

**Winnetka Village Council**  
**RESCHEDULED REGULAR MEETING**  
**Village Hall**  
510 Green Bay Road  
Thursday, September 6, 2012  
7:30 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. Emails for a 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 to the Flag
- 3) Quorum
  - a) September 11, 2012, Study Session
  - b) September 18, 2012, Regular Meeting
  - c) October 2, 2012, Regular Meeting
- 4) Approval of Agenda
- 5) Consent Agenda
  - a) Village Council Minutes
    - i) August 7, 2012, Regular Meeting .....3
  - b) Warrant Lists Nos. 1763 and 1764 .....7
  - c) Cherry Street Bridge Repair Bid.....8
- 6) Comprehensive Annual Financial Report.....10
- 7) Fund Balance / Net Assets Policy.....11
- 8) Stormwater Update
  - a) CBBEL Engineering Contract Proposal: Additional Drainage Study Area West of Hibbard .....21
  - b) Stormwater Budget and Expense To-Date.....38
- 9) Ordinances and Resolutions
  - a) Ordinance M-16-2012: 528 Maple Landmark – Introduction .....42
  - b) Ordinance M-17-2012: 310 Walnut Zoning Variation – Introduction .....94
  - c) Resolution R-32-2012: 596 Oak Subdivision – Adoption.....139
  - d) Resolution R-33-2012: D’s Haute Dogs Liquor License Request – Adoption.....181
- 10) Public Comment
- 11) Old Business: None.
- 12) New Business: None.

- 13) Reports
- 14) Executive Session
- 15) Adjournment

**NOTICE**

All agenda materials are available at [villageofwinnetka.org](http://villageofwinnetka.org) (*Council > Current Agenda*), the Reference Desk at the Winnetka Library, or in the Manager's Office at Village Hall (2<sup>nd</sup> floor).

Videos of the Village Council meetings are televised on Channel 10 every night at 7 PM and on Channel 18 M-F-Su at 7AM or 7 PM. Videos of the meeting may also be viewed on the Internet via a link on the Village's web site: [villageofwinnetka.org](http://villageofwinnetka.org)

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator – Megan Pierce, at 510 Green Bay Road, Winnetka, Illinois 60093, 847.716.3543; T.D.D. 847.501.6041.

**MINUTES  
WINNETKA VILLAGE COUNCIL  
REGULAR MEETING  
August 7, 2012**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in Village Hall on Tuesday, August 7, 2012, at 7:30 p.m.

- 1) Call to Order. President Tucker called the meeting to order at 7:30 p.m. Present: Trustees Jack Buck, Patrick Corrigan, Richard Kates, Jeni Spinney and Stuart McCrary. Absent: Trustee Arthur Braun. Also present: Village Manager Robert Bahan, Village Attorney Katherine Janega, Director of Water and Electric Brian Keys, Community Development Director Mike D’Onofrio, and approximately 12 persons in the audience.
- 2) Pledge of Allegiance. President Tucker led the group in the Pledge of Allegiance.
- 3) Quorum.
  - a) August 14, 2012 Study Session. Cancelled.
  - b) August 21, 2012 Regular Meeting. All of the Council members present indicated that they expected to attend.
- 4) Approval of the Agenda. Trustee Spinney, seconded by Trustee Buck, moved to approve the Agenda. By roll call vote the motion carried. Ayes: Trustees Buck, Corrigan, Kates, McCrary and Spinney. Nays: None. Absent: Trustee Braun.
- 5) Consent Agenda
  - a) Village Council Minutes.
    - i) June 12, 2012, Special Meeting.
    - ii) June 12, 2012, Study Session.
  - b) Warrant Lists Nos. 1759 and 1760. Approving Warrant List No. 1759 in the amount of \$2,669,612.33, and Warrant List No. 1760 in the amount of \$886,108.10.
  - c) Ordinance MC-5-2012: Amend Village Code Pertaining to Replacement of Water Service Lines – Adoption. Amending Section 13.04.100 of the Winnetka Village Code as it pertains to the repair and replacement of lead water service lines.
  - d) Rescheduling of Council Meetings. Moving the November 6, 2012, regular Council meeting to Thursday, November 8, 2012, to avoid conflict with the General Election; and moving the September 4, 2012, regular Council meeting to Thursday, September 6, 2012.  
  
Trustee Spinney, seconded by Trustee Buck, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Buck, Corrigan, Kates, McCrary and Spinney. Nays: None. Absent: Trustee Braun.
- 6) Stormwater Update. None.

7) Ordinances and Resolutions.

- a) Ordinance MC-6-2012: Amend Village Code Pertaining to Inauguration of the Village President and Village Trustees -- Introduction. Attorney Janega explained that this Ordinance would set the terms of office for newly elected Village officials to begin in May, to provide predictability in light of movable spring election dates.

President Tucker added that the measure will be helpful for planning purposes, so the outgoing Council can finish any policy considerations it has been involved with.

Trustee Corrigan, seconded by Trustee Spinney, moved to introduce Ordinance MC-6-2012. By voice vote, the motion passed

8) Public Comment and Questions. None.

9) Old Business.

- a) Chicago and North Shore Convention and Visitors Bureau. Mr. D'Onofrio explained that the Village became involved with the North Shore Convention and Visitors Bureau (NSCVB) in 2009 at the request of the Chamber of Commerce and several businesses, after a Council-appointed committee met with the NSCVB and gave the organization a positive recommendation.

Mr. D'Onofrio reported that the NSCVB helps to market the Village through its publications, monthly E-newsletter, and periodic events held in the Village. He added that a poll of the 14 Winnetka businesses and organizations that joined the NSCVB showed that the majority of respondents had favorable comments about their membership; three said they did not receive benefit; and two suggested retaining NSCVB membership for the benefit of other businesses in the community.

Jennifer Engel, from the NSCVB, explained that their mission is to strengthen the awareness of North Shore businesses using their publications, website and social media, and that Village backing is required before individual businesses can join. In a brief dialogue with the Council, she explained that the NSCVB's relationship with the Village and its businesses is still new and takes time to build.

Terry Dason, Executive Director of the Winnetka-Northfield Chamber of Commerce, said she attributes new energy in the business community to collaboration between businesses and non-profits, which would not be possible without the support of the Village as well as the Chamber, and urged the Council to remain in the Bureau to show support for the business community.

Julie Windsor, owner of E-Street Denim and resident at 930 Tower, said the past year has been the hardest ever, suggested the Council talk to business owners about what they need, and noted that the Hubbard Woods Business community has recently started meeting to discuss marketing strategies for Hubbard Woods.

The Council discussed the membership question, and several Trustees favored renewing the Village's membership, while others opposed renewal or were indifferent.

Trustee Spinney, seconded by Trustee Corrigan, moved to authorize payment of the Village's membership in the Chicago North Shore Convention and Visitors Bureau. By

roll call vote, the motion passed. Ayes: Trustees Spinney, Corrigan, McCrary, and Buck. Nays: Trustee Kates. Absent: Trustee Braun.

#### 10) New Business.

- a) Urban Land Institute Technical Assistance Panel. Manager Bahan related that there has been much discussion about revitalizing the three business districts in the Village, that the Plan Commission's latest review of the Comprehensive Plan Goals and Objectives identified the commercial districts as the Village's top priority, that the Urban Land Institute (ULI) has been discussed in detail and that Community Development Director Mike D'Onofrio has been working on ULI's proposal to convene a Technical Assistance Panel (TAP).

Mr. D'Onofrio noted Winnetka's three commercial districts make it unique, and that ULI recommends a two-phase TAP process, with Phase 1 assessing current conditions in the three business districts, and Phase 2 developing recommendations for a long-term revitalization strategy.

After explaining the TAP process, Mr. D'Onofrio introduced the TAP panelists: Tina Dalman a real estate land use attorney who focuses on commercial development, and has participated in seven TAPS, including one done for Wilmette; George Hallick; and ULI staff Christine Kolb and Cindy McSherry.

Ms. Dalman reviewed the TAP process, explained how organizations and individuals will be chosen for interviews in Winnetka, and noted that the Council will be involved in the selection of interviewees.

Ms. McSherry explained that ULI examines best practices of vibrant business communities across the country, looking for trends to share with other communities, looking for assistance, and added that the agenda packet information is simply a starting point for the Winnetka TAP.

Responding to Council questions about the Wilmette TAP process, Ms. Dalman reported that Wilmette is using the report in their master planning process. She encouraged the Council to examine all prior TAPs, which are on ULI's website.

After further brief discussion, there was consensus to authorize the Village Manager to enter into a contract with the Urban Land Institute for the Technical Assistance Program.

Trustee Buck, seconded by Trustee McCrary, moved to authorize the Village Manager to enter into the ULI Technical Assistance Program Agreement, substantially in the form submitted, subject to the review and approval of the Village Attorney, at a cost not to exceed \$40,000. By roll call vote, the motion carried. Ayes: Trustees Buck, Kates, McCrary and Spinney. Nays: Trustee Corrigan. Absent: Trustee Braun.

#### 11) Reports

- a) Village President. President Tucker announced that teacher and state university pensions will not be addressed at the special General Assembly session later in the month, and urged residents to contact their elected representatives and give their opinions on pension reform. She added that the Village hopes to have a reception for Olympic swimmer and gold medalist Conor Dwyer, a Winnetka resident.

b) Trustees.

- i) Trustee Spinney commended the Winnetka-Northfield Chamber of Commerce on the successful Sidewalk Sale and Let Loose on Lincoln celebration.
- ii) Trustee Kates encouraged the public to comment to the State legislature on public pensions.
- iii) Trustee McCrary congratulated Winnetka resident Mark Stephan, who was severely injured in a bicycle accident several years ago, and just completed a cross-country bicycle trip to raise money for the Rehabilitation Institute of Chicago.

c) Attorney. None.

- d) Manager. Manager Bahan introduced Megan Pierce, the new Assistant to the Village Manager, and extended his best wishes to current Assistant to the Village Manager Liz Rosenthal, who is retiring.

12) Adjournment. Trustee Spinney, seconded by Trustee Corrigan, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 9:13 p.m.

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Recording Secretary

## AGENDA REPORT

TO: Village Council  
FROM: Robert M. Bahan, Village Manager  
DATE: August 31, 2012  
SUBJECT: **Warrant Lists Nos. 1763 and 1764**

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Warrants Lists Nos. 1763 and 1764 are enclosed in each Council member's packet.

**Recommendation:** Consider approving Warrants Lists Nos. 1763 and 1764.

## AGENDA REPORT

**Subject:** Bid Number 12-016 – Cherry Street Bridge Repairs

**Prepared By:** Steven M. Saunders, Dir. of Public Works/Village Engineer

**Date:** August 24, 2012

On August 23, 2012, sealed bids were opened and read aloud for the Cherry Street Bridge Repair project, which consists of the localized patching of the concrete bridge deck; the repair of the western end of the southern parapet wall; and sealing the deck and the parapet wall with a concrete sealer, with related collateral work. The Cherry Street Bridge concrete deck was resurfaced in 1995, and though the bridge is sound, there is an area on the east end of the deck where the overlay is delaminating, requiring localized patching.

Three bidders were responsive. The following table indicates all bids that were received and read by the Village of Winnetka.

<b>Bidder</b>	<b>Bid Amount - As Read</b>	<b>Adjusted Bid - As Calculated</b>
Alliance Contractors, Inc. 1166 Lake Avenue Woodstock, IL 60098	\$31,918.00	No Change
Areatha Construction Company, Inc. 410 E. North Avenue Streamwood, IL 60107	\$33,333.00	No Change
Kouilic Construction Company, Inc. 3721 N. Carnation Street Franklin Park, IL 60131	\$59,360.00	No Change

All bids were reviewed for completeness and accuracy, and the bid tabulation has been attached, herein. While all of the bids were above the engineer's estimate of \$26,500.00, this is likely the case because the scope of work is relatively small, leading to higher unit prices for the work related pay items. It is recommended that the low bid of \$31,918.00 be awarded to Alliance Contractors, Inc.

### **Budget Information**

This project will be funded out of the Street Rehabilitation account (10-30-640-139) which contains \$1,150,000. The Village has committed \$859,400 from this account for the two ongoing street rehabilitation projects, leaving sufficient funding available for this project.

### **Recommendation:**

Consider awarding contract for \$31,918.00 to Alliance Contractors, Inc., of Woodstock, IL.



## **AGENDA REPORT**

**TO:** Village Council

**PREPARED BY:** Ed McKee, Finance Director

**DATE:** August 20, 2012

**SUBJECT:** Comprehensive Annual Financial Report (CAFR)

The CAFR from the accounting firm of Lauterbach and Amen for the fiscal year ending March 31, 2012 has been distributed to the Village Council and is on file with the Library.

**The auditors and staff are scheduled to attend the September 6, 2012 meeting to discuss this report and answer any questions.**

The CAFR is the Village's final accounting of the fiscal year. In terms of the content, the overall financial position of the Village remains strong and operations were generally in line with the budget.

Any questions may be directed to my attention in the interim. Additionally, the Council Members should feel free to contact the Auditor directly if they so desire.

## AGENDA REPORT

**TO:** Village Council  
**FROM:** Ed McKee, Finance Director   
**DATE:** July 30, 2012  
**SUBJECT:** Fund Balance / Net Assets Policy

The Village of Winnetka has historically established target cash balances for the major operating funds. The current cash balance target policy can be found on pages 70 to 72 of the 2012 / 2013 Village Budget (copy attached).

This June the Auditors suggested the Village adopt a fund balance policy. Fund balance is a measure of available resources and in some cases is similar to the cash balance targets the Village currently uses. While cash balances could be impacted by delaying the payment of bills or other discretionary activities, fund balance cannot. The reporting of fund balance has received more attention in the newer accounting standards, especially Governmental Accounting Standards Board (GASB) Statement # 54, which established various categories of fund balance. The goal of GASB statement #54 is to help financial statement users better understand fund balance and its availability for general use.

In talking with several finance directors, most are considering formulating a fund balance policy over the next year or two that would meet the GASB #54 standards. I think it is reasonable for the Village to adopt a formal fund balance policy meeting the intent of GASB 54 to replace the existing cash balance target policy.

The staff has reviewed several fund balance policies from other communities and a sample policy from our auditors. The attached policy reflects the staff's suggested policy for the Village.

While the attached policy sets fund balance targets, there is no immediate budget impact from passing the attached Fund Balance / Net Assets Policy. The Village will continue to evaluate services, expenses, capital outlay, revenue, and asset levels in each fund during the budget process. These inputs, along with the Council's direction, will continue to form the basis for budget development in future years, much as it does currently.

**Recommendation:**

Consider approval of the attached Fund Balance / Net Assets Policy for the Village of Winnetka.

### **Targeted Cash Balances By Fund**

Below are the Village's targeted cash balances by fund type. Those funds that have special circumstances requiring a different target are explained.

#### **General Fund**

Minimum: Four months' operating expenditures (\$6.4 million).

Maximum: Six months' operating expenditures (\$9.6 million) plus 100% of the cash needed to fund all pension plans at the 90% funded level (an additional \$22.2 million).

Reasons: (1) To provide cash flow between property tax collections, (2) to set aside resources for major capital improvements, and (3) to serve as a contingency for revenue interruptions or emergencies, including emergency transfers to other funds, i.e., liability, health, W/C, etc.

#### **Motor Fuel Tax**

Minimum: One year of allotments from the State.

Maximum: 75% of the expenses in the capital plan, but not less than \$1,000,000.

Reason: To provide sufficient cash flow for payments to the General Fund for road construction and/or maintenance. Maximum amount allows for reserve accumulation for planned major bridge or road projects or unforeseen emergency repairs.

#### **Electric, Water, Sanitary Sewer, and Storm Sewer Funds**

Minimum: Three months' revenues plus 50% of annual depreciation expense.

Maximum: Six months' expenditures plus 200% of annual depreciation expense as a replacement/repair reserve.

Reason: To provide sufficient cash flow for operations. Maximum amount allows for reserve accumulation to pay for major replacements or improvements.

### Refuse Fund

Minimum: Based on above (no landfill post closure cost reserve).

Maximum: Based on above plus \$1,000,000 for landfill post closure costs.

### Workers Comp Fund

Minimum: Based on two maximum self-insured losses at \$550,000 each (\$1.10 million total).

Maximum: Based on one year of estimated expenses and three maximum self-insured losses at \$550,000 each (\$2.4 million).

Reason: To provide adequate cash flow to meet projected expenditures and extremely serious loss experience for one year. The maximum amount allows the Village flexibility in adjusting self-insured retention levels and stop loss coverage as the insurance market changes.

If there are material liabilities for claims incurred but not yet paid, additional cash beyond the policy minimum may be required to properly fund likely liabilities.

### Liability Fund

Minimum: Based on 75% of one self-insured maximum loss of \$2,000,000 (\$1.5 million).

Maximum: Based on one year of estimated expenses and one maximum self-insured loss at \$2,000,000 (\$2.3 million).

Reason: To provide adequate cash flow to meet projected expenditures and extremely serious loss experience for one year. The maximum amount allows the Village flexibility in adjusting self-insured retention levels and stop loss coverage as the insurance market changes.

If there are material liabilities for claims incurred but not yet paid, additional cash beyond the policy minimum may be required to properly fund likely liabilities.

### Health Insurance

Minimum: Two months of estimated expenses plus three \$70,000 self-insured losses (\$817,000).

Maximum: Four months of estimated expenses plus five \$70,000 self-insured losses (\$1,541,000).

Reason: To provide adequate cash flow to meet projected expenditures and extremely serious loss experience for one year. The maximum amount allows the Village flexibility in adjusting self-insured retention levels and stop loss coverage as the insurance market changes.

### Data Processing

Minimum: Based on four months of operating expenditures (\$150,000).

Maximum: - Based on eight months of operating expenditures plus \$450,000 for replacement of the financial software for the Village (\$750,000).

Reason: To provide cash flow and provide resources should the Village's accounting software, computer network, or phone system require major investment.

### Fleet Services

Minimum: Based on four months of operating expenditures (\$281,000).

Maximum: Based on eight months of operating expenditures plus \$150,000 for shop equipment replacement (\$711,000).

Reason: To provide cash flow and provide resources for shop equipment replacement needs.

### Police, Fire and IMRF Pension Funds

Minimum: 90% funding level as determined by most recent actuarial report (90% of \$91 million liability is \$82 million).

Maximum: 110% of the projected pension liability plus two years projected benefit payments (110% of \$91 million liability is \$100 million, plus a projected annual benefit amount of \$4.0 million for two years = \$108 million).

Reason: To meet State required funding guidelines. The minimum and maximum amounts reflect the fact that the market values of investments fluctuate, actuarial assumptions change, and the Village's small number of participants can lead to large percentage changes in the liability for future benefits.

## **VILLAGE OF WINNETKA FUND BALANCE/NET ASSETS POLICY**

### **Purpose**

A Fund Balance/Net Assets Policy establishes a minimum end-of-year fund balance/net assets target for select funds, as a result of the constraints imposed upon the resources reported by the governmental and proprietary funds. This policy is established to provide financial stability, cash flow for operations, and ensure that the Village will be able to respond to emergencies with fiscal strength. Additionally, detailing the availability of fund balance increases the ability of financial statement users to understand the availability of resources.

It is the Village's philosophy to support long-term financial strategies, where fiscal strength and sustainability are high priorities, while also building funds for capital projects. It is essential to maintain adequate levels of fund balance/net assets to mitigate current and future risks and provide operational flexibility to respond to fiscal challenges over time without large tax or fee changes.

Fund balance/net asset levels are also crucial considerations in long-term financial planning. Credit rating agencies also monitor levels of fund balance/net assets and unassigned fund balance in the General Fund to evaluate continued creditworthiness.

