the only way to cure the nonconformity is to demolish the house and build anew); or
6. The lack of an available alternative where the degree of the existing legal nonconformity will not be increase and additional nonconformities will not be created.

**From:** [Cindy Lillard](#)  
**To:** [Brian Norkus](#)  
**Subject:** 5 Indian Hill Road  
**Date:** Tuesday, October 13, 2015 3:44:43 PM

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Mr. Norkus,

I am writing to let you know that both my husband Tom Lillard and I oppose the proposed subdivision of 5 Indian Hill Road. We feel it will negatively impact the neighborhood and potentially our property. We feel the request does not comply with Village of Winnetka zoning requirements and the variation requests are unreasonable.

Please forward this email to the Winnetka Plan Commission and the Winnetka Board of Zoning Appeals.

Thank you

Cindy and Tom Lillard

**From:** [Connie](#)  
**To:** [Brian Norkus](#)  
**Subject:** 5 Indian Hill - Proposed Subdivision  
**Date:** Wednesday, October 14, 2015 11:16:17 AM

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James and Connie Aslaksen  
[REDACTED] Church Road  
Winnetka

[REDACTED]

Re: Proposed Subdivision 5 Indian Hill

To Brian Norkus, Asst. Dir. Community Development,

We will be unable to attend either meeting as we will be out of state for both. We are concerned about the variances being requested on many levels but the following are of primary concern:

1) Impermeable surface - Most of the Indian Hill properties (as well as much of Winnetka) have significant water/flooding issues.

The east side of 5 Indian Hill backs up directly to our back fence. This new proposed home would now be directly behind our property. The land there is extremely low and already has problems. We do not believe Winnetka should issue variances of permeable surface for anyone without a unique or practical difficulty or hardship circumstance. This certainly does not qualify as such. If this is allowed then we should all be able to add additions, circular drives, larger patios, etc. to increase usability and potential property values without concerns of area flooding.

2) Traffic - The traffic on Church Road is already very heavy and dangerous at certain times of day. It is our understanding that the

entry is the Church Road drive already in existence. 5 Indian Hill almost never uses that access drive. In the 8 years we have

lived here we have never seen anyone coming in or out there. Adding more ingress/egress across or into the already backed up

traffic (at the intersection stop sign) will cause more hazardous circumstances. During the heavy traffic times there are many children using the intersections at Winnetka Avenue and Hill, as well as during train

commuter times. With the turn lane at Church/Winnetka it will be even more impossible and dangerous.

3) When we purchased 102 Church it backed up to an expansive "open" property that could not be subdivided (our realtor checked) and felt quite confident because Winnetka does not grant unnecessary variances. We chose this home over many others available partly because of this open property and the cost of our purchase reflected this open back. If Winnetka starts issuing variance subdivisions of Indian Hill properties I think there will be many repercussions from homeowners going forward. The properties in Indian Hill belong to their owners not those of us living adjacent to them. However, changes to those properties fundamentals without real cause should not be allowed.

Please see that our concerns are presented to both the Planning Commission and the Board of Zoning Appeals.

Thank you,

James and Connie Aslaksen

**David and Karen Hawkins**

█ Indian Hill Road  
Winnetka, Illinois 60093  
Cell █

October 20, 2015

Mr. Brian Norkus  
Assistant Director of Community Development  
Village of Winnetka  
510 Green Bay Road  
Winnetka, IL 60093

RE: Proposed Subdivision of 5 Indian Hill Road

Dear Brian:

I am writing to you regarding the referenced matter as I will not be able to attend the Winnetka Plan Commission meeting scheduled for Wednesday, October 21, 2015.

For the record, I **OPPOSE** the proposed subdivision. My rationale is as follows:

1. The sub-division of the property is not in character with the neighborhood. The look feel of the Indian Hill Road community is that of larger plots of land with less density than other parts of Winnetka. A subdivision of the property would not be aligned with that character.
2. The owner does not live in the property having already purchased another home on the Lake Michigan shoreline. As such, they will not suffer through the effects on the neighborhood that result from the subdivision. They will, however, benefit from the financial gain resulting from the subdivision.
3. Our neighborhood has suffered through two straight years of construction on properties within 150 yards of our home. Subdividing the property will subject us to yet another year or more of construction noise and traffic.
4. The property owner does not maintain the current property to proper standards after having vacated the home. As examples, the brick fence line on the north end of their property is in disrepair and appears ready to collapse at any moment. Additionally, there was a gas leak on or within their property over the summer that resulted in the road in front of our home being dug up as a result of work being done to find the leak.
5. The home is currently for sale and I am told the reason the home has not sold as currently situated is that the price it is being offered at does not reflect the fact that a new owner will need to spend significant dollars to update the home. As such, the property owner is subdividing this piece of land purely for financial gain to sell what he can and not to enhance the use of the property by the owner.

In summary, it appears to me that the only reason the homeowner wants the subdivision is so that they can maximize their financial gain, not to enhance their use of the property as residents of the neighborhood.

Sincerely,

█

**From:** [MacVicar, Ernie](#)  
**To:** [Brian Norkus](#)  
**Cc:** [Janice MacVicar](#)  
**Subject:** Regarding the Gill Subdivision proposal  
**Date:** Friday, October 09, 2015 1:53:51 PM

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Brian,

I am writing you to be on the record that Janice and I are opposed to the Gill's proposal to subdivide their property located at 5 Indian Hill Road. The subdivision of this property is not in compliance with the Village zoning requirements. Also, we believe this type of development would negatively impact our neighborhood and property value. Please share this note with both the Winnetka Plan Commission and the Winnetka Board of Zoning Appeals. Janice and I are happy to discuss this issue further at your convenience.

Best Regards,

Ernie MacVicar  
[REDACTED] North Indian Hill Road

Ernie MacVicar  
Institutional Equity Department  
[Credit Suisse](#)  
Tel: [REDACTED]  
Cell [REDACTED]  
Toll- [REDACTED]  
Fax: [REDACTED]  
[REDACTED]

Please follow the attached hyperlink to an important disclosure:  
[http://www.csfb.com/legal\\_terms/market\\_commentary\\_disclaimer.shtml](http://www.csfb.com/legal_terms/market_commentary_disclaimer.shtml).

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Please follow the attached hyperlink to an important disclosure:  
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