### **Definitions**

#### ***Governmental Funds***

The fund balance will be composed of three primary categories:

- 1) Non-spendable Fund Balance – portion of a Governmental Fund's fund balance that are not available to be spent, either in the short-term or long-term, or through legal restrictions (e.g., inventories, prepaid items, deposits, land held for resale and endowments).
- 2) Restricted Fund Balance – portion of a Governmental Fund's fund balance that are subject to external enforceable legal restrictions (e.g., grantor, contributor and property tax levies).
- 3) Unrestricted Fund Balance – is made up of three components:
  - A) Committed Fund Balance – the portion of a Governmental Fund's fund balance with self-imposed constraints or limitations that have been placed at the highest level of decision making through formal Board action. The same action is required to remove the commitment of fund balance.
  - B) Assigned Fund Balance – the portion of a Governmental Fund's fund balance to denote an intended use of resources but with no formal Board action.
  - C) Unassigned Fund Balance – available expendable financial resources in a governmental fund that is not the object of tentative management plan.

Some funds are funded by a variety of resources, including both restricted and unrestricted (committed, assigned and unassigned). The Government assumes that the order of spending fund balance is as follows: restricted, committed, assigned, unassigned.

## **Definitions – Continued**

### ***Proprietary Funds***

Proprietary funds include enterprise and internal service funds. The net assets are composed of three primary categories:

- 1) Invested in Capital Assets, Net of Related Debt – portion of a proprietary fund’s net assets that reflects the fund’s net investment in capital assets less any amount of outstanding debt related to the purchase/acquisition of said capital assets. Related debt, for this purpose, includes the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of capital assets of the Government.
- 2) Restricted Net Assets – portion of a proprietary fund’s net assets that are subject to external enforceable legal restrictions (e.g., grantor, contributor and bond covenants).
- 3) Unrestricted Net Assets – portion of a proprietary fund’s net assets that is neither restricted nor invested in capital assets (net of related debt).

### **Authority**

#### ***Governmental Funds***

**Committed Fund Balance** – A self-imposed constraint on spending the fund balance must be approved by ordinance or resolution of the Board. Any modifications or removal of the self-imposed constraint must use the same action used to commit the fund balance. Formal action to commit fund balance must occur before the end of the fiscal year. The dollar amount of the commitment can be determined after year end.

**Assigned Fund Balance** – A self-imposed constraint on spending the fund balance based on the Government’s intent to use fund balance for a specific purpose. The authority may be delegated to members of the management team by the Board.

#### **Minimum Unrestricted Fund Balance Levels**

##### ***Governmental Funds***

###### **General Fund**

**Purpose** – Is a major fund and the general operating fund of the Government. It is used to account for all activities that are not accounted for in another fund.

**Fund Balance** – Unrestricted fund balance targets should represent no less than six months of operating expenditures. Balances above the maximum may be transferred to other funds or invested in capital projects at the Board’s discretion.

## **Minimum Unrestricted Fund Balance Levels – Continued**

### **Special Revenue Fund**

**Purpose** - Used to account for and report the proceeds of specific revenue sources that are legally restricted or committed to expenditures for specified purposes other than debt service or capital projects.

**Financing** – Special revenue funds are provided by a specific annual property tax levy or other restricted and/or committed revenue source. Financing may also be received from other charges for services, etc.

**Fund Balance** – Derived from property taxes (other another restricted revenue source); therefore, legally restricted. The portion of fund balance derived from property taxes will be legally restricted. The remaining fund balance amount (restricted and/or committed) will be targeted at a minimum level of 50% of annual budgeted revenues.

### **Debt Service Fund**

**Purpose** – Established to account for financial resources that are restricted, committed, or assigned to expenditure for principal and interest.

**Financing** – The municipality levies an amount or transfers in an amount close to the principal and interest that is anticipated to be paid.

**Fund Balance** – Derived from property taxes; therefore, legally restricted. Any fund balance accumulation should not exceed the future principal and interest payments due.

### **Capital Projects Fund**

**Purpose** - Established to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays including the acquisition or construction of capital facilities and other capital assets, excluding proprietary fund capital outflows.

**Financing** – Debt financing, grants, or interfund transfers are used to finance projects.

**Fund Balance** – Considered segregated for maintenance, construction and/or development; therefore, considered committed, restricted, or assigned depending on the intended source/use of the funds.

## **Minimum Unrestricted Fund Balance Levels – Continued**

### ***Proprietary Funds***

#### **Enterprise Funds**

Purpose - Established to account for and report financial resources that are invested in capital assets, net of related debt, restricted, or unrestricted for future spending related to the fund. The focus of enterprise fund measurement is upon determination of operating income, changes in net assets, financial position, and cash flows. The generally accepted accounting principles applicable are those similar to businesses in the private sector. Enterprise funds are required to account for operations for which a fee is charged to external users for goods or services and the activity (a) is financed with debt that is solely secured by a pledge of the net revenues, (b) has third party requirements that the cost of providing services, including capital costs, be recovered with fees and charges or (c) establishes fees and charges based on a pricing policy designed to recover similar costs.

Financing – User fees, debt financing, or grants are used to finance operations, capital outlay and improvements, and debt service retirements.

Net Assets – Considered invested in capital assets net of related debt (for amounts capitalized as capital assets, less the outstanding debt related to the acquisition of said assets. Restricted net assets relate to bond covenant reserves as outlined in the bond ordinance.

Unrestricted net asset targets should represent no less than four months of budgeted operating expenses.

#### **Internal Service Funds**

Purpose - Established to account for and report financial resources that are invested in capital assets, net of related debt, restricted, or unrestricted for future spending related to the fund.

The focus of internal service fund measurement is upon determination of operating income, changes in net assets, financial position, and cash flows. The generally accepted accounting principles applicable are those similar to a businesses in the private sector. Internal service funds are used to account for the financing of goods or services provided by an activity to other departments, funds or component units of the Government on a cost-reimbursement basis.

Financing – User fees charged to other departments, funds, or component units, or debt financing are used to finance operations, capital outlay and improvements, and debt service retirements.

## **Minimum Unrestricted Fund Balance Levels – Continued**

### ***Proprietary Funds***

#### **Internal Service Funds - Continued**

Net Assets – Considered invested in capital assets net of related debt (for amounts capitalized as capital assets, less the outstanding debt related to the acquisition of said assets. Restricted net assets relate to bond covenant reserves as outlined in the bond ordinance. Unrestricted net asset targets should represent appropriate levels given the activity of the fund and the discretion of the Board and management (excluding debt service and capitalized asset expenses).

Unrestricted net asset targets should represent no less than four months of budgeted operating expenses.

Insurance type funds should have additional unrestricted net asset targets reflecting the fact that these funds may finance significant risks and can have variability based on claims experience. The following amounts are established as additional net asset amounts that should be added to the four months of expenses base amount for the funds indicated:

Worker’s Compensation – 100% of two self-insured \$600,000 losses (\$1,200,000).

Liability Fund – 75% of one \$2,000,000 self-insured loss (\$1,500,000).

Health Insurance – no additional amount needed.

### **Other Considerations**

In establishing the above policies for unrestricted fund balance/net asset levels, the Government considered the following factors:

- The predictability of the Government’s revenues and the volatility of its expenditures (i.e., higher levels of unrestricted fund balance may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile)
- The Government’s perceived exposure to significant one-time outlays (e.g., disasters, immediate capital needs, state budget cuts)
- The potential drain upon General Fund resources from other funds as well as the availability of resources in other funds (i.e., deficits in other funds may require a higher level of unrestricted fund balance be maintained in the General Fund, just as, the availability of resources in other funds may reduce the amount of unrestricted fund balance needed in the General Fund)
- Liquidity (i.e., a disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained)

- Commitments and assignments (i.e., governments may wish to maintain higher levels of unrestricted fund balance to compensate for any portion of unrestricted fund balance already committed or assigned by the government for a specific purpose)

If any of the above factors materially change, the Village Staff is charged with reviewing the current unrestricted fund balance/net asset levels and suggesting changes, if needed, to the Village Council for their consideration.

## Agenda Report

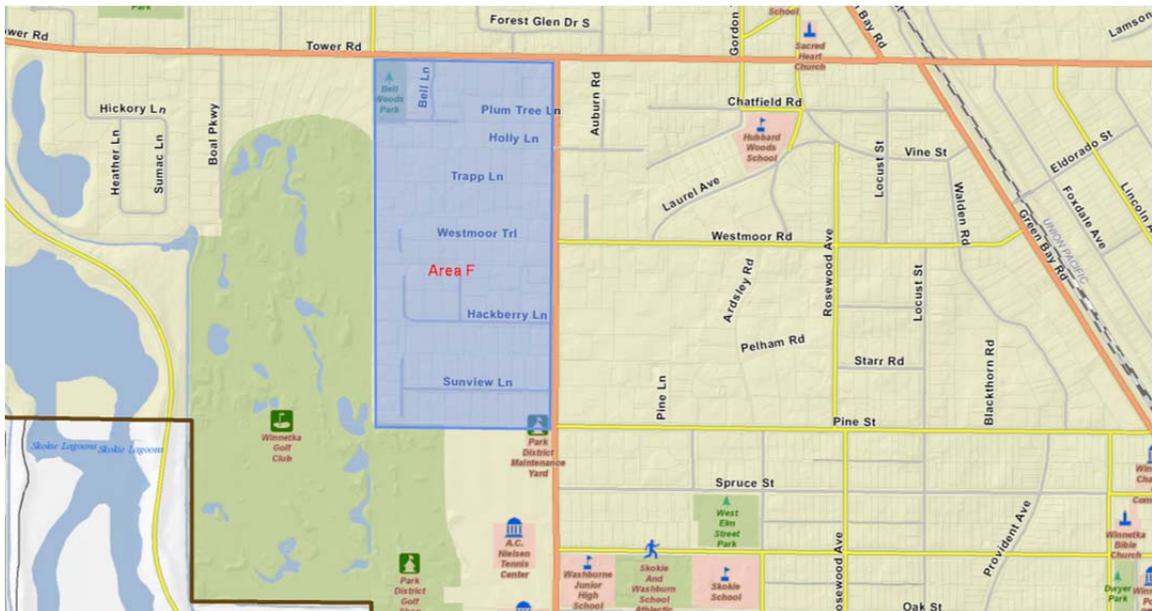
**Subject: Engineering Contract Proposal: Additional Drainage Study Area West of Hibbard Road**

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: August 30, 2012

The Village has recently undertaken, or is in the process of undertaking, stormwater drainage studies of all of the major drainage sub-basins within the Village, to identify potential flood risk-reduction improvements for 25-, 50-, and 100-year design events. The lone exception to this is the area south of Tower Road between Hibbard Road and the Winnetka Golf Course. This area was studied in 2001, and 10-year design improvements have been implemented along Sunview Lane, Trapp Lane, and Hackberry Lane. The Village Council has determined that this area should be re-studied to determine what, if any, additional improvements may be needed to provide increased flood protection in this area, and if this area could be connected to the proposed stormwater tunnel currently under consideration.

Staff has approached Christopher B. Burke Engineering, Ltd. (CBBEL), who completed previous drainage studies for the adjacent areas, to evaluate this area, shown below in blue.



CBBEL has proposed a scope of work that involves evaluating existing conditions within the sub-area, constructing and calibrating a hydraulic model for existing conditions, identifying and modeling conceptual drainage alternatives to provide increased flood protection for 25-, 50-, and 100-year rain events, developing cost estimates for these

potential improvements, and presenting their findings. This is the same approach used for CBBEL's previous studies in other areas of the Village. The proposed fee for this scope of work is \$17,600.

It should be noted that the scope of work includes an allowance of \$3,000 for providing a field topographic survey crew to identify and verify critical street and yard overland flow routes. Depending on the number of routes to be identified, and the level of effort required, the Village may be able to reduce this expenditure by obtaining and providing this information using in-house labor from our engineering staff, or by simply verifying and updating field data developed during the prior, 2001 drainage study.

**Recommendation:**

Consider authorizing the Village Manger to sign an agreement with Christopher B. Burke Engineering, Ltd. to perform an updated Drainage Study for Area F as outlined in their proposal dated July 27, 2012, for an expenditure of up to \$17,600.

**Attachments:**

1. CBBEL Proposal

**ATTACHMENT 1**

**ENGINEERING PROPOSAL**



**CHRISTOPHER B. BURKE ENGINEERING, LTD.**  
9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX(847) 823-0520

July 27, 2012

Village of Winnetka  
1390 Willow Road  
Winnetka, IL 60093

Attention: Mr. Steven Saunders - Director of Public Works/Village Engineer

Subject: Proposal for Professional Engineering Services  
Drainage Study for Area F - Village of Winnetka, IL

Dear Mr. Saunders:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to present this proposal for professional engineering services related to determining drainage improvements for the portion of the Village of Winnetka (Village) known as Area F. Included in this proposal is our Understanding of the Assignment, Scope of Services and Estimated Fee.

#### **UNDERSTANDING OF THE ASSIGNMENT**

It is our understanding that the Village would like to analyze flood reduction improvements for the portion of the Village known as Area F, which is the approximately 78-acre area located south of Tower Road and north of the Skokie Playfields, between the Winnetka Golf Club and Hibbard Road. This area was not included in the previous flood reduction studies prepared by CBBEL in 2009 and 2011, nor the Baxter and Woodman Stormwater Master Plan study.

CBBEL will perform an XP-SWMM hydrologic and hydraulic analysis of Area F to determine the existing level of flood protection for the study area. The July 23<sup>rd</sup>, 2011 storm event will also be simulated to verify the model results with the residential reports of flooding. We will prepare proposed conditions XP-SWMM modeling, which will be used to determine conceptual drainage improvements that provide 25-, 50-, and 100-year levels of flood protection for the study area. CBBEL will prepare conceptual plans and cost estimates for the selected flood reduction improvements, as well as a memorandum summarizing the results of the study. It will be our desire to utilize overland flow paths where available to help mitigate the flooding areas. Most of the overland flow in this area is tributary to the Winnetka Golf Club.

## SCOPE OF SERVICES

Task 1 – Field Survey: CBBEL will survey the critical overland flow routes and overtopping elevations throughout the study area. This information will be input to the XP-SWMM hydrologic and hydraulic model of the study area.

Task 2 – Existing Conditions Analysis: CBBEL will perform an XP-SWMM hydrologic and hydraulic analysis of Area F to determine the existing level of flood protection for the study area. Storm sewer information for this area will be taken from the Village's storm sewer atlas. General drainage patterns for the study area will be determined using the Cook County 1-foot aerial topography and supplemented by the survey data collected in Task 1. The existing conditions results will be compared to the flood questionnaire data obtained by the Village for properties reporting flooding from the July 2011 storm event.

Task 3 – Concept Plans and Cost Estimates: CBBEL will develop proposed conditions XP-SWMM modeling to evaluate conceptual drainage alternatives to reduce flooding and provide an increased level of protection for the 25-, 50- and 100-year design events. Proposed flood reduction alternatives will likely be a combination of stormwater improvements including relief sewers, detention storage and the reconfiguration overland flow routes. We will prepare concept plans and cost estimates for the selected drainage improvements. We anticipate input from the Village will be required to finalize the concept plans.

Task 4 – Meetings: CBBEL has budgeted time for one meeting with Village staff and one presentation to the Board to discuss our findings.

## ESTIMATED FEE

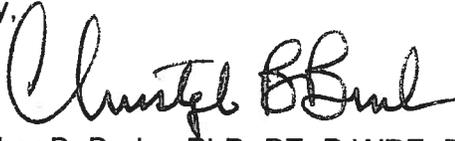
Our estimated fee for this project is summarized in the following table. We will not exceed this fee without prior written authorization from the Village.

<u>TASK</u>	<u>DESCRIPTION</u>	<u>COST</u>
1	Field Survey	\$3,000
2	Existing Conditions Analysis	\$5,500
3	Concept Plans and Cost Estimates	\$6,500
4	Meetings	\$2,000
	Direct Costs	<u>\$600</u>
	<b>TOTAL</b>	<b>\$17,600</b>

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions. The General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are included in the Fee Estimate.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, F.ASCE  
President

Attachment: Standard Charges  
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS & CONDITIONS ACCEPTED FOR THE VILLAGE OF WINNETKA:

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

LJS  
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**CHRISTOPHER B. BURKE ENGINEERING, LTD**  
**STANDARD CHARGES FOR PROFESSIONAL SERVICES**  
**JANUARY, 2012**

<u>Personnel</u>	Charges*
	(\$/Hr)
Principal	240
Engineer VI	210
Engineer V	173
Engineer IV	138
Engineer III	125
Engineer I/II	102
Survey V	178
Survey IV	132
Survey III	127
Survey II	100
Survey I	78
Resource Planner V	112
Resource Planner IV	108
Resource Planner III	100
Resource Planner I/II	88
Engineering Technician V	150
Engineering Technician IV	132
Engineering Technician III	107
Engineering Technician I/II	97
CAD Manager	138
Assistant CAD Manager	126
CAD II	125
CAD I	98
GIS Specialist III	120
GIS Specialist I/II	67
Landscape Architect	138
Environmental Resource Specialist V	154
Environmental Resource Specialist IV	134
Environmental Resource Specialist III	114
Environmental Resource Specialist I/II	94
Environmental Resource Technician	90
Administrative	88
Engineering Intern	53
Survey Intern	53
Information Technician III	97
Information Technician I/II	62

Direct Costs

Outside Copies, Blueprints, Messenger, Delivery Services, Mileage      Cost + 12%

\*Charges include overhead and profit

***Please note: In recognition of the economic challenges facing our clients, we have not increased our schedule of charges since January 2009.***

CHRISTOPHER B. BURKE ENGINEERING, LTD.  
GENERAL TERMS AND CONDITIONS

1. Relationship Between Engineer and Client: Christopher B. Burke Engineering, Ltd. (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.

Furthermore, causes of action between the parties to this Agreement pertaining to acts of failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.

2. Responsibility of the Engineer: Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. Changes: Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. Suspension of Services: Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the

resumptions of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.

5. Termination: This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
6. Documents Delivered to Client: Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest

extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

7. Reuse of Documents: All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's promotional and professional materials. The Engineer's materials shall not include the Client's confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary.

8. Standard of Practice: The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
9. Compliance With Laws: The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer's alleged failure to meet ADA requirements prescribed.

Further to the law and code compliance, the Client understands that the Engineer will strive to provide designs in accordance with the prevailing Standards of Practice as previously set forth, but that the Engineer does not warrant that any reviewing agency having jurisdiction will not for its own purposes comment, request changes and/or additions to such designs. In the event such design requests are made by a reviewing agency, but which do not exist in the form of a written regulation, ordinance or other similar document as published by the reviewing agency, then such design changes (at substantial variance from the intended design developed by the Engineer), if effected and incorporated into the project documents by the Engineer, shall be considered as Supplementary Task(s) to the Engineer's Scope of Service and compensated for accordingly.

10. Indemnification: Engineer shall indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.

Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. Opinions of Probable Cost: Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.
12. Governing Law & Dispute Resolutions: This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9 of) this Agreement, together with the laws of the **State of Illinois**.

Any claim, dispute or other matter in question arising out of or related to this Agreement, which can not be mutually resolved by the parties of this Agreement, shall be subject to mediation as a condition precedent to arbitration (if arbitration is agreed upon by the parties of this Agreement) or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The Client and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Requests for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. Successors and Assigns: The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns: provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
14. Waiver of Contract Breach: The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. Entire Understanding of Agreement: This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void & without effect to the extent they conflict with the terms of this Agreement.
16. Amendment: This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".

17. Severability of Invalid Provisions: If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
18. Force Majeure: Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. Subcontracts: Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
20. Access and Permits: Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
21. Designation of Authorized Representative: Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
22. Notices: Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
23. Limit of Liability: The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

24. Client's Responsibilities: The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants as additional insureds on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are

specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. Information Provided by Others: The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.

26. Payment: Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly and as follows:

Collection Costs. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.

Suspension of Services. If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.

27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:

Kotecki Waiver. Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the Illinois Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. The Owner and Engineer are designated and recognized as explicit third party beneficiaries of the Kotecki Waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

28. Job Site Safety/Supervision & Construction Observation: The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the

Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involve the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. Insurance and Indemnification: The Engineer and the Client understand and agree that the Client will contractually require the Contractor to defend and indemnify the Engineer and/or any subconsultants from any claims arising from the Work. The Engineer and the Client further understand and agree that the Client will contractually require the Contractor to procure commercial general liability insurance naming the Engineer as an additional named insured with respect to the work. The Contractor shall provide to the Client certificates of insurance evidencing that the contractually required insurance coverage has been procured. However, the Contractor's failure to provide the Client with the requisite certificates of insurance shall not constitute a waiver of this provision by the Engineer.

The Client and Engineer waive all rights against each other and against the Contractor and consultants, agents and employees of each of them for damages to the extent covered by property insurance during construction. The Client and Engineer each shall require similar waivers from the Contractor, consultants, agents and persons or entities awarded separate contracts administered under the Client's own forces.

30. Hazardous Materials/Pollutants: Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is a operation, maintenance and repair activity for which the Engineer is not responsible.

## Agenda Report

**Subject:** Stormwater Budget and Expense-to-date

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: August 31, 2012

At the August 21 Council meeting, several Trustees inquired as to the amount of stormwater-related expenditures to date as compared to FY 2012-13 budgeted amounts. Staff has prepared the attached matrix detailing these expenditures by budget line item. Additional information on each of these line items follows:

### Stormwater Fund

- Winnetka Ave. Pump Station. Expenditure to date relates to design engineering and permitting activities. This project is scheduled for a September 5, 2012 review meeting by the Land Use Request Review Committee to hopefully receive final staff approval for modification of the Village's current license agreement to permit construction of the improvements this winter. The project consists of expanding the capacity of the pump station to provide additional stormwater capacity for a large portion of southwestern Winnetka.
- Tower Road/Foxdale and Lloyd Park/Spruce Street. The Council has awarded a contract for final engineering for these two projects to Christopher Burke Engineering (CBBEL), to develop detailed plans, specifications, and bid documents, for proposed construction of these projects in 2013.
- NW Winnetka/Greenwood. The Village awarded a contract to CBBEL for \$10,600 to update the previously completed Northwest Winnetka/Greenwood Area drainage study to include evaluation of an additional area of flooding in and near the Forest Glen neighborhood. Results for this additional drainage area study will be presented to the Council at the September Study Session.
- Willow Rd tunnel (includes proposed area F). The Village has awarded two contracts related to a detailed feasibility study on the proposed Willow Road Tunnel project. One of these contracts was to coastal engineering firm Baird Associates to provide preliminary designs for the proposed transition outfall to Lake Michigan. The second contract was to CBBEL to further refine the preliminary conceptual information provided in October 2011. This information will be presented in the form of a feasibility report at the September Study Session. In addition, staff will be presenting a proposal to complete an updated drainage study for areas south of Tower Road and west of Hibbard Road that were last evaluated in 2001.
- Stormwater rate study. This project entails a feasibility study to evaluate the possibility and suitability of implementing a Stormwater Utility as a mechanism for

funding proposed improvements. This work will include evaluating various means of funding capital and operational improvements, evaluating possible rate structures, identifying stakeholders and obtaining input, and identifying advantages and disadvantages associated with a stormwater utility. The Village has received proposals for this study and will be presenting an evaluation of these proposals in September 2012.

- Stormwater master plan. The Council awarded a contract for this work to Baxter & Woodman in June, 2012. This work also includes a detailed drainage study of 6 additional areas of the Village, in addition to the master planning work.

### **Sanitary Sewer Fund**

- Sanitary Sewer Studies. The Village awarded a contract to Strand Associates to evaluate the Village's sanitary sewer system and determine areas of the system that exhibit susceptibility to Inflow/Infiltration. This study will permit the Village to credibly focus its detailed investigations in areas that are shown to be susceptible to Inflow/Infiltration (I/I). This allows the Village to 1) spend its limited resources in areas likely to identify I/I sources, 2) develop an empirically-based priority program for addressing I/I in other areas of the Village either now or in the future, at the Council's discretion, and 3) effectively communicate with citizens the timeframe and rationale for addressing I/I in various areas of the community.
- Trenchless Lining. This is an ongoing annual capital repair item, consisting of renovating existing sanitary sewers by lining. The Village awarded a contract for this work in May of 2012.
- System I & I Repairs. This project anticipates detailed smoke testing, manhole inspections, dye testing, and television inspection in limited areas that exhibit susceptibility to sanitary sewer backups. This detailed testing will identify specific public and/or private sources of I/I for correction to reduce susceptibility to basement backups. Staff will be presenting a fee proposal to complete this work in September 2012.

### **Recommendation:**

Informational Report

### **Attachments:**

Expenditure Matrix

**Village of Winnetka  
Stormsewer Expenses**

2012.09.01

Project	2012/2013 Budget	Council Authorized	Spent
Stormwater Fund 58.75.640.601			
Winnetka Ave. pump station	\$ 750,000.00	\$ 29,300.00	\$ 15,440.00
Tower Road/Foxdale	\$ 90,000.00	\$ 111,429.00	\$ 53,971.00
Lloyd Park/Spruce Street	\$ 90,000.00	\$ 37,143.00	\$ 17,990.00
NW Winnetka Greenwood	\$ 250,000.00	\$ 10,600.00	\$ -
Willow Rd tunnel	\$ 800,000.00	\$ 37,750.00	\$ 32,422.00
<i>Proposed Area F</i>		\$ 17,600.00	\$ -
Stormwater rate study	\$ 50,000.00	\$ -	\$ -
Stormwater master plan	\$ 50,000.00	\$ 96,900.00	\$ -
Total Stormwater Costs	\$ 2,080,000.00	\$ 340,722.00	\$ 119,823.00

**Village of Winnetka**  
**Sanitary Sewer Expenses**

2012.09.01

Project	2012/2013 Budget	Council Authorized	Spent
Sanitary Sewer Fund 54.70.640.201			
Sanitary Sewer Studies	\$ 100,000.00	\$ 107,857.00	\$ 93,260.00
Trenchless lining	\$ 150,000.00	\$ 166,237.00	\$ -
System I & I repairs	\$ 100,000.00	\$ -	\$ -
Total Sanitary Sewer Costs	\$ 350,000.00	\$ 274,094.00	\$ 93,260.00

## AGENDA REPORT

**TO:** Village Council

**PREPARED BY:** Ann Klaassen, Planning Assistant

**DATE:** August 14, 2012

**SUBJECT:** 528 Maple St. Landmark Nomination  
Ordinance No. M-16-2012

On July 2, 2012 the Landmark Preservation Commission (LPC) voted 5-0 to recommend the Village Council designate 528 Maple St. as a Winnetka Landmark. Based upon the adopted System for Evaluation of Landmarks, the property received an overall score of 69.4 points, resulting in a “Significant” rating.

The home was built c. 1895 in the Foursquare style. It sits at the southwest corner of Maple and Elm streets directly across from the Village Green. The home has been renovated and expanded over the years, by owners previous to Rick and Jen McQuet who submitted this landmark nomination. Most notably, the front porch was added in 1996 by the owners at that time, Michael and Wendy Graham, after approval of a zoning variation in 1995 by Ordinance M-436-95. The existing porch was principally a restoration of an earlier porch that had been removed years earlier. There are photos attached to this report that show the older porch and how the new porch replicates the original style. Two subsequent additions were built in 1999 and 2004; a two-story addition and a small kitchen addition. Given the expansion of the home over the years, the property is nearly built to the maximum permitted gross floor area.

The LPC found 528 Maple St. satisfies the criteria for local landmark designation based upon a variety of factors, most significantly that the home is an established and familiar visual feature located directly across from the Village Green. The home is part of a cohesive grouping of older houses around the Village Green, as a corner property it is a familiar fixture in the context of the neighborhood and the Village. The Commission feels it is important to recognize the prominent homes on the Village Green, 528 Maple St. being one of them. Two other homes on the Village Green are also local landmarks: 500 Maple St. (designated in 1994 by Ordinance M-406-94) and 507 Cedar St. (designated in 2009 by Ordinance M-8-2009).

In addition to being an established and familiar visual feature, the Commission found the originality of the home to be a significant factor in making their recommendation for local landmark status. Recognizing the fact that the home has been altered and expanded, the Commission found the additions to be sensitive to the original design which have upheld the original design integrity. Besides the front porch, which replicated an earlier porch, the two-story addition built in 1999 was located towards the rear of the property and is heavily landscaped so it is not a primary feature of the historic portion of the home seen from public view. Also, the original circular stained-glass window remains today on the north elevation along Elm St.

Page 2 of 2  
528 Maple St.  
August 14, 2012

A report from the LPC is attached providing full details on all the categories considered by the LPC.

Pursuant to the recommendation of the LPC, Ordinance M-16-2012 designates 528 Maple St. as a Winnetka Landmark. Introduction of the ordinance requires the concurrence of a simple majority of the Council members present.

Recommendation:

Consider introduction of Ordinance M-16-2012, which would designate 528 Maple St. as a local landmark.

**ORDINANCE NO. M-16-2012**

**AN ORDINANCE  
DESIGNATING A LANDMARK  
PURSUANT TO CHAPTER 15.64 OF THE  
WINNETKA VILLAGE CODE (528 Maple)**

**WHEREAS**, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

**WHEREAS**, the Council of the Village of Winnetka (“Village Council”) find that the identification, designation and preservation of buildings and structures in the Village that are historically, culturally, and architecturally significant, and the encouragement of the restoration and rehabilitation of those buildings and structures are matters pertaining to the affairs of the Village; and

**WHEREAS**, Chapter 15.64 of Title 15 of the Winnetka Village Code, titled “Landmark Preservation,” establishes standards and procedures for preserving, protecting, enhancing, rehabilitating and regulating buildings, structures, objects, and places of historical, cultural or architectural importance; and

**WHEREAS**, the property commonly known as 528 Maple Street, Winnetka, Illinois (the “Subject Property”), is legally described as follows:

Lot 1 in Townsend Resubdivision of the North 211 Feet of the East 125 Feet of Block 24 in Winnetka, a subdivision of the Northeast ¼ of Section 20, and the North ½ of Fractional Section 21, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois; and

**WHEREAS**, the owner of the Subject Property has submitted an application seeking Village of Winnetka landmark designation of the Subject Property, which is improved with a single family residence known as the Dr. Arthur and Helen Murdow House (“Murdow House”); and

**WHEREAS**, pursuant to the provisions of Chapter 15.64 of the Winnetka Village Code (“Landmark Ordinance”) and notice duly published and sent, the Landmark Preservation Commission (“Commission”) held a public hearing on July 2, 2012, to consider the owner’s application for landmark designation and, applying the Village’s System for the Evaluation of Landmarks to the information received into the record, gave the Murdow House an overall score of 69.4 points, resulting in a rating of Significant; and

**WHEREAS**, the Commission found the architectural type, style and period of the home to be somewhat rare in that the Murdow House, constructed in 1895, is an example of the Foursquare style, that there are no longer many examples of this style in the Village, and that the renovations and expansions to the Murdow House have been sensitive to its original style, including the 1996 restoration of an original wraparound porch that is shown in vintage photos of the home but had been removed some years before; and

**WHEREAS**, the Commission found that due to the home's prominent presence on the Village Green at the southwest corner of Maple and Elm Streets, the home is a "symbol of the Village as a whole," and gave the home a score of 5 points for being an Established and Familiar Visual Feature because: (a) the home is part of a cohesive grouping of older houses around the Village Green, and (b) as a corner property it is a familiar fixture in the context of the neighborhood and the Village; and

**WHEREAS**, the Commission gave the home a rating of 4 points for Originality, regardless of alterations made to the home, as (a) the additions were sensitive to the original design and have upheld the original design integrity of the home; and (b) the original circular stained-glass window remains in a prominent location on the north elevation along Elm Street; and

**WHEREAS**, the Commission gave the building the maximum score of 5 points for the Age of Structure, which was constructed in 1895, and another 5 points for Structural Condition, which the Commission found to be exceptional; and

**WHEREAS**, the Commission found the Alteration of Surrounding Properties was "minor" and gave the home a score of 3 for the overall condition of the surrounding area; and

**WHEREAS**, pursuant to the findings and ratings entered by the Commission at its February 6, 2012, meeting, the cumulative total for the Murdow House yielded an overall rating of significant, and the five members who were then present unanimously found that the Murdow House therefore meets the Landmark Ordinance's criteria, and recommended that the Murdow House be designated a Winnetka landmark; and

**WHEREAS**, the Council of the Village of Winnetka have considered the recommendation of the Landmark Preservation Commission and have determined that it is in the best interest of the Village and its residents to accept the findings and recommendation of the Commission and to establish 528 Maple Street as a designated landmark, because of its

prominent location on the Village Green and its excellent original design integrity and structural condition.

**NOW, THEREFORE,** the Council of the Village of Winnetka do ordain as follows:

**SECTION 1:** The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2:** The building located on the property at 528 Maple Street, having a permanent real estate index number 05-21-109-021-0000, and known as the Dr. Arthur and Helen Murdow House, is hereby designated a Village of Winnetka landmark under Section 15.64.070 the Landmark Preservation Ordinance, in accordance with the findings and recommendations of the Landmark Preservation Commission.

**SECTION 3:** This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 4:** This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

**PASSED** this \_\_\_ day of \_\_\_\_\_, 2012, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this \_\_\_ day of \_\_\_\_\_, 2012.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

Introduced:

Posted:

Passed and Approved:

Posted:



## REPORT ON PUBLIC HEARING JULY 2, 2012

### CONSIDERATION OF LANDMARK ELIGIBILITY

#### *Dr. Arthur and Helen Murdow House 528 Maple St., Winnetka*

This report is an integral part of the July 2, 2012 Landmark Preservation Commission meeting minutes and is also compiled based on the submitted application for landmark designation.

#### **Findings of the Commission**

Based on the System for the Evaluation of Landmarks contained in the Landmark Preservation Ordinance (see attached rating sheet) 528 Maple St. was rated a “Significant” property with a score of “69.4.”

**Architectural Type, Style & Period.** It is believed that the Murdow House was built in 1895. The home is an example of the Foursquare style and has been renovated and expanded over the years. In 1995 Ordinance M-436-95 granted a front setback variation to allow the front wraparound porch that exists there today. The porch was principally a restoration of an earlier porch that had been removed years earlier. The photos included in the agenda materials identify the older porch and how the existing porch replicates the original style. The Commission felt that although the Foursquare style was common throughout the country in the early 20<sup>th</sup> century, there aren't too many in the Village.

Based on these facts, the architectural type, style and period of the home were judged to be “somewhat rare,” with a rating of “2.”

**Method of Construction.** The Murdow House is frame construction with clapboard siding. The entrance of the home faces the Village Green and an original circular stained-glass window is a distinctive feature on the Elm St. elevation.

With regard to rarity in method of construction, the home was judged to be “common” and therefore rated “0.”

**Association with an Historical Event, Person, or Cultural Activity.** In 1843 John Happ located his blacksmith shop at the southwest corner of Maple (then Green Bay Rd.) and Elm streets. The need for blacksmiths along the Green Bay Trail lessened in the early 1850's as the railroad expanded

along the north shore. It is likely that Mr. Happ sold this property in 1850. Even though the existing residence at 528 Maple St. is not directly related to Mr. Happ it is interesting to note that he was a well-known and respected citizen. He is credited with naming the township of New Trier. In 1849 he was elected the first Justice of the Peace for this area of Cook County and Happ Road was named in his honor.

Mr. and Mrs. Miller, the parents of Mrs. Helen Murdow, commissioned the home for their daughter and her husband, Dr. Arthur Murdow in 1895. Dr. Murdow was a dentist. It is said that many north shore children came to his office on the north side of the home for dentistry in the early 1900's. Mrs. Murdow's younger brother, Louis A. Miller and his wife, Gladys, remodeled the home and resided in the home as late as 1976. The current owners, Rick and Jen McQuet, purchased the home from Michael and Wendy Graham in 2010.

Because the history of John Happ is not directly related to the existing residence at 528 Maple St. the Commission rated the home as a "0," no significant association with regard to association with an historical event, person or cultural activity.

**Association with an Architect or Master Builder.** The architect for the Murdow House is unknown. The original building permit is not on record in the Village. Even if the permit was available it is possible that the architect would still not have been identified, as the Foursquare style was practical for mail order house kits from Sears and other catalog companies. The Commission rated the home as a "0," "architect or builder unknown."

**Established or Familiar Visual Feature.** The Murdow House sits at the southwest corner of Maple and Elm streets directly across from the Village Green. The home is part of a cohesive grouping of older houses around the Village Green, as a corner property it is a familiar fixture in the context of the neighborhood and the Village. The Commission found that due to the home's prominent presence on the Village Green the home is a "symbol of the Village as a whole," warranting a score of "5."

**Originality.** In 1947 a building permit was issued to alter and add to the residence; S.S. Beman was the architect of record. Subsequent building permits were issued over the years to remodel the home. As noted previously in this report, the wraparound porch was built in 1996 and replicated an earlier porch that had been removed. In 1999 a two-story addition and detached garage were constructed. Lastly, in 2004 a small kitchen addition was constructed on the west side of the home. Recognizing the fact that the home has been altered and expanded, the Commission found the additions to be sensitive to the original design which have upheld the original design integrity. The Commission felt that since the two-story addition was located towards the back of the property and is so heavily landscaped that the addition is not a primary feature of the historic portion of the home seen from public view. Also, the original circular stained-glass window remains today on the north elevation along Elm St. Therefore, the Commission rated the home's alterations of design integrity as "Good," warranting a score of "4."

**Age of Structure.** The Murdow House is circa 1895, therefore, the home warrants a score of "5."

**Alteration of Surrounding Properties (View from Property).** The lot to the south of 528 Maple St. was subdivided from the original property and a new home built in 1989 at 520 Maple St. Although having a new home built next door is a major alteration, the Commission determined the overall existing condition of the surrounding area to consist of “minor alterations,” which warranted a score of “3.”

**Alteration of Original Site (View of Property).** The most historic elevation of the home is the north elevation along Elm St. as it still retains the original circular stained-glass window. The only alteration to the historic north elevation is the new kitchen door. However, in total there have been significant alterations to the home. Therefore, the Commission determined the condition of the site to consist of “major alterations,” which warranted a score of “0.”

**Structural Condition.** The Commission determined the structural condition to be “exceptional,” which warranted a score of “5.”

### **Resolution**

The Landmark Preservation Commission provides this recommendation of landmark status to the Dr. Arthur and Helen Murdow house at 528 Maple St. They were happy to recommend landmark status to such a prominent property on the Village Green that has upheld its original design integrity. The Commission feels it is important to recognize such prominent homes on the Village Green. The Commission found the home to more than satisfy the criteria for local landmark designation.

Based upon these considerations and the System for Evaluation rating of “Significant,” with a score of “69.4,” the five members of the Commission then present unanimously voted to recommend that the Village Council designate 528 Maple St. a local landmark.

Respectfully Submitted,

Louise Holland  
Marilyn Garcia  
Laura Good  
Anne Grubb  
Beth Ann Papoutsis

SYSTEM FOR THE EVALUATION OF LANDMARKSTIER 1

<u>CATEGORY</u>	<u>FACTORS</u>	<u>POINT VALUE</u>	<u>WEIGHT*</u>	<u>SCORE</u>
Rarity: Architectural Type, Style and Period	-Extremely Rare	5	<u>1</u>	<u>2</u>
	-Rare	4		
	-Somewhat Rare	<u>2</u>		
	-Common	0		
Rarity: Method of construction and its application	-Extremely Rare	5	<u>1</u>	<u>0</u>
	-Rare	4		
	-Somewhat Rare	2		
	-Common	<u>0</u>		
Association with an Historical Event, Person, or Cultural Activity	-National	5	<u>1</u>	<u>0</u>
	-State, County or Local	5		
	-None	<u>0</u>		
Association with an Architect or Master Builder	-National	5	<u>1</u>	<u>0</u>
	-State, County or Local	5		
	-Architect or builder identified but of no known importance	1		
	-Architect or builder unknown	<u>0</u>		
Established or Familiar Visual Feature	-Symbol of Village as a whole	<u>5</u>	<u>10</u>	<u>50</u>
	-Symbol of a neighbor- hood or a conspicuous and familiar structure in the context of the entire Village	4		
	-A conspicuous and familiar structure in the context of a neighborhood	3		
	-Not particularly conspicuous or familiar	0		

**Tier 1 Score** 52  
(Add Above 5 lines)

\*The (or a) category with the highest point value is given a weight of 10. All other categories are weighted 1.

TIER 2

CATEGORY	FACTORS	POINT VALUE		WEIGHT		SCORE
Alteration of (Originality) Design Integrity	-Excellent	5				
	-Good	4	x	10	=	40
	-Fair	3				
	-Poor	0				
Age of Structure	-pre-1900	5				
	-1900-1930	3	x	4	=	20
	-1931-1950	2				
	-1951 to present	1				
Alteration of Surrounding Properties (View from Property)	-Original	5				
	-Minor Alterations	3	x	4	=	12
	-Major Alterations	0				
Alteration of Original Site (View of Property)	-Original	5				
	-Minor Alterations	3	x	3	=	0
	-Major Alterations	0				
Structural Condition	-Exceptional	5				
	-Good	3	x	3	=	15
	-Fair	1				
	-Deteriorated	0				

Tier 2 Score 37  
 (Add Above 5 Lines)  
 Avg. Tier 2 Score 17.4  
 (Divide Total by 5)

$$\begin{array}{rcl}
 \underline{52} & + & \underline{17.4} & = & \underline{69.4} \\
 \text{Tier 1 Score} & & \text{Avg. Tier 2 Score} & & \text{Total Score}
 \end{array}$$

Level of Significance

Total Points	Category
80-94	Unique
65-79	Significant
50-64	Important

**LANDMARK PRESERVATION COMMISSION  
EXCERPT OF MINUTES  
JULY 2, 2012 MEETING**

**Members Present:**

Louise Holland, Chairperson  
Marilyn Garcia  
Laura Good  
Anne Grubb  
Beth Ann Papoutsis

**Members Absent:**

Hugh Brower  
Susan Curry

**Village Staff:**

Ann Klaassen, Planning Assistant

\*\*\*

**Review of Landmark Designation Application: 528 Maple St.**

Chairperson Holland referred to the review of the home and stated that she has read the history of it.

Jen McQuet informed the Commission that they purchased the home two years ago from the Grahams and that it was the Happ Blacksmith's home. She then stated that with regard to research, the home has undergone updates and improvements internally and that the footprint was maxed out. Mrs. McQuet stated that they had some reservations about getting landmark status and that there are perceived notions that you cannot do anything to it once it is landmarked. She noted that they cannot do anything with the footprint as is.

Chairperson Holland stated that when the Grahams rebuilt the porch, time and effort was put in with regard to the way it looked.

Mrs. McQuet stated that the home does not have the sleeping porch as it once did.

Chairperson Holland added that they continued the porch around and that the addition was not there. She then stated that as the Commission went through the application, there is a matrix for granting landmark status. Chairperson Holland commented that structurally, there is certainly significant character. She also stated that it is closely identified with contributing to the development of the Village. Chairperson Holland noted that it was the site of the blacksmith shop and that the unique location of the structure made it an established and important visual feature. She described the home as a current and former focal point of the Village. Chairperson Holland then stated that the Commission would go through the system of evaluation to come up with a score and asked the Commission if they felt comfortable doing that.

The Commission members agreed that would be fine.

Chairperson Holland stated that there is a two tier system with different categories. She referred to

the first category which represented Rarity - Architectural Type, Style and Period. Chairperson Holland called the home a four square home.

The Commission determined this category to be somewhat rare with a score of 2.

Chairperson Holland stated that the next category related to Rarity - Method of Construction. She noted that the home has clapboard siding.

Ms. Grubb described it as common.

The Commission determined this category to be rated common with a score of 0.

Chairperson Holland stated that the next category related to Association with an Historical Event, Person or Cultural Activity.

Chairperson Holland stated that the Happs did not live in the home.

Mr. McQuet confirmed that they did live in it.

Chairperson Holland reiterated that it was the site of the blacksmith shop. She also stated that the first school was located across the street on the Village Green.

The Commission determined this category to be none with a score of 0.

Chairperson Holland stated that the next category related to Association with an Architect or Master Builder. She indicated that they do not know the architect.

The Commission determined this category to be architect or builder unknown with a score of 0.

Chairperson Holland stated that the next category related to Established or Familiar Visual Feature.

The Commission determined this category to be a symbol of the Village as whole with a score of 5.

Chairperson Holland stated that the Tier 1 score totaled 52. She stated that now the Commission would review Tier 2 and that the first category related to Alteration of (Originality) Design Integrity. Chairperson Holland stated that the addition is set so far back and that the property is so heavily landscaped, you cannot see it.

The Commission determined this category to be good with a score of 4.

Chairperson Holland stated that the next category related to Age of the Structure.

The Commission determined this category to be pre-1900 with a score of 5.

Chairperson Holland stated that the next category related to Alteration of Surrounding Properties (View from Property). She stated that half of the property was sold off to the new home next door

and that the property did not have its original view.

The Commission determined this category to be minor alterations with a score of 3.

Chairperson Holland stated that the most historic elevation is to the north which has not changed at all except for the door to the kitchen. She added that the home has the original stained glass windows.

Chairperson Holland stated that the next category related to Alteration of Original Site (View of Property).

The Commission determined this category to be major alterations with a score of 0.

Chairperson Holland stated that the next category related to Structural Condition.

The Commission determined this category to be exceptional with a score of 5.

Chairperson Holland stated that the Tier 2 total is 17 with a total score of 69. The home was determined to fall under the "Significant" category in terms of level of significance.

Chairperson Holland thanked the applicants for their application. She confirmed that the Commission would recommend to the Village Council the landmarking of the home.

Ms. Klaassen informed the Commission that a motion is needed.

Chairperson Holland then asked for a motion to recommend the landmarking of 528 Maple as a Winnetka landmark to the Village Council.

Ms. Grubb moved to recommend to the Village Council the landmarking of 528 Maple as a Winnetka landmark. Ms. Garcia seconded the motion. A vote was taken and the motion was unanimously passed.

AYES: Garcia, Good, Grubb, Holland, Papoutsis  
NAYS: None

RECEIVED  
JUN - 1 2012



# LANDMARK NOMINATION FORM

Thank you for considering landmark status for your property. If you have questions about landmark designation or about this form, please call Ann Klaassen, Department of Community Development at Village Hall, telephone: 847.716.3525 or email [aklaassen@winnetka.org](mailto:aklaassen@winnetka.org)

*Pics of house emailed 6/1/12*

Please use another piece of paper to answer the questions on this form. If you do not know the answer or if the question does not relate to your property, simply write, "don't know" or "not applicable."

To help you, we have enclosed How to Research Your House, a page of useful resources for learning more about your property. Both the Department of Community Development at Village Hall and the Winnetka Historical Society (phone: 847.501.6025) can answer many of your questions.

1. Property owner's name(s) Jen & Rick McQuet
2. Street Address 528 Maple St.
3. Property Identification Number (P.I.N.) 05-21-109-021-0000  
(on your tax bill or can be requested from Community Development, Village Hall)  
If available please attach a plat of survey
4. How long have you owned this property? ~ 2 years  
If you know, list the previous owners of the house and when they owned it. Do you know whether any of the owners had a particular influence on the village's history?  
Michael & Wendy Graham (most recently) ... previously the original Village blacksmith -> The Happ's
5. Date of construction, if known 1887

In the next section, we ask about information that is important in evaluating landmark requests. For questions that are not relevant, write "none" or "not known". Please provide sources for your information. Referring to the title and page number of a book is fine. For other documents, it would help to include a photocopy of your source. If the source is Village Hall, simply write what the reference is, for example: "Water hook up - Village Hall."

1. If known, give the name of the architect \_\_\_\_\_  
Architectural firm \_\_\_\_\_  
Designer Not Known  
And/or builder \_\_\_\_\_  
Do you have original plans? No

Is the property associated with a historical person or group?  
Please explain.

Yes. House is on historic corner of original Green Bay Trail & was the site of Happ Blacksmith shop in 1850's

Is the property associated with a notable historic event? If so, explain.

Famous for Large 4<sup>th</sup> of July parties.

2. Alteration History: Please include current photos of all sides of the house and older photos, if available. The "structure files" at the Winnetka Historical Society, may have older photos.

If known, describe changes made to the outside of the building since it was built. Have important changes been made to the property as viewed from the street in the last fifty years? Please include descriptions of alterations, dates and architects, if known. (Note: Building permit records at Village Hall are helpful)

See enclosed.

If known, describe changes over the last fifty years to the original property, not including alterations to the building itself. These changes could include subdivision, fences or new structures added to the property. (Note: Sanborn maps at Village Hall are helpful. Also, many buildings in the Village have been moved from their original sites.)

See enclosed.

3. Do you have any other information about the property or anecdotes you'd like to share? This information can be based upon hear-say, so long as you tell us the source.

Yes. See enclosed.

4. I (We) hereby certify that I (We) am (are) the owner(s) of the property described in the form and wish to make application for designation of this property as a landmark by the Village of Winnetka.

Name(s): Jen & Rick McQuet

Signature(s): [Handwritten signatures]

Date: 6/2/12

Phone: 847-446-6673 Fax: o

Email: jenmcquet@yahoo.com  
or rick.mcquet@alyskagroup.com

*Please forward your completed nomination to:*

**Winnetka Landmark Preservation Commission  
Village Hall  
510 Green Bay Road  
Winnetka, Illinois 60093**

city. Commerce boomed and the population exploded. By 1867 Chicago became the largest center for lumber distribution in the world and likewise with grain handling, 60 million bushels in 1870. "As many as 300 vessels arrived in Chicago in a single twelve hour period." (Mayer & Wade Chicago, *Growth of a Metropolis*)

As Chicago grew so did most of the communities along the North Shore. The city provided a ready market for the hay and grain grown by the farmers nearby. When the Happ family arrived in Winnetka (Winnetka), Illinois we see Mr. Happ had purchased 80.83 acres of land on the shores of Lake Michigan. Mr. Alexander McDaniel had purchased this property from the government in 1841. (70 acres NW $\frac{1}{4}$  of NW $\frac{1}{4}$  & NE $\frac{1}{4}$  of NW  $\frac{1}{4}$  and 10 83/100 acres S and adj to NE $\frac{1}{4}$  of NW $\frac{1}{4}$  Sect 21, Twp 42N, 13E, 3M, New Trier Twp. ASSESSMENT RECORDS 1850, Evanston Historical Society, Rosemary Schmitt.) This property extended from about Ridge Avenue to the shores of Lake Michigan. The property would probably include what is known today as the Village Green. The property being on the Lake was subject to erosion and not quit as ideal for farming as it was for his blacksmith shop. Of the location Laura Townsend Dickenson, in her *History of Winnetka* writes:

John Happ, in 1843, chose a strategic site. His Smithy was located 'in a grove of flowering locust trees at the southwest corner of the present Maple (then Green Bay Road) and Elm streets. John Happ and his family came to stay, their intention evidenced by his log house, shop, and the surrounding log buildings-sheds for wagons, vegetable storage, implements-all part of the Happ settlement. In a real and lasting sense the Happ family were the first permanent settlers in the region. Here he established himself as the area blacksmith. Servicing the smithy needs of the settlers in the area and those of the stagecoaches and horses of the travelers that used the 'Green Bay' Trail.

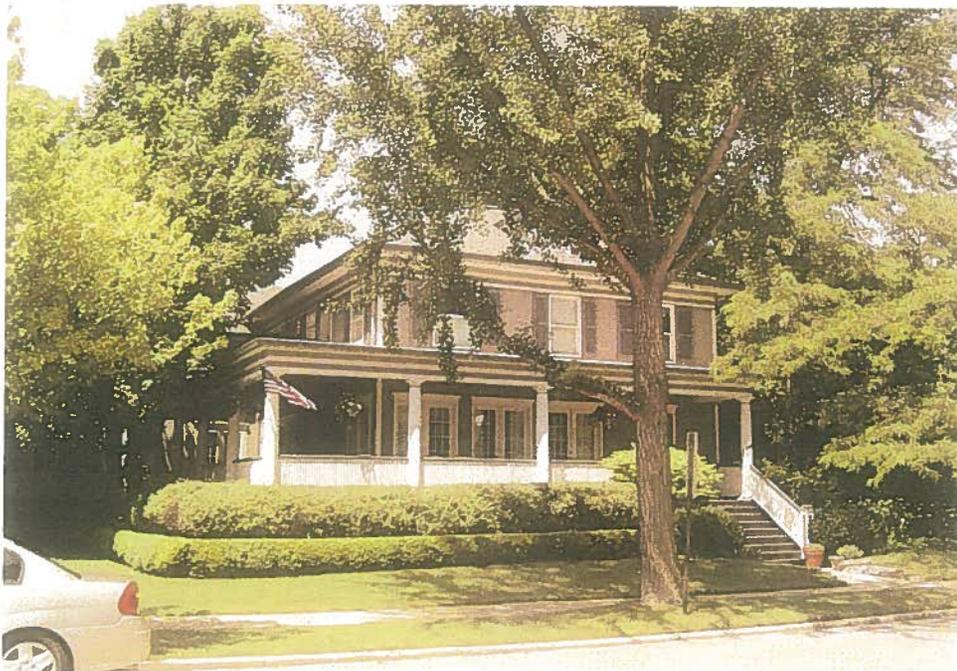
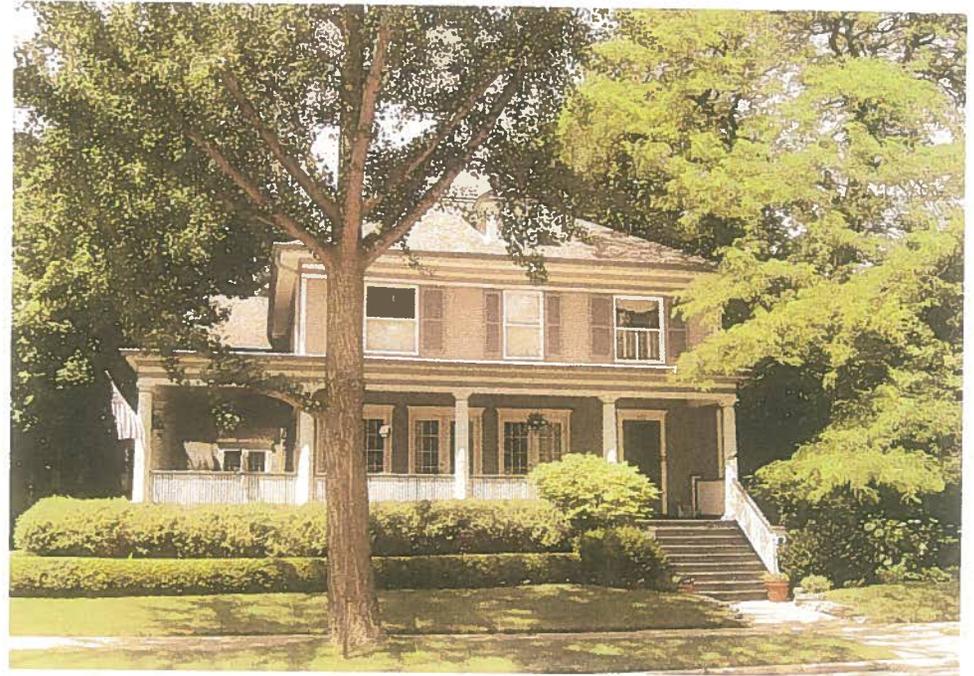
In the early 1850's John Happ had a setback. We see the beginnings of the railroad along the north shore and this lessened the need for blacksmiths along the trail. It was probably in 1850 when John Happ sold his property in Winnetka. The property tax rolls for New Trier Township for that year show his owning 120 acres just west of his original property. This property is at Happ and Winnetka roads and is where the family and several generations of their descendents lived. (SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , SE $\frac{1}{4}$  of SW $\frac{1}{4}$  and NE  $\frac{1}{4}$  of SE $\frac{1}{4}$ , Sect 19)

John Happ was a well known and respected citizen. He is credited with naming the township of New Trier. He helped organize the building of the first wooden church at St. Joseph in Wilmette. In 1849 he was elected the first Justice of the Peace for that area of Cook County and Happ Road was named in his honor. John Happ passed away in 1863 several years before his wife Gertrude. His daughter and three of his sons married, had families and remained mostly in the area. Three other sons went to California, married and had families. Three others moved to Chicago.

Over the years there have been articles written that report Johann Happ to have purchased original Government Land Grants of 200 and 300 acres with it extending to Tower Road. The writer has not found any records to support these statements. It is not likely because at the time the property up to Tower Road was owned by several others, the Garlands, Taylors, Gage and even his son-in-law, Peter Peterman, had 40 acres north of the Happ property and south of Tower Road. However when Mr. Happ moved from his first homestead he did purchase 120 acres in sec 19 so there was a time in early 1850's when he owned both properties and it could be said he owned 200 acres (80.83+120).

Gerard E. Happ

Wow!













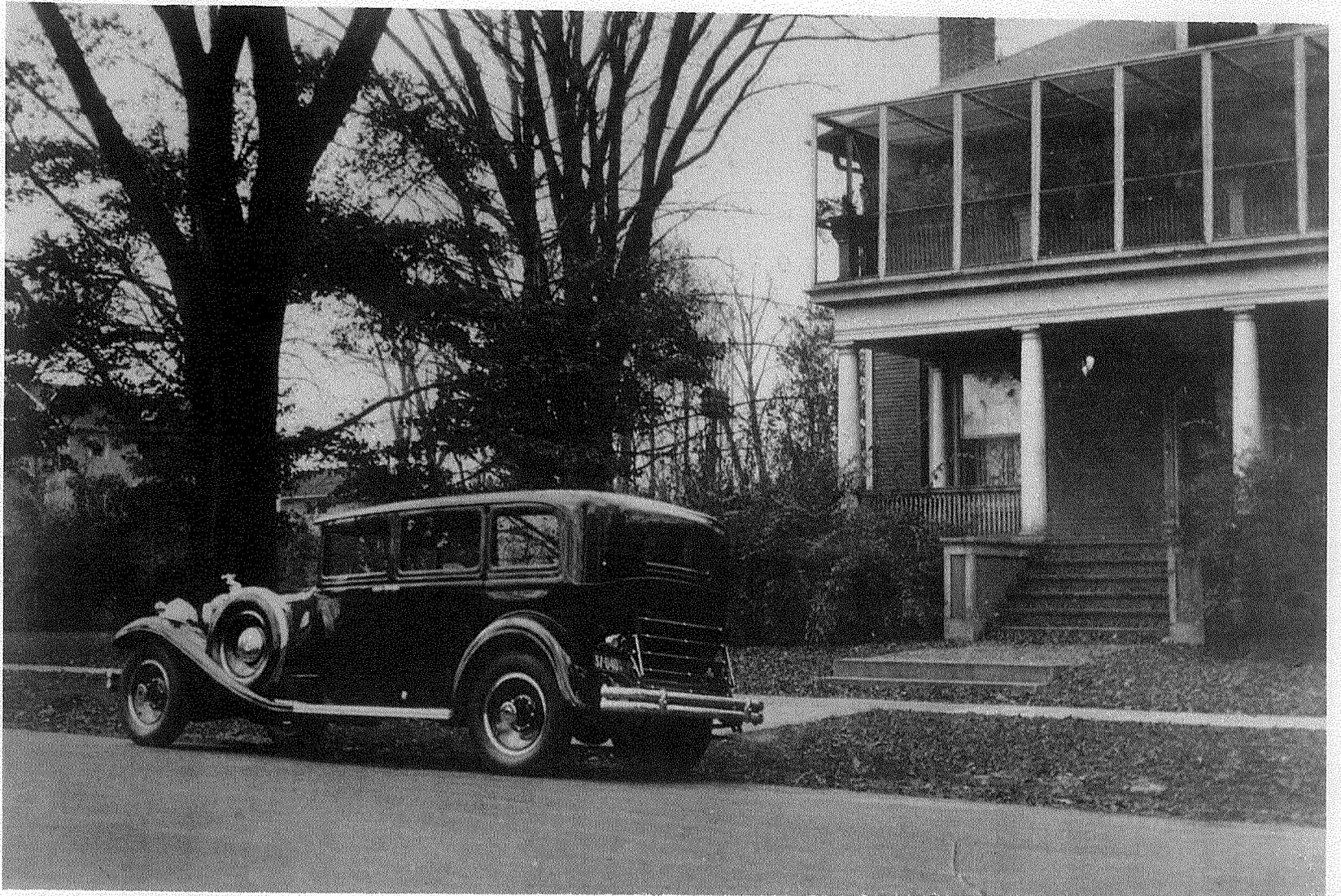






528 Maple (see window!)





Mrs. T. Mandeville Woolson  
527 Winnetka Avenue  
Winnetka, Illinois 60093

Early picture of Dr. Purdow (Dentist) home at  
528 Maple Street, facing Village Green - about 1905  
Built in 1895 by the Senior Pillars. In their  
daughter and her bridegroom. Dr. Purdow, with whom  
they were most pleased. All North Shore children  
or many came to his office on the North Side  
of the house for dentistry in the early 1900s -  
The Pillars younger brother Louis A. Pillar<sup>92 yrs.</sup> & his  
wife Gladys remodelled the house and are living  
in it now in 1976.

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*Before*

*After*

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847.295.1825  
WWW.LYNCHCONSTRUCTION.BIZ

History  
Special Features  
Improvements

~~528 Maple Street, Winnetka, Illinois~~

### Exterior

- House situated on historic corner of original Green Bay Trail and was the site of the Happ Blacksmith shop in 1850's. To the best of our knowledge, original northeast corner of house dates back to late 1890's. Building permit issued 1898.
- Front wraparound porch built 1996 by Lynch Construction, Lake Bluff, Illinois to mimic original style and proportions. Please feel free to sit on the porch to experience its splendor and privacy. Home is famous for its large Fourth of July parties.
- ~~The corner of Maple and Elm streets is also the turning point for both the Winnetka Memorial Day and Fourth of July village celebrations.~~ Other major functions on the Village Green during the year include the Winnetka Children's Fair in June, the Winnetka Women's Club Bygone Era Croquet afternoon in August, and the Village caroling around the Winnetka tree on Christmas Eve. Great, little playground on the far southeast corner. The Village Green is a serene, open space owned by the Village, not the Park District. Location is one block from downtown, train station, shopping, three blocks to the access-restricted Maple Street swimming beach and adjacent Lloyd Park sailing facility.
- Virtually all of the exterior cedar siding has been replaced in the last ten years, and it is stained—not painted—which eliminates peeling and flaking. Porch columns are fiberglass and will not rot. Porch is also stain and not paint.
- Majority of house was built in 1999-2000.
- Landscaping and maintenance by ~~P. Clifford Miller, Lake Bluff, Illinois~~

### Transportation

- Location, location. Wow, only one block from Metra North Line train station, the Village Green location is nevertheless quiet as the train tracks were sited below grade 80 years ago. 28 minutes to the Chicago Loop. Bus to school for grades 5-8 stops on the corner.

### HVAC

- Total forced air system, and new ducts. Four Lennox high efficiency furnaces with Honeywell electronic air cleaners, fresh air heat exchanger system with four Aprilaire humidifiers installed in 2000. Six thermostats (zones). Serviced by MG Mechanical Contractors, Woodstock, Illinois. No noisy, leaking, radiators, marginal space pac.

### **Roof**

- All new, 2000. Heavyweight 40-year shingles

### **Garage**

- Two car, detached, heated garage with additional parking space on west side.

### **Interior Construction**

- Majority of house finished in 2000 is red and white oak timber frame designed and installed by Riverbend Timberframe of Michigan. All pegs; no nails or bolts. Floors are 100-year old, resawn Vermont timbers. Twenty-two foot high, wood-burning fireplace with gas starter makes this on a par with the best great rooms in Idaho and Montana.

### **Old Basement**

- No foundation leaks. Excellent drainage sloping toward Lake Michigan, 2 blocks away. Main room floor was carpeted as teenage bedroom for many years with no problems. Ceiling 7' 4".
- All exterior walls insulated and dry walled
- 200 amp service
- 75 gallon high efficiency gas hot water heater, 2005
- Gas dryer
- Water and gas meters read remotely from outside
- Bright, any purpose space

### **New Basement**

- All floors are Saltillo stone tile
- Ten foot high climbing wall includes adjustable climbing rocks. All climbing should be done with adult supervision.
- Endless Pool (swim against an adjustable speed "river") includes underwater lighting, hydrotherapy spa jets, and electric mood lighting. Pool typically requires only 1-2 cups of household liquid bleach per month.
- Large greenhouse window (9'x5') floods pool area with natural light.
- Talavera tiled shower/bathroom/changing area designed to anticipate future 4' x 8' or larger sauna.
- Large door from climbing room accesses back yard.
- House has a detached, two car garage with full attic. There is a full basement under the garage that is connected to main house through climbing room.  
(See floor plan) Knotty pine recreation room currently used for billiards.

**Foyer**

- Antique stained glass window original to house

**Living Room**

- New hardwood floor 2007

**Dining Room**

- New hardwood floor 2007

**Kitchen**

- Guted 2007. All new.
- Two Sub Zero refrigerators each with two pull out freezer drawers
- Fisher & Paykel double drawer dishwasher
- Honed black granite island top and counter tops
- Viking stove and oven
- Custom cabinetry

**Media Room**

- Ten foot diagonal, wall mounted screen, included
- HD HDMI SONY ceiling mount projector
- 528 is wired! DirecTV, DSL, telephone extensions available in every room

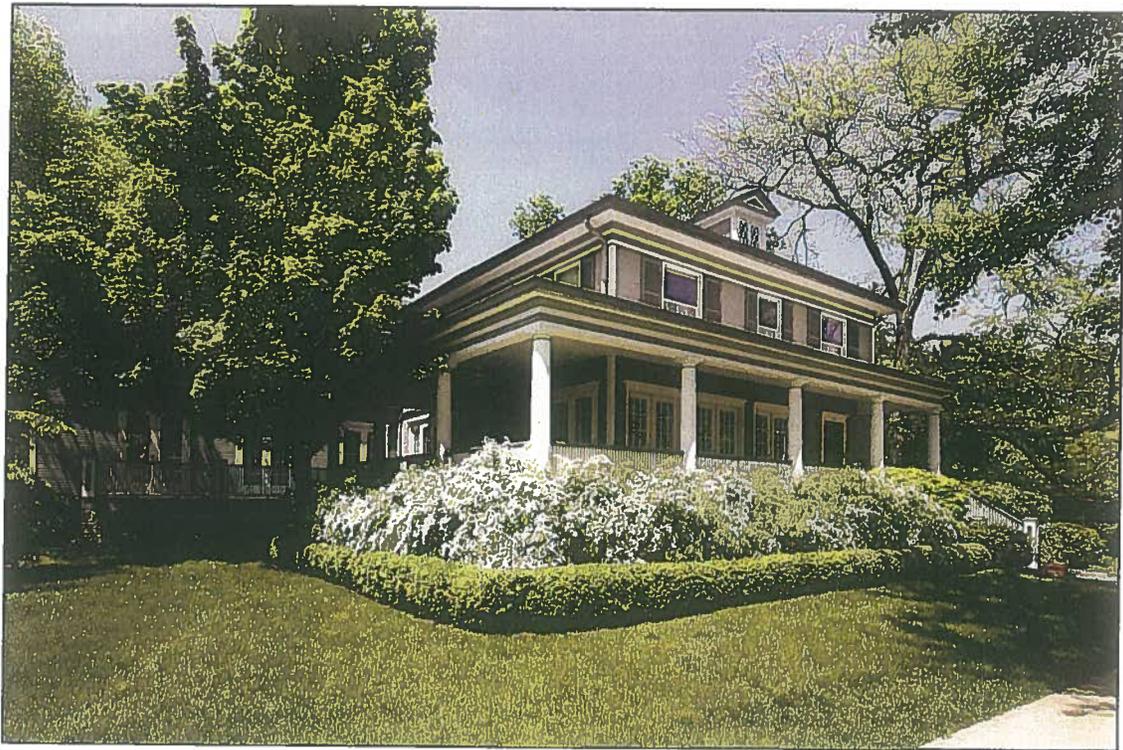
**Great Room/Balcony**

- Red and white oak timber frame designed and installed by Riverbend Timberframe of Michigan. All pegs; no nails or bolts.
- Floors are 100-year old, resawn Vermont timbers.
- Twenty-two foot high, wood-burning fireplace with gas starter

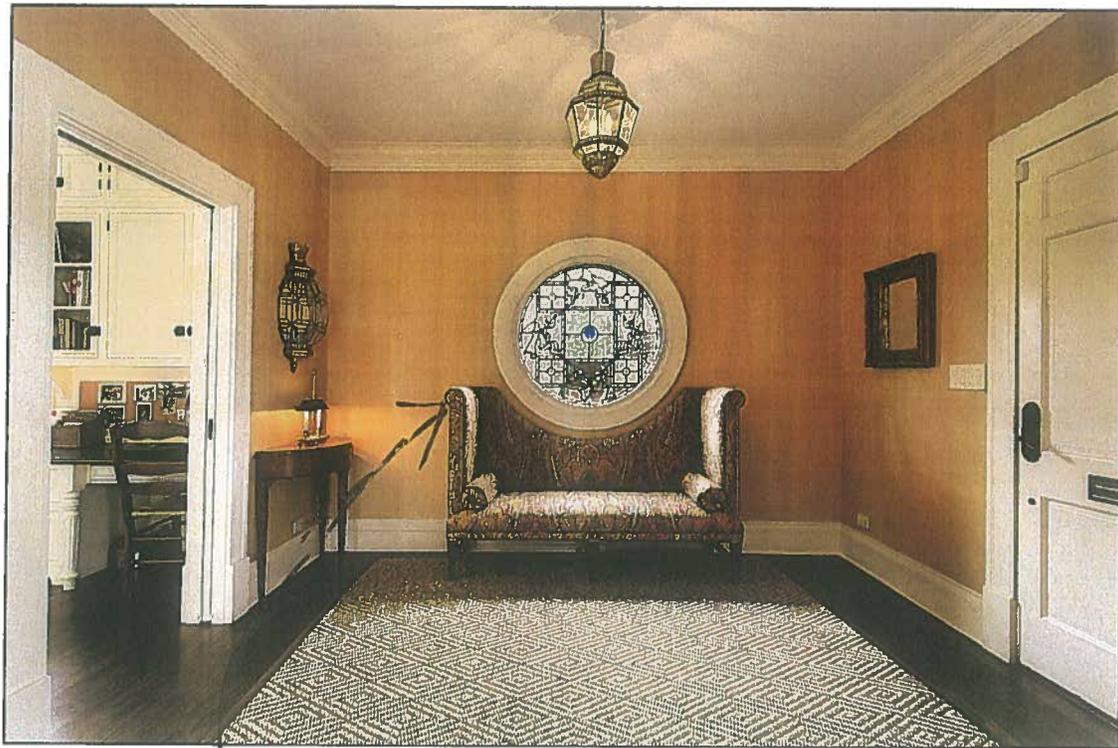
**Master Bedroom/Bath**

- Timber frame vaulted ceilings
- Washer and gas dryer
- Master closet features one of two pull-down stairs to access stand-up attic with solid flooring

- A true treasure overlooking the Village Green.
- Renovated and expanded home features award-winning wraparound porch designed with attention to proportion and privacy.
- Sun filled living room with hardwood floors overlooks the Village Green
- Inviting dining room with built-in lighted cabinets is perfect for formal or informal gatherings
- Fabulous new kitchen includes white wood cabinets, granite counters, island, planning desk and top of the line appliances
- Incredible family room with vaulted beamed ceiling is highlighted by stone fireplace and custom staircase that leads to second floor loft.
- Home theater is equipped with all the bells whistles for your viewing pleasures.
- Master suite is complete with vaulted ceilings, walk in closet, bath and loft sitting area. In addition the second floor has 4 family bedrooms and 2 full baths.
- Lower level for family fun includes a resistance pool, rock-climbing wall, game room, and custom tiled bath.
- Home has been renovated, expanded with attention to detail inside and out.
- Professional landscaping by ~~P. Clifford Miller, Lake Bluff, Illinois~~
- Majority of house built in 2000; parts dating back to 1887

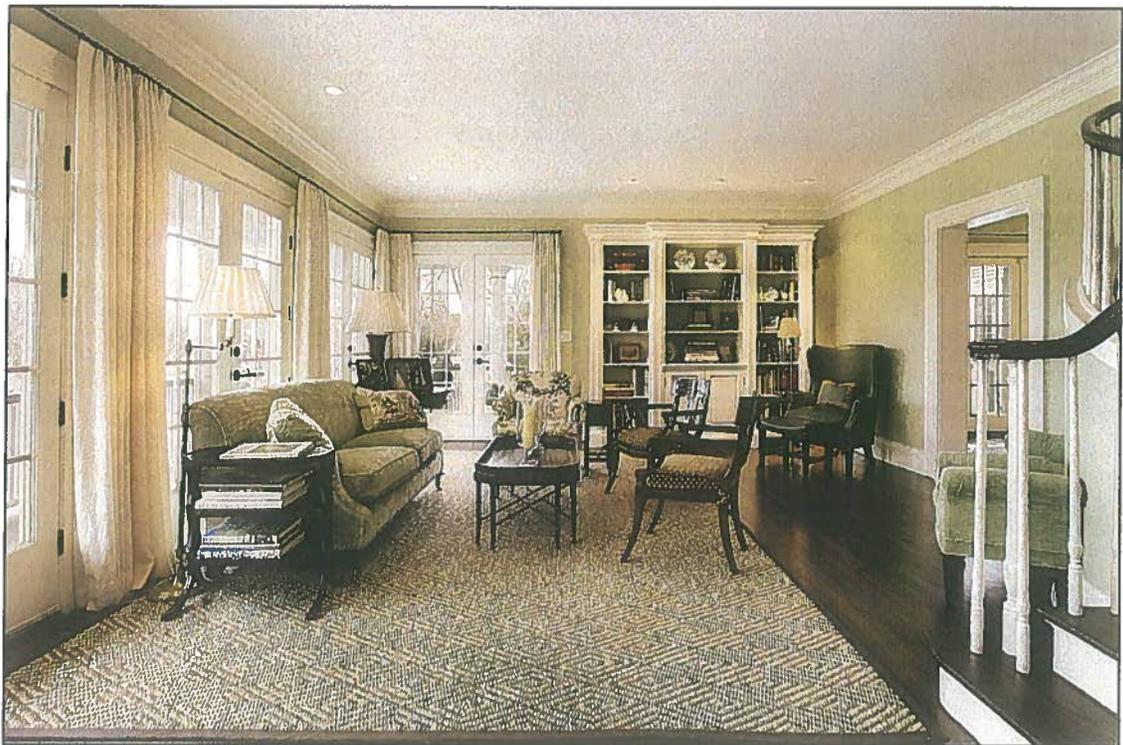


Relaxing wrap-around porch welcomes you to this warm and inviting home



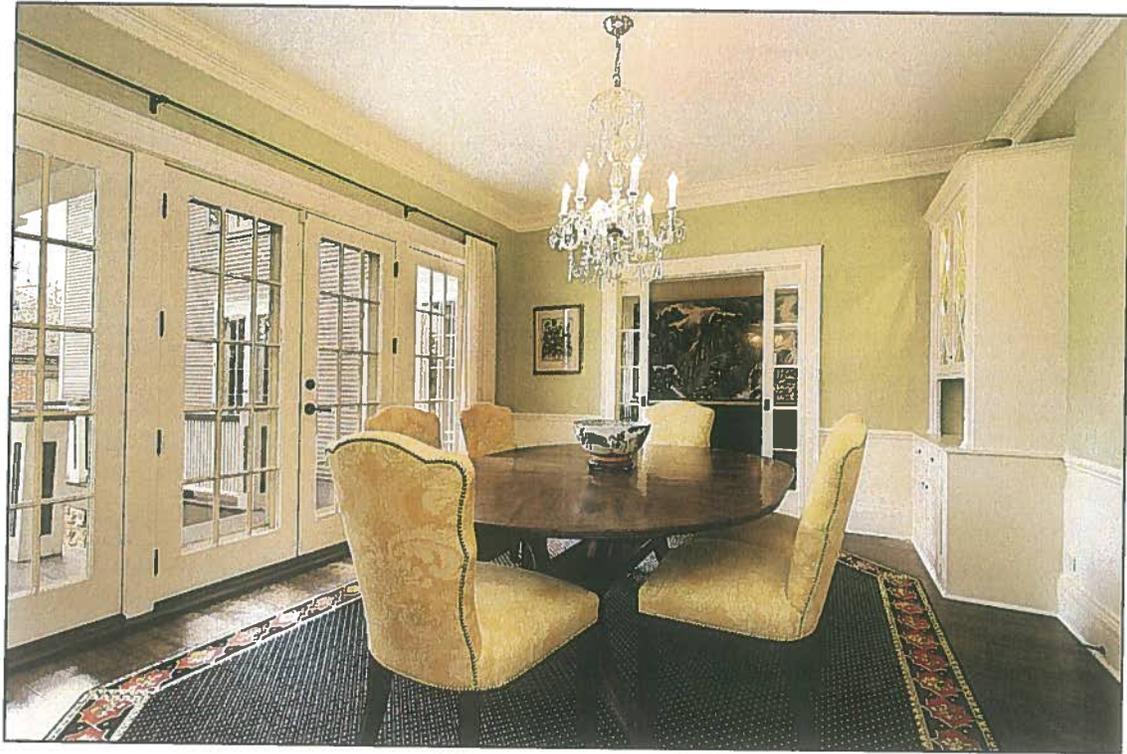
Gracious Foyer

Original  
Window  
to the  
house!

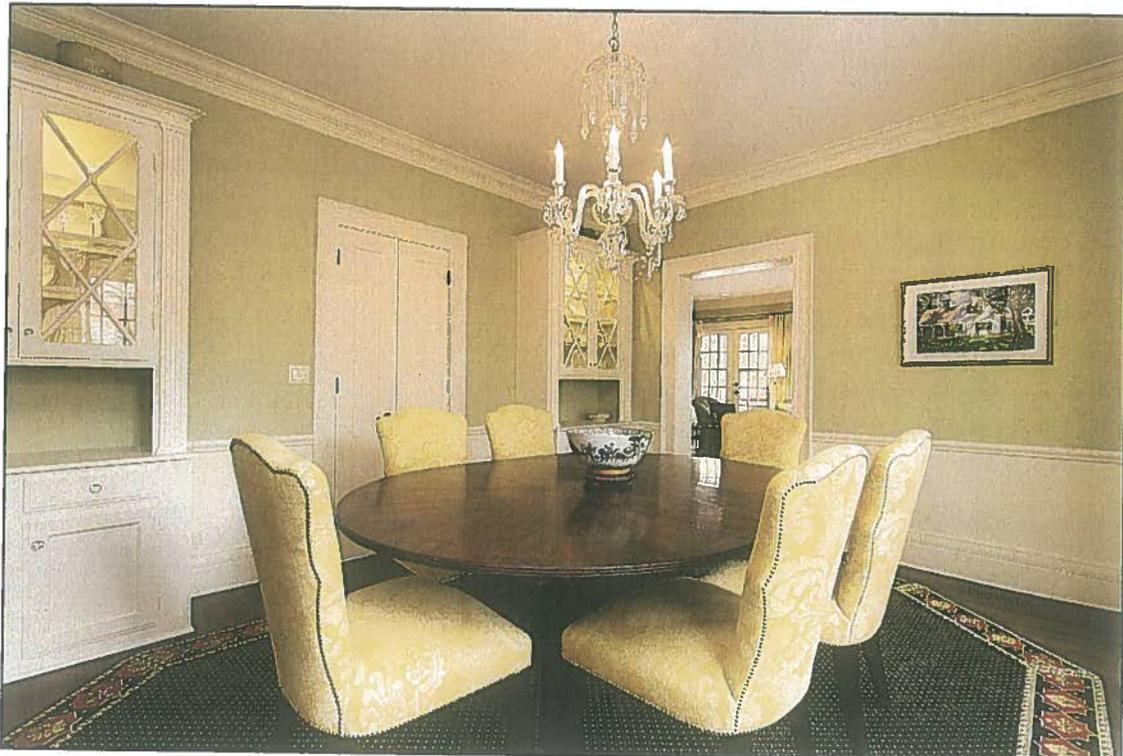


Sun-filled living room





Inviting Dining Room





Fabulous newer kitchen





Incredible family room

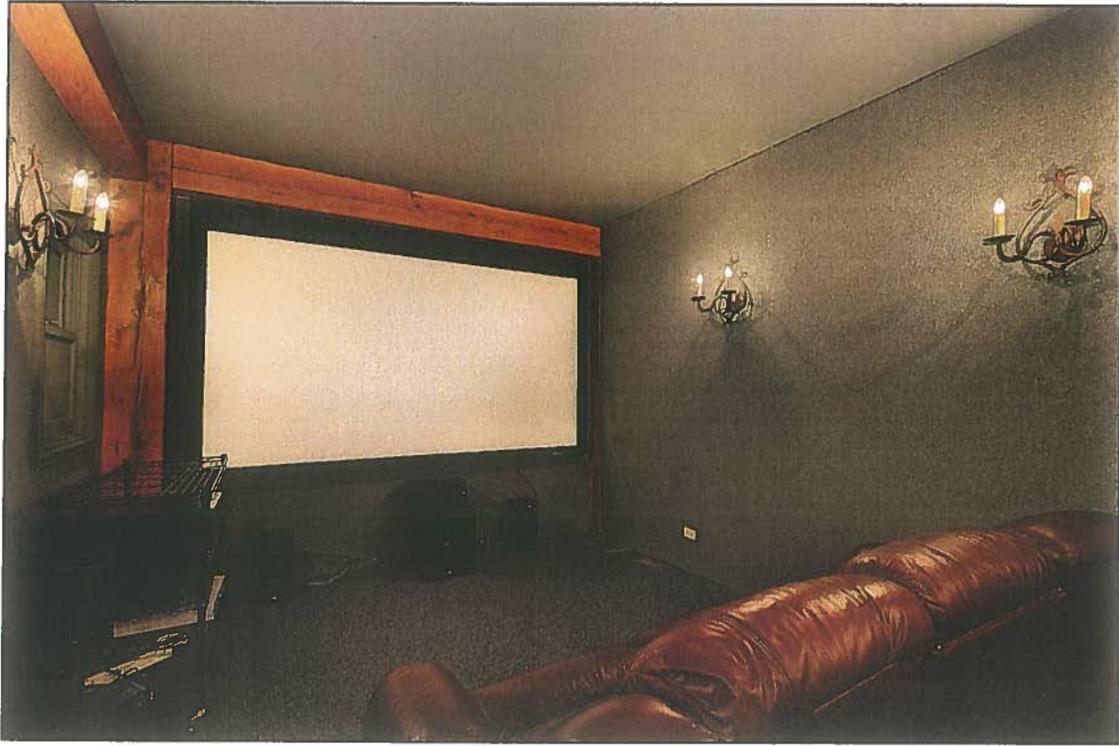




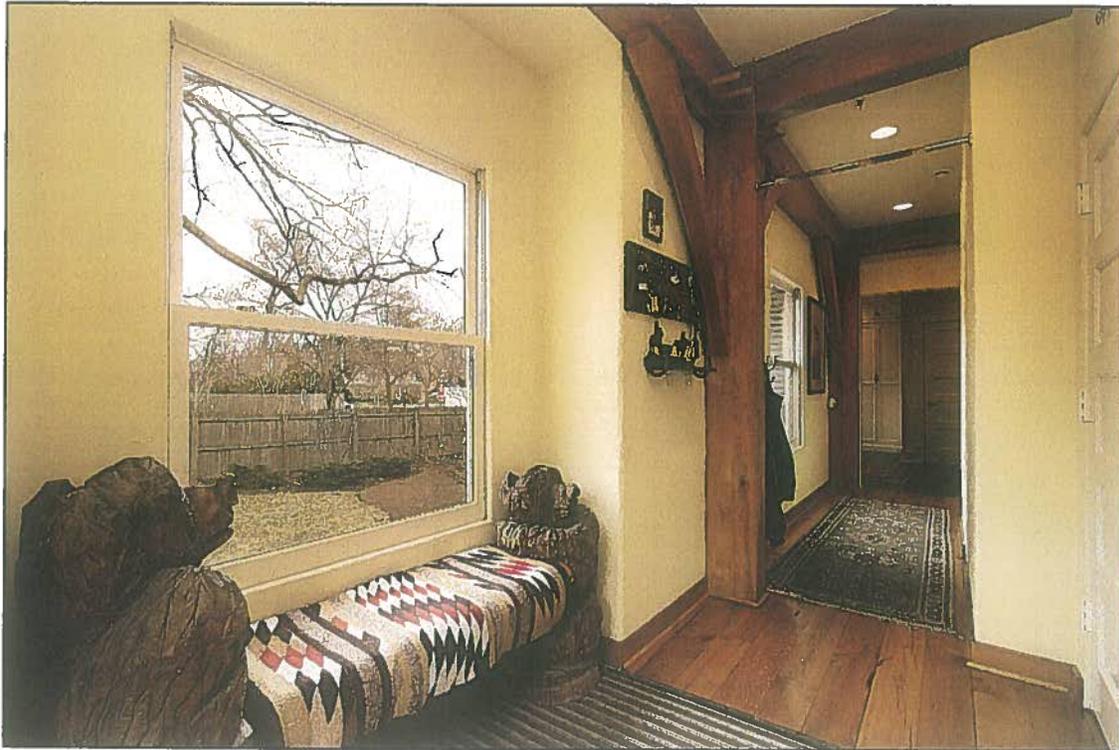
Family room with stairway to loft



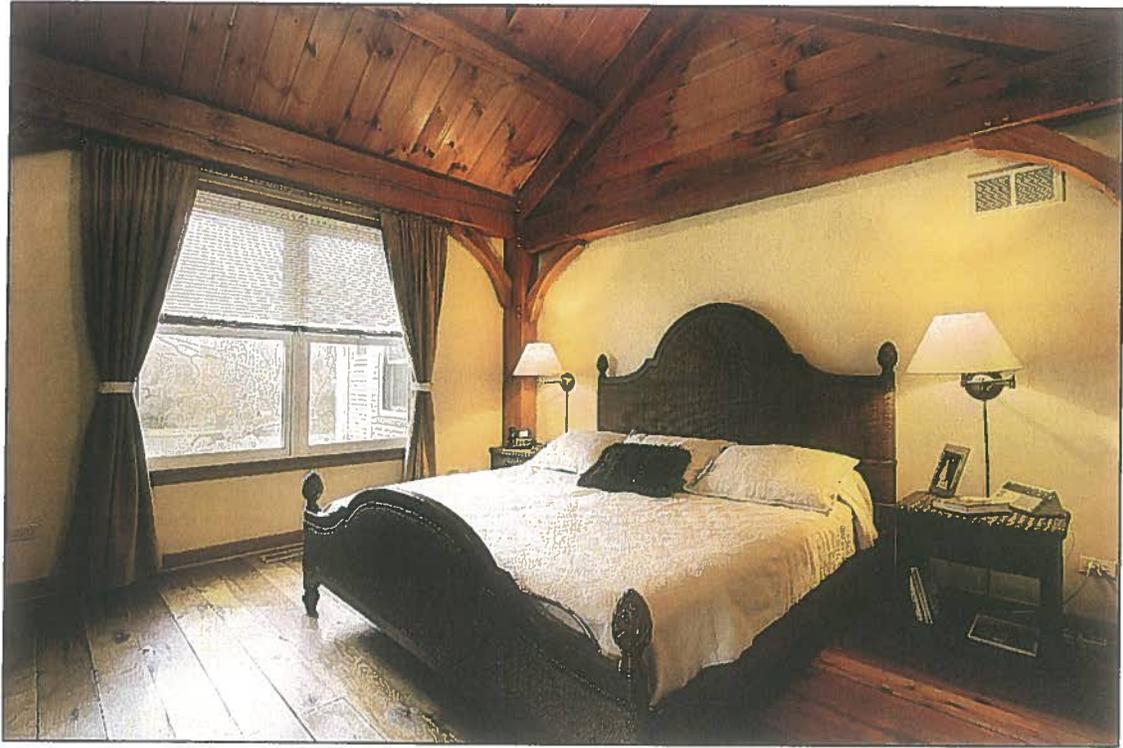
Eating area adjoining family room



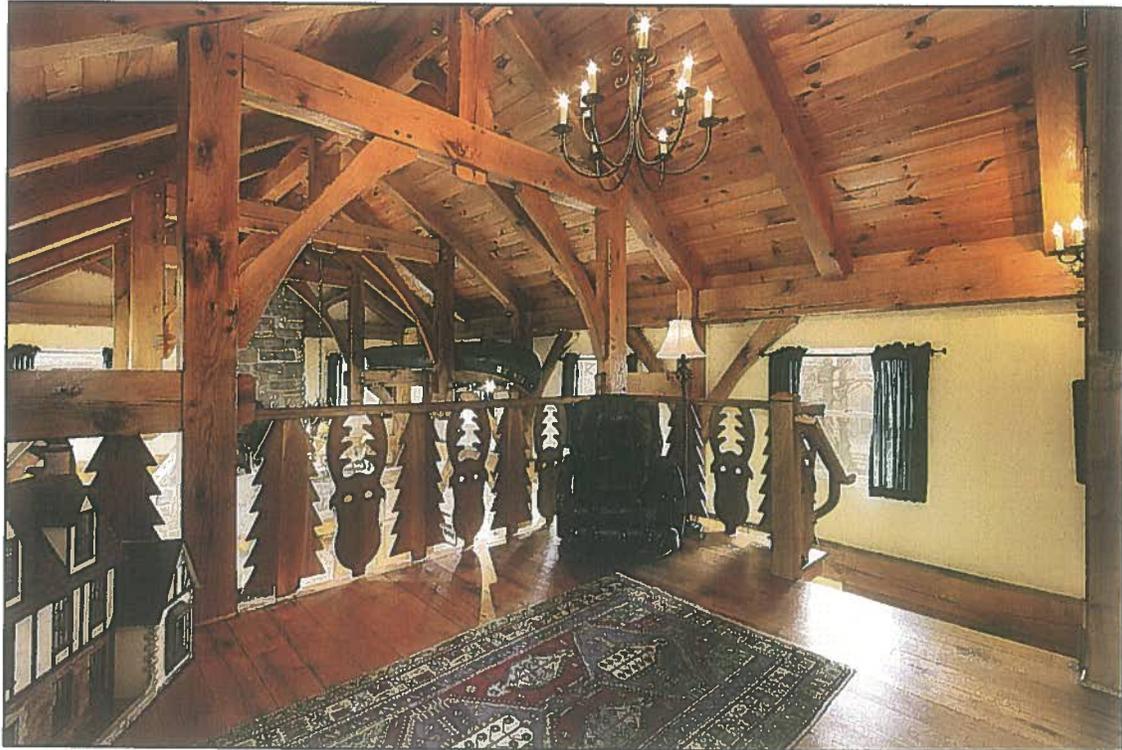
Media room

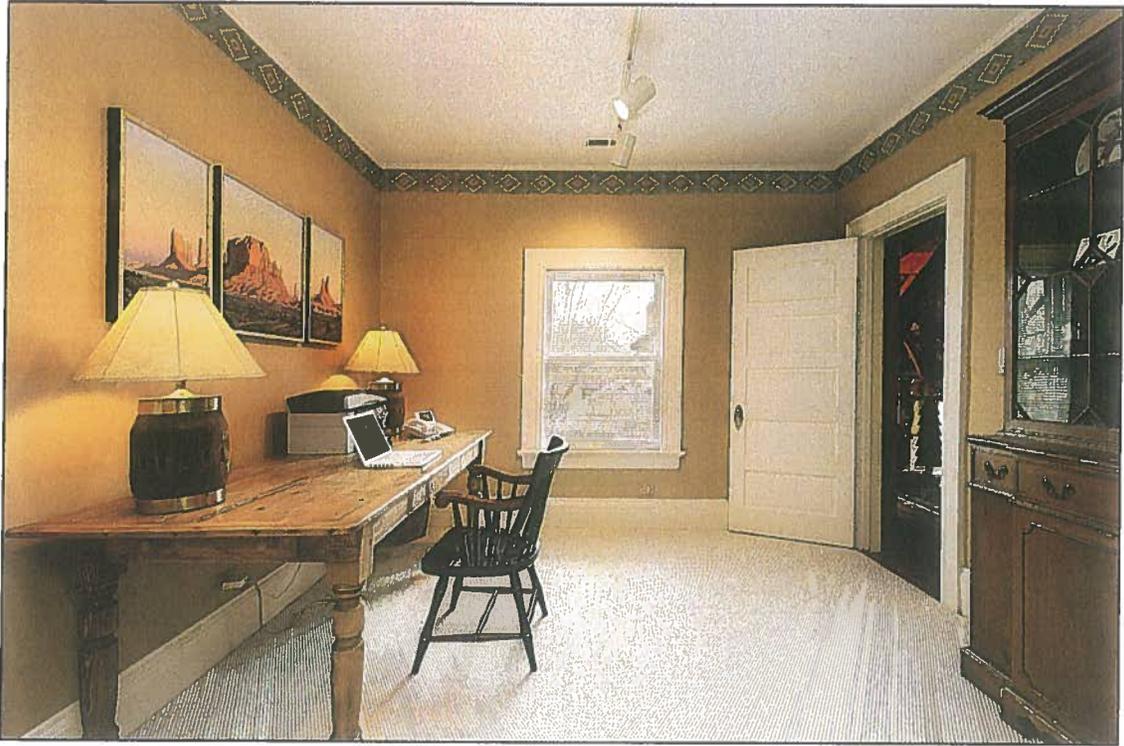


Rear Hallway

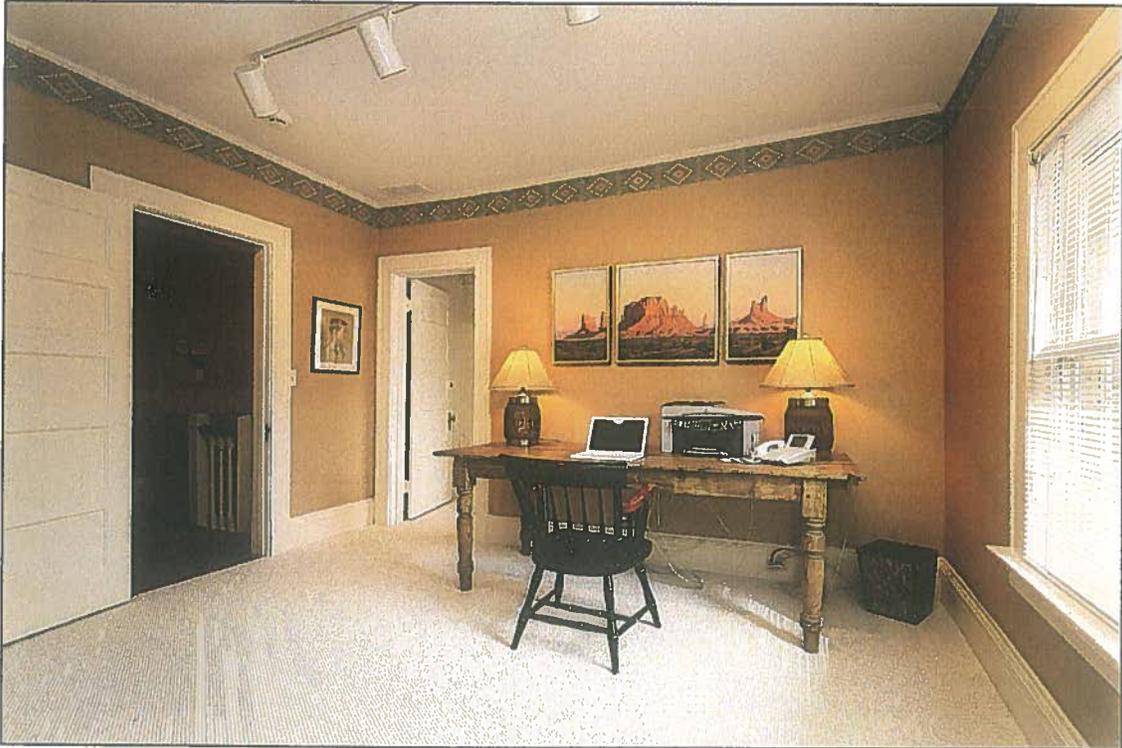


Master suite complete with vaulted ceiling and loft sitting area



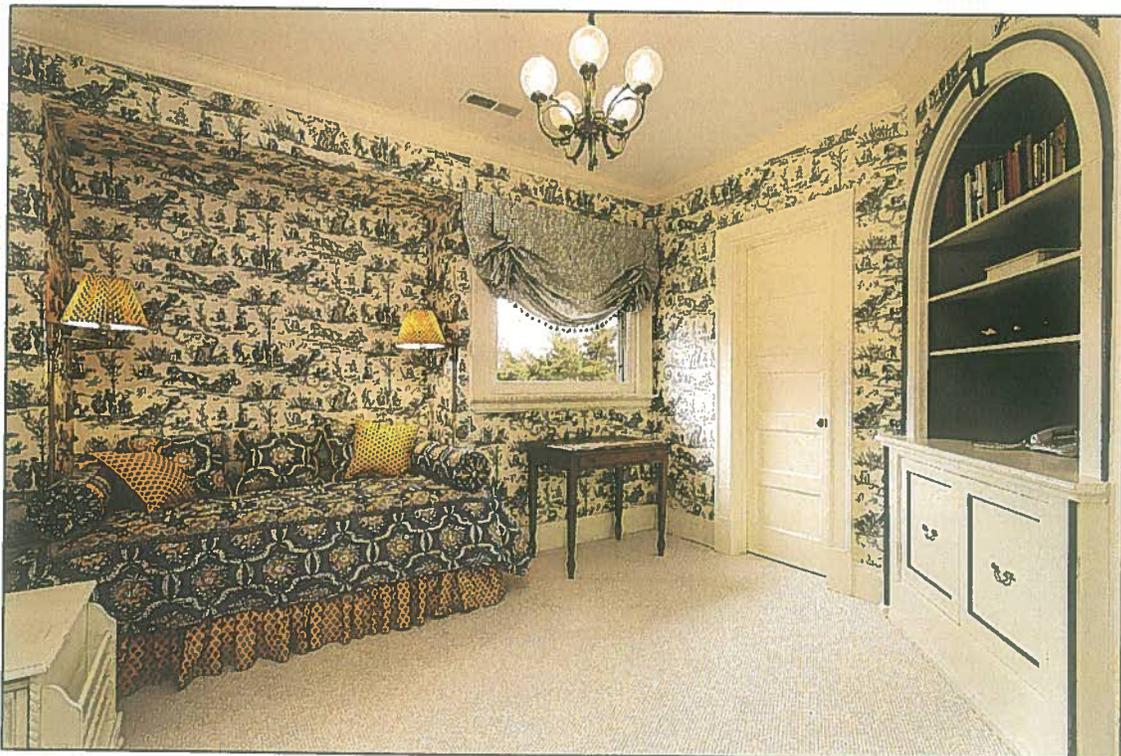


Fifth bedroom currently used as home office



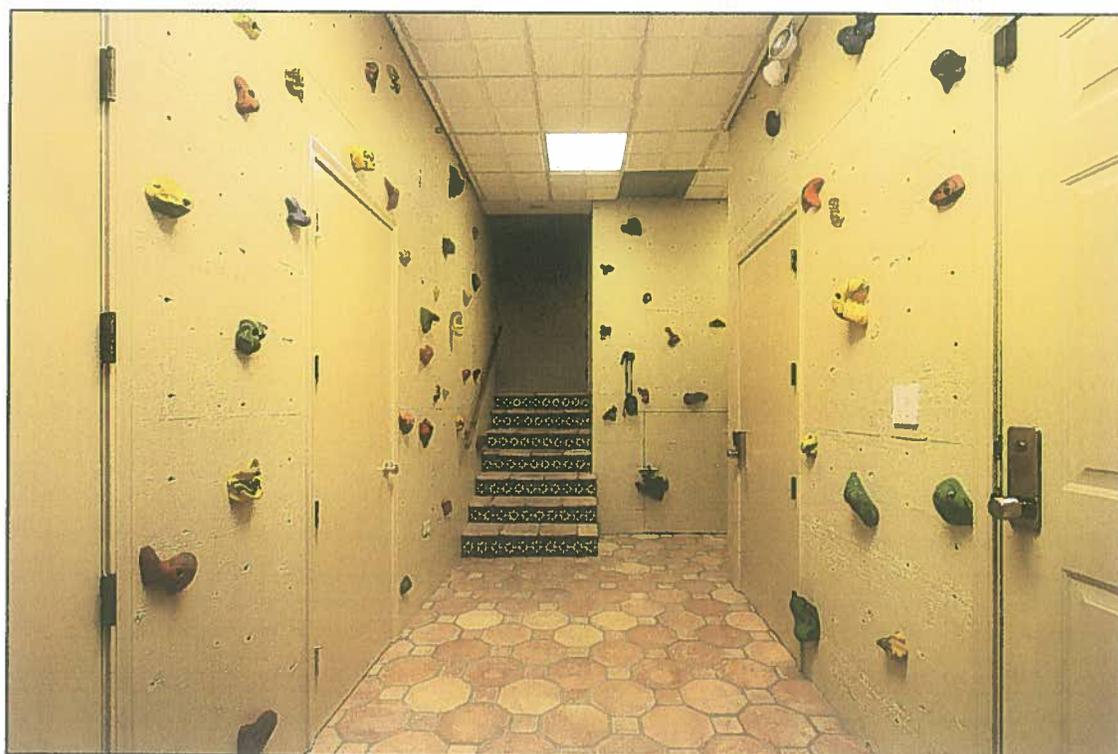


Charming family bedrooms with beautiful built-ins

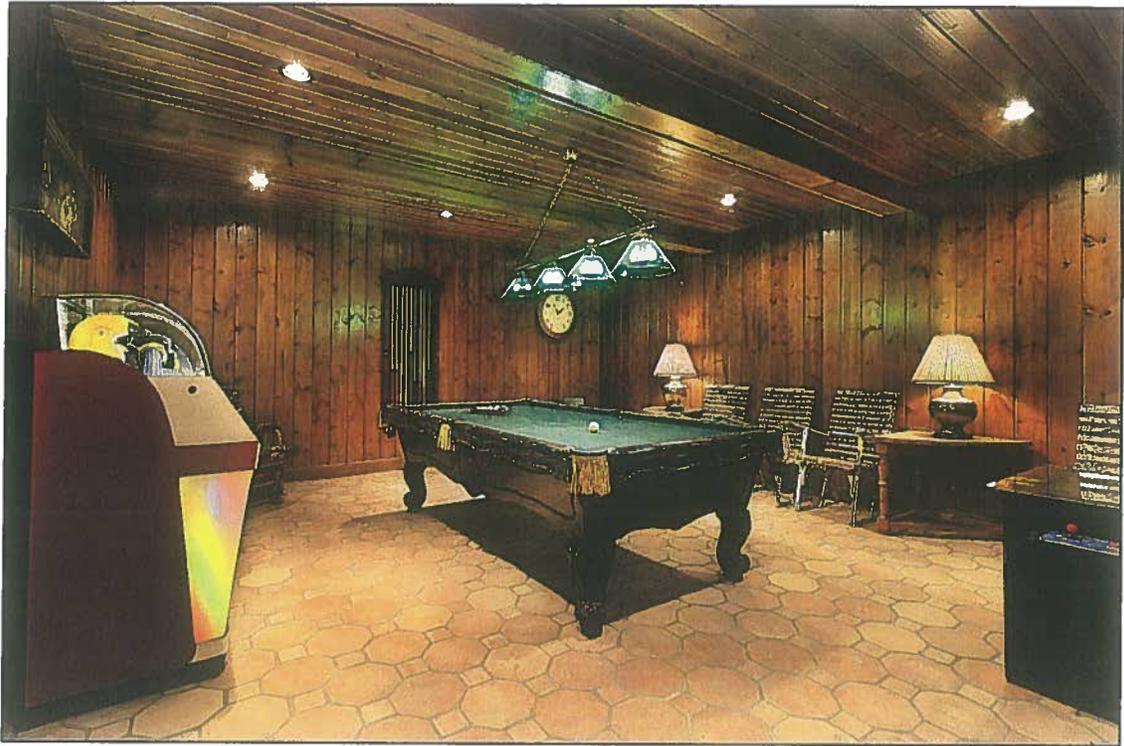




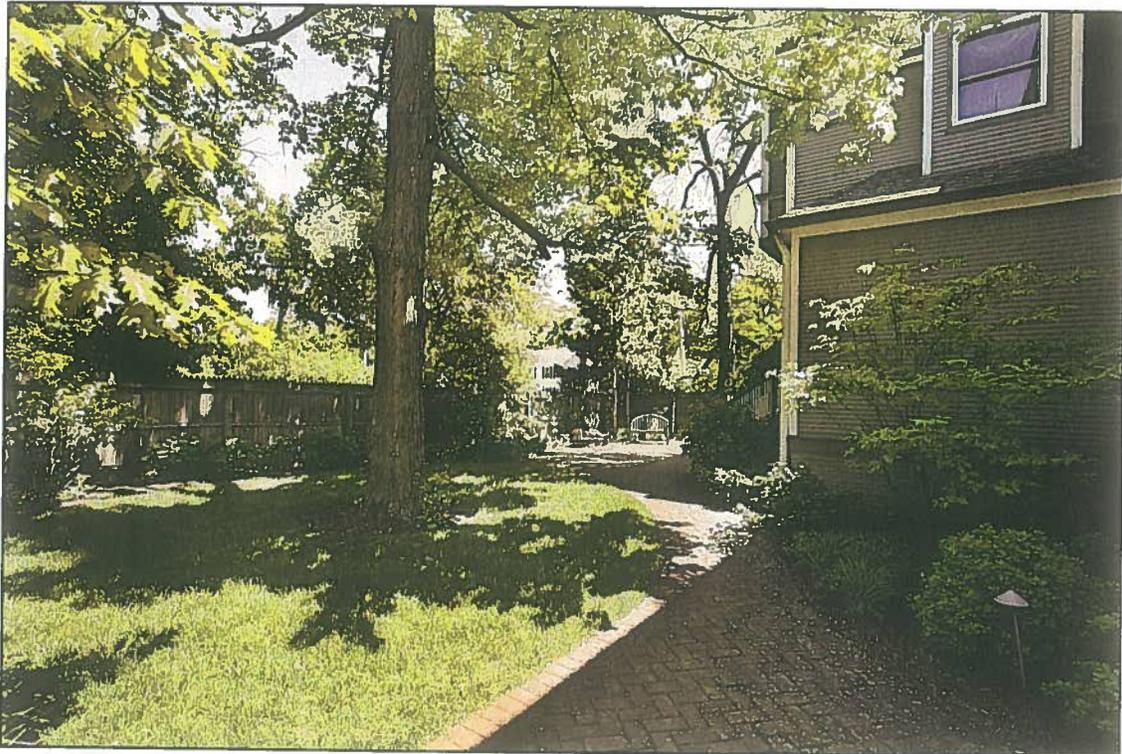
Resistance Pool



Climbing Wall



Lower level game room



Lovely brick patio





**Ann Klaassen**

---

**From:** Honey Skinner [honey.skinner@gmail.com]

**Sent:** Wednesday, June 20, 2012 8:10 AM

**To:** Ann Klaassen; Brian Norkus

**Cc:** skimmers@gtlaw.com

**Subject:** McQuet Landmark Status Application

Dear Ms. Klaassen and Mr. Norkus:

We are writing this email to express our support for Jen and Rick McQuet's application for landmark status for their home (528 Maple, Winnetka). Like the McQuets, we sought and received landmark status for our home. We are appreciative that Winnetka supports the preservation of deserving residences.

We regret that we will be unable to attend the July 2<sup>nd</sup> meeting. Thank you for your consideration of our expression of support.

Very truly yours,

Honey and Sam Skinner

**Ann Klaassen**

---

**From:** Judy Larrimore [judylarrimore@gmail.com]

**Sent:** Tuesday, June 19, 2012 1:54 PM

**To:** Ann Klaassen; Brian Norkus; Jessica Tucker

**Subject:** McQuet Landmark Status Application

Dear Village Leaders (PLEASE CIRCULATE TO TRUSTEES),

I understand that the McQuets have applied for landmark status for their 528 Maple home. I'll be out of town on July 2nd and therefore unable to attend that Village meeting, but wish to relay to you my support for the McQuets. As a long-time homeowner of a landmarked property, it means a lot to me to see older Village buildings and residences preserved. Please give this young family the honorific designation their historic home deserves.

Sincerely,

Judy Larrimore  
830 Sheridan (The Lloyd House)

## AGENDA REPORT

**TO:** Village Council

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

**DATE:** August 16, 2012

**SUBJECT:** 310 Walnut St. Ord. M-17-2012  
(1) Front Yard Setback  
(2) Garages

Ordinance M-17-2012 grants variations by Ordinance from Section 17.30.050 [Front Yard Setback] and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit the construction of a detached garage that will result in a front yard setback of 10 ft. along Wilson St., whereas a minimum of 51.42 ft. is permitted, a variation of 41.42 ft. (80.55%) and a north side yard setback of 5 ft., whereas a minimum of 8 ft. is required, a variation of 3.0 ft. (37.5%).

The petitioner, North Shore Builders 1, Inc., is requesting the variations in order to construct a new single-family residence with a two-car detached garage that would be located within the required front yard setback along Wilson St. and the north side yard setback. The property is a through lot with two front yards along Walnut St. and Wilson St. Therefore, a detached garage must provide a front yard setback of 51.42 ft., the average of the block, from Wilson St. Also, a detached garage must abide by the same setbacks required for the residence because there is not a rear yard to locate a garage in such a location to allow reduced setbacks of 2 ft. The proposed garage would provide a 10 ft. setback from Wilson St. and a 5 ft. north side yard setback. The residence itself would comply with all required setbacks.

The property is an irregularly shaped through lot located in the block south of Orchard, with its east and west lot lines being formed by Walnut and Wilson streets. The irregularity in the lot shape is due to the angle of Wilson, which runs alongside the Union Pacific Railroad embankment.

As referenced in the petitioner's written explanation, there are similarly situated properties that have obtained similar zoning relief. Ordinance M-20-2005 granted variations to 314 Walnut, the property directly to the north. It allowed a new detached garage built in conjunction with construction of a new residence to provide a front yard setback from Wilson St. of 25.24 ft., whereas the average of the block required a setback of 49.42 ft.

The other detached garages referenced in the petitioner's application are not related to new single family home construction, but rather to the upgrading or replacement of existing, nonconforming detached garage. In 1981, Ordinance M-115-81 permitted an addition to the existing nonconforming detached garage at 580 Hawthorn. In 1989, Ordinance M-277-89 permitted a 17 ft. setback from Wilson St., whereas a minimum of 30 ft. was required to allow the existing nonconforming detached garage at 576 Hawthorn to be replaced. Lastly, Ordinance M-6-2004 permitted a 3 ft. setback from Wilson St., whereas a minimum of 30 ft. was required, and a north side yard setback of 0.5 ft., whereas a

minimum of 6 ft. was required, to allow a dilapidated one-car detached garage at 228 Poplar to be replaced with a new two-car detached garage. However, it should also be noted that the adjacent residence to the south – 306 Walnut St. was built in 1997 with an attached garage in compliance with the zoning regulations at that time.

With the exception of the Wilson St. front yard setback and the north side yard setback, the proposed improvements comply with the Zoning Ordinance as represented on the attached zoning matrix.

The subject site is located in the R-5 Single Family Residential District. North Shore Builders 1, Inc. purchased the property in May. A demolition application to permit the demolition of the existing residence and detached garage was approved by the Landmark Preservation Commission in May.

There are no previous zoning variations for this property.

This case was originally before the Zoning Board of Appeals (ZBA) on July 9, 2012. After hearing the concerns of the Board members, the petitioner requested that their case be continued until the August 13, 2012 ZBA meeting to allow the petitioner time to consider revising the plans. After the July ZBA meeting, the plans were revised to reduce the size of the proposed residence and detached garage to comply with the maximum permitted gross floor area (GFA) and front yard lot coverage. As a result of these revisions, the proposed GFA was reduced by 320.63 s.f. to 3,452.44 s.f., in compliance with the maximum permitted of 3,463.08 s.f. In addition to reducing the GFA, the front yard lot coverage along Wilson St. was reduced by 114.43 s.f. due to the reduction in the size of the garage as well as a reduction in the size of the driveway. The proposed front yard lot coverage is now 913.92 s.f., in compliance with the maximum permitted of 915.49 s.f. Lastly, the north side yard setback of the detached garage was increased from 2.25 ft. to 5 ft., whereas a minimum of 8 ft. is required.

At its August 13, 2012 meeting the ZBA voted 4-0 to recommend approval of the variations.

Introduction of the ordinance requires the concurrence of a majority of the Village Council members present.

**Recommendation**

Consider introduction of Ordinance M-17-2012, granting variations from the front yard and side yard setback requirements to permit the construction of a detached garage for a new single-family residence at 310 Walnut Street.

**ZONING MATRIX**

**ADDRESS: 310 Walnut St.**  
**CASE NO: 12-16-V2**  
**ZONING: R-5**

Revised 08.01.12

<b>ITEM</b>	<b>REQUIREMENT</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>TOTAL</b>	<b>STATUS</b>
Min. Lot Size	8,400 SF	9,156 SF	N/A	N/A	OK
Min. Average Lot Width	60 FT	46.17 FT	N/A	N/A	EXISTING NONCONFORMING
Max. Roofed Lot Coverage	2,289 SF (1)	N/A	<b>2,125.7 SF</b>	<b>2,125.7 SF</b>	OK
Max. Gross Floor Area	3,463.08 SF (1)	N/A	<b>3,452.44 SF</b>	<b>3,452.44 SF</b>	<b>OK</b>
Max. Impermeable Lot Coverage	4,578 SF (1)	N/A	<b>3,187.26 SF</b>	<b>3,187.26 SF</b>	OK
Max. Front Yard Lot Coverage (Walnut)	450 SF	N/A	131.06 SF	131.06 SF	OK
Max. Front Yard Lot Coverage (Wilson)	915.49 SF	N/A	<b>913.92 SF</b>	<b>913.92 SF</b>	<b>OK</b>
Min. Front Yard (East - Walnut)	30 FT	N/A	30.42 FT	N/A	OK
Min. Front Yard (West - Wilson)	51.42 FT	N/A	10 FT (2)	N/A	<b>41.42 FT (80.55%) VARIATION</b>
Min. Side Yard (South)	6 FT	N/A	6.08 FT (3)	N/A	OK
Min. Side Yard (North)	8 FT	N/A	<b>5 FT (4)</b>	N/A	<b>3 FT (37.5%) VARIATION</b>

**NOTES:**

- (1) Based on lot area of 9,156 SF
- (2) Proposed setback to detached garage. The proposed residence would comply with both required front yards.
- (3) Proposed setback to residence. The proposed detached garage would provide a south side yard of 25 ft.
- (4) Proposed setback to detached garage. The proposed residence would provide a north side yard setback of 8.17 ft.

**ORDINANCE NO. M-17-2012**

**AN ORDINANCE GRANTING A VARIATION IN  
THE APPLICATION OF THE ZONING ORDINANCE  
OF THE VILLAGE OF WINNETKA,  
COOK COUNTY, ILLINOIS (310 Walnut)**

**WHEREAS**, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

**WHEREAS**, the Council of the Village of Winnetka (“Village Council”) find that establishing standards for the use and development of lands and buildings within the Village and establishing and applying criteria for variations from those standards are matters pertaining to the affairs of the Village; and

**WHEREAS**, the property commonly known as 310 Walnut Street Winnetka, Illinois (the “Subject Property”), is legally described as follows:

Lot 2 in McGuire & Orr’s Subdivision, a subdivision of part of Block 16 in John G. Garland’s Addition to Winnetka in the Southwest Quarter of Section 21, Township 42 North, Range 13, East of the Third Principal Meridian according to the Plat thereof recorded February 11, 1916 as Document Number 5802853, in Cook County, Illinois; and

**WHEREAS**, Subject Property is located in the R-5 Zoning District provided in Chapter 17.12 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code; and

**WHEREAS**, the owner of the Subject Property has filed an application for the following variations from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) a variation of 112.86 square feet (12.33%) from the intensity of use of lot provisions of Section 17.30.030 to allow a front yard lot coverage of 1,028.35 square feet along the Wilson Avenue frontage, which exceeds the front yard lot coverage limitations of 915.49 square feet; (b) a variation of 309.99 square feet (8.95%) from the maximum building size limitations of Section 17.30.040 to allow a gross floor area of 3,773.07 square feet, which exceeds the maximum allowable gross floor area of 3,463.08; (c) a variation 41.42 square feet (80.55%) from the minimum front yard setback requirement of Section 17.30.050 to allow a front yard setback of 10 feet along the Wilson Avenue frontage, whereas the minimum requirement is 51.42 feet is required; and (d) a variation of 5.75.

feet (71.87%) from the minimum side yard requirement for detached garages in Section 17.30.110 to permit a north side yard setback of 2.25 feet, whereas a minimum of 8 feet is required, all in order to allow the construction of a new single-family residence with a detached two-car garage that encroaches into the required west front yard setback along Wilson Avenue and the north side yard setback; and

**WHEREAS**, on July 9, 2012, on due notice thereof, the Zoning Board of Appeals conducted a public hearing on the requested variations and, at the request of the applicants, tabled the matter to the following meeting to allow the applicant to revise their request to address concerns raised at the hearing; and

**WHEREAS**, the applicant submitted a revised plan, dated July 30, 2012, which reduced the size of the proposed residence, detached garage and driveway, thereby reducing the total gross floor area by 329.63 square feet to a conforming gross floor area of 3,452.44 square feet, reducing the front yard lot coverage by 114.43 square feet to a conforming 913.92 square feet, and reducing the north side yard setback by 2.75 feet; and

**WHEREAS**, in accordance with the revised plan, the applicant has amended the variation so that it now is seeking (a) a variation 41.42 square feet (80.55%) from the minimum front yard setback requirement of Section 17.30.050 to allow a front yard setback of 10 feet along the Wilson Avenue frontage, whereas the minimum requirement is 51.42 feet is required and (b) a variation of 3.0 feet (36.5%) from the minimum side yard requirement for detached garages in Section 17.30.110 to permit a north side yard setback of 5 feet, whereas a minimum of 8 feet is required; and

**WHEREAS**, on August 13, 2012, on due notice thereof, the Zoning Board of Appeals conducted a public hearing on the amended variation request and, by the unanimous vote of the four members then present, has reported to the Council recommending that the requested variations be granted; and

**WHEREAS**, there are practical difficulties and particular hardships associated with carrying out the strict application of the Zoning Ordinance with respect to the Subject Property in that: (a) the Subject Property is an irregularly shaped through lot, with its east lot line being formed by Walnut Street and its west lot line being formed by Wilson Street; (b) because of the two street frontages, the Subject Property front yard setbacks are required along both the Wilson and Walnut street frontages; (c) the Subject Property has an irregular, trapezoidal shape, because Wilson Street

and Walnut Street are not parallel; (d) the Wilson Street frontage of the Subject Property functions as the rear of the Subject Property, due to the presence of the Union Pacific Railway embankment that runs along the west side of Wilson Street; (e) constructing the garage in a conforming location would place the garage adjacent to open back space of the property immediately to the north; and (f) constructing the garage in a conforming location would eliminate usable green space in the Subject Property's back yard, while increasing the amount of unusable space directly adjacent to Wilson Street; and

**WHEREAS**, the Subject Property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the Zoning Ordinance, in that: (a) constructing the garage in a conforming location would make the garage abut the proposed rear patio and eliminate usable back yard green space, which is a standard amenity in homes throughout the Village; and (b) construction of the garage in a conforming location would require a significant increase in the amount of impermeable lot coverage due to the associated increased length of the driveway; and

**WHEREAS**, the requested variations will not alter the essential character of the neighborhood because: (a) the proposed detached garage will be adjacent to the detached garage on the neighboring property to the north, 314 Walnut Street, which also has an approved variation from the required setback from Wilson Street; (b) locating the garage as proposed by the applicant will provide corresponding open back yard green spaces on the Subject Property and the adjacent property to the north; (c) there are several nearby properties along Wilson Street that are through lots with detached garages located in similar proximity to their respective west lot lines, so that the proposed variation is in keeping with the character of the neighborhood; and

**WHEREAS**, the requested variations will not impair an adequate supply of light and air because the proposed detached garage will abut a neighboring detached garage and preserve the supply of light and air for both the Subject Property and the adjacent properties; and

**WHEREAS**, the requested variations will not increase the hazard from fire and other dangers to the Subject Property, as the proposed construction will comply with all applicable building and fire protection codes, and the hazard from fire or other damages will be decreased with the greater distance between the garage and the adjacent residences; and

**WHEREAS**, the requested variations will not diminish the taxable value of land and buildings throughout the Village, and the taxable value of the Subject Property may be increased because of the proposed improvements; and

**WHEREAS**, the proposed construction will not contribute to congestion on the public streets, as the property will continue to be used for single family residential purposes; and

**WHEREAS**, there is no evidence that the requested variations will otherwise impair the public health, safety, comfort, morals, and welfare of the inhabitants of the Village; and

**WHEREAS**, the requested variations are in harmony with the general purpose and intent of the Winnetka Zoning Ordinance, in that they allow the renovation, restoration and rehabilitation of a structurally sound existing building while maintaining the existing scale and appearance of the community and protecting established trees and landscaping.

**NOW, THEREFORE**, the Council of the Village of Winnetka do ordain as follows:

**SECTION 1:** The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2:** The Subject Property, commonly known as 310 Walnut Street and located in the R-5 Single-Family Residential District provided in Chapter 17.12 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby granted the following variations from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) variation of 41.42 square feet (80.55%) from the minimum front yard setback requirement of Section 17.30.050 to allow a front yard setback of 10 feet along the Wilson Avenue frontage, whereas the minimum requirement is 51.42 feet is required and (b) a variation of 3.0 feet (36.5%) from the minimum side yard requirement for detached garages in Section 17.30.110 to permit a north side yard setback of 5 feet, whereas a minimum of 8 feet is required, said variations being granted to allow the construction of a new single-family residence with a detached two-car garage, all in accordance with the revised plans and elevations dated July 30, 2012.

**SECTION 3:** The variations granted herein are conditioned upon the commencement of the proposed construction within 12 months after the effective date of this Ordinance.

**SECTION 4:** This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 5:** This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

**PASSED** this \_\_\_ day of \_\_\_\_\_, 2012, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this \_\_\_ day of \_\_\_\_\_, 2012.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

Introduced: September 6, 2012

Posted:

Passed and Approved:

Posted:

## Revised Attachment to Zoning Variation Request

310 Walnut

July 30, 2012



### Revision of Variance Request

Based on feedback discerned from the initial July hearing of this variance request, the applicant has amended its request to eliminate 2 of the 4 variances previously requested. The applicant continues to request setback reductions at Wilson Street and at its North property line solely for placement of a detached garage. The applicant has eliminated the previously requested variances (1) to exceed the allowable GFA for the lot, and (2) to exceed the allowable impermeable development in the Wilson Street front-yard.

In order to do this, the proposed home, garage and driveway have each been reduced in SF area from the previously presented proposal to now be within allowable zoning limits, and the request for a side-yard reduction (applicable to the garage only) has been reduced from a 6' reduction previously requested to a 3' reduction.

The allowable GFA for 310 Walnut is 3,463.08 SF. The design of the home and garage originally proposed have been modified to reduce the proposed GFA to 3,452.45 SF, thus within the allowed GFA total.

The area of the Wilson Street "front yard" is 3,051.62 SF of which 30%, or 915.45 SF is allowed to be covered by impermeable surface. The revised garage equals 400 SF, the driveway as proposed equals 460.72 SF, and the portion of the garage sidewalk that is in the Wilson front yard equals 53.2 SF for a total of 913.92 SF and is thus within the allowed coverage total.

### Explanation of Variation Requested:

The applicant is requesting a combination of 2 variances relating to the placement of the proposed detached garage that will be part of the revised Building Permit Application recently submitted, and to be amended, for this address. 310 Walnut is a through lot by definition, bounded at what would otherwise be the rear of the lot, by Wilson Street. Because Wilson is considered a street and not an alley, several instances of how the zoning ordinance is applied to this 50' wide lot's residential development, differ in substantive ways from how it would be applied if the lot were not considered a through-lot.

The intent of the applicant in requesting the variances is to seek to place a detached garage similarly to how it would be placed if the lot were not considered a through-lot. Among the possible solutions for residential re-development of this lot, this is the only solution that allows for a home with a functional, family-friendly backyard that is consistent with the development of homes throughout the neighborhood. Additionally it reduces the area of the lot that is given over to pavement by more than 300 SF when compared to a code-compliant Site Plan. It is our belief that the function and previous development of Wilson Street in this block and several others surrounding is currently more in keeping with an alley than a street thus we seek to develop the lot in keeping with that pattern.

Because the ordinance considers the Wilson Street (west) side of the lot to be another front yard it (1) calls for a setback which is to be the average of the existing principal building setbacks along Wilson. This average has been determined by zoning staff to be 51.42', and if developed in compliance herewith, prevents placement of a detached garage at a more typical location near the rear of a lot as would be permissible on a lot that is not a through lot. Accordingly, the applicant is asking to reduce the Wilson Street setback to 10'. (2) the ordinance doesn't allow the side setback to be reduced to 2' for a garage in the rear 25% of the lot because, again, technically there is no "rear" of the lot. The applicant is asking to reduce the side setback to 5' in lieu of 8' for the garage only.

It is our understanding that in approximately 2005 the adjacent neighboring property at 314 Walnut requested and received a similar variance that enabled them to construct their detached garage closer to the Wilson Street property line than the requirement at that time allowed. Similarly, there are several properties already developed along Wilson Street that are "through-lots" where the garage is developed closer to the lot line than allowed by the zoning code, and in some cases, significantly closer to the lot line than what is being proposed today by the applicant. These properties include 314 Walnut to the north; and 302 Walnut, 576 & 580 Hawthorne, 228 Poplar to the south. As previously stated, Wilson Street currently functions more as an alley than a street in the referenced blocks since there are no homes on the opposite side of the street (only the railroad embankment) and since the majority of the properties that run through to Wilson on the blocks I have referenced are fenced at the Wilson lot line with opaque privacy fences that effectively block any view of the yards or the location of improvements thereon. In the block where the subject property is located and the other blocks referenced, none of the constructed homes face Wilson Street with their front elevations. The applicant seeks similar relief to that in evidence at 314 Walnut and the other referenced properties, namely to construct the detached garage as shown on our proposed Site Plan, no nearer than 10' from the Wilson Street property line and 5' from the north side lot line in a location that is back to back with the garage at 314 Walnut.

Accordingly, the applicant asks for the following variances in connection with this request:

- (1) A reduction in the setback requirement from the Wilson Street to 10' for construction of a detached garage;
- (2) A reduction in the side setback requirement on the north side of the lot for construction of a detached garage 5' from the lot line;

If the relief were granted as sought in this application, all other aspects of the pending Building Permit Application, to the best of our knowledge, are in full compliance with the requirements of Winnetka's Zoning Ordinance; or stated another way: if the Wilson Street side of the lot were a "rear yard", the proposed construction would be fully compliant with the Zoning Ordinance.

The strict application of the provisions of the zoning ordinance result in a particular hardship to the applicant because the lot is truncated by Wilson Street resulting in an irregular shape wherein it is 32' shorter in depth on the south than on the north and comes to a point at its NW corner. This shape already forces a garage to be further forward toward the east in order to fit within any setback lines. Then the greater setback (as compared with a non "through-lot") must be applied parallel to the lot line which also results in the garage being forced east. Finally, the existing utility pole near the northwest corner of the lot has stabilizing cables extending south that discourages the development of a driveway on the north edge of the lot. The net result of all this is that a garage built in compliance with the requirement of the ordinance on this particular lot would severely impact the size, function and shape of the "rear yard", because of the resulting location of the garage and driveway, in a way that limits its desirability to any ultimate occupant of the property.

Accordingly:

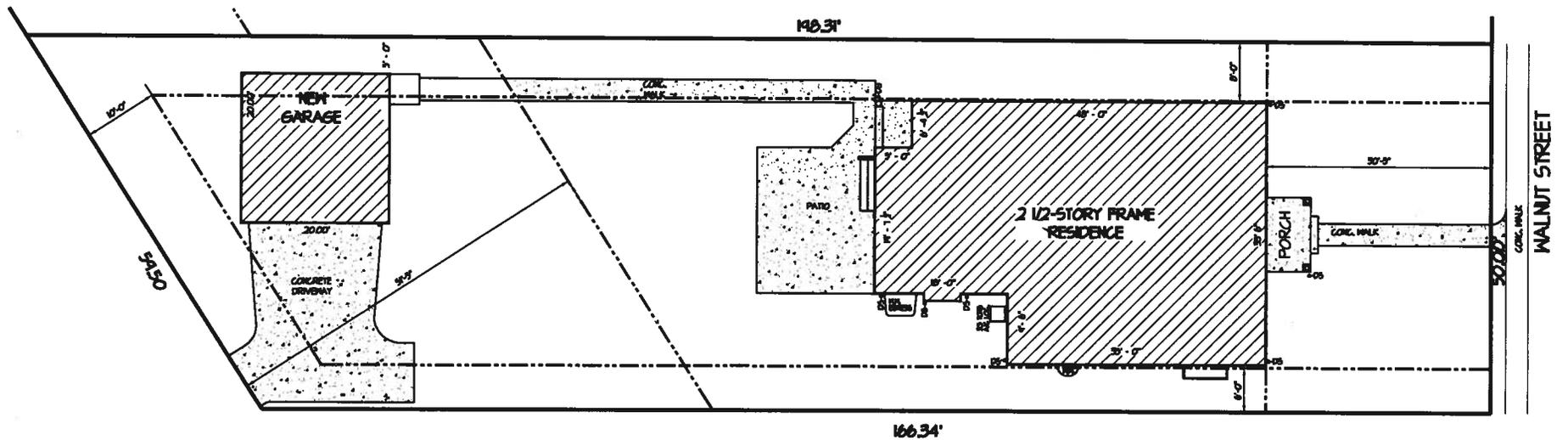
1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in this zone, because, based on the applicant's past experience in the village, the quality of "rear yard" is one of the most significant factors in attracting a homeowner in this community, and in compliance with the ordinance the garage and driveway effectively split the backyard in half, severely limiting function and desirability, and increasing yard area needlessly given over to pavement by more than 300 SF.
2. The plight of the homeowner is due to unique circumstances, namely the irregular shape of the lot in combination with its status as a "through-lot" and the difference in zoning application as compared to a more typical non "through-lot" of similar size.
3. The variations, if granted, will not alter the essential character of the locality. In fact, there are several properties already developed along Wilson Street as previously listed, that are through lots where the garage is developed equal to or

significantly closer to the lot line than what is proposed by the applicant. Further, it will reinforce the essential character of the locality, in that single-family homes on 50' wide lots with detached garages and pleasant, functional backyards are the most typical housing form in evidence in the neighborhood.

4. An adequate supply of light and air will be enhanced rather than impaired if the variations are granted by moving the garage further from the residence and adjacent residences.
5. The hazard from fire and other damages to the property will not be increased, but rather, it will be reduced if the variations are granted by keeping a greater distance between structures and between vehicular traffic and occupants on the lot.
6. If the variations are allowed, the value of the developed property will be greater with a larger, more occupant-friendly "backyard", and therefore, the taxable value of the property should be enhanced, and in turn, enhance the taxable value of the Village.
7. There will be no impact to congestion in the public street as the variations, if granted, will not limit the ability to provide required parking on the lot and will not increase or decrease the number of cars entering or leaving the property.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired or impacted in any way by the granting of these variances.

For the reasons stated above, the applicant, North Shore Builders, hereby requests that the Village of Winnetka grant the requested variances.

Your consideration and cooperation in this matter is greatly appreciated.



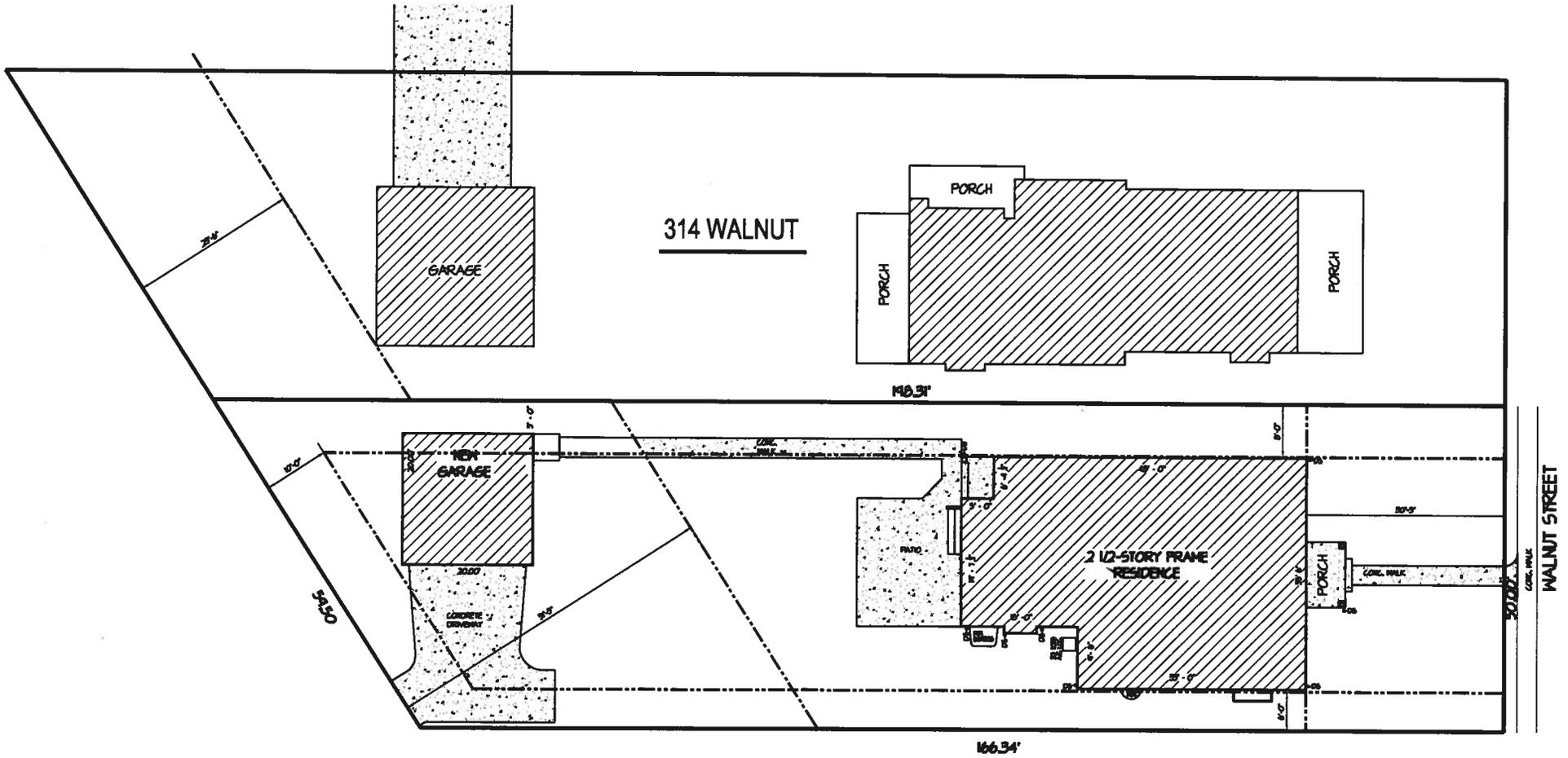
310 WALNUT

**PROPOSED SITE PLAN**

SCALE: 1" = 10'-0"

REVISED: 7-30-2012





314 WALNUT

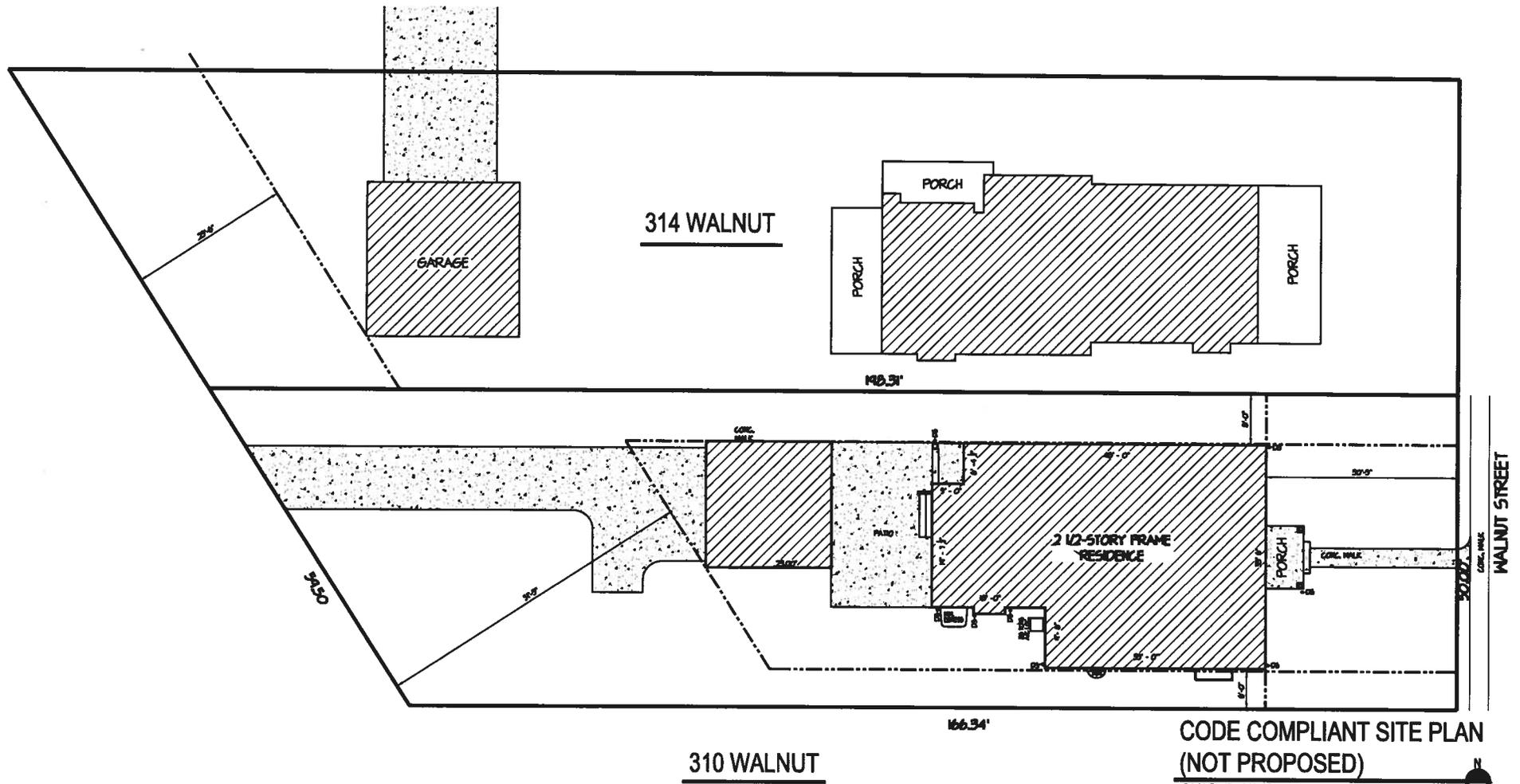
310 WALNUT

**PROPOSED SITE PLAN**  
SCALE: 1" = 10'-0"

REVISED: 1-30-2012

CONC. WALK  
WALNUT STREET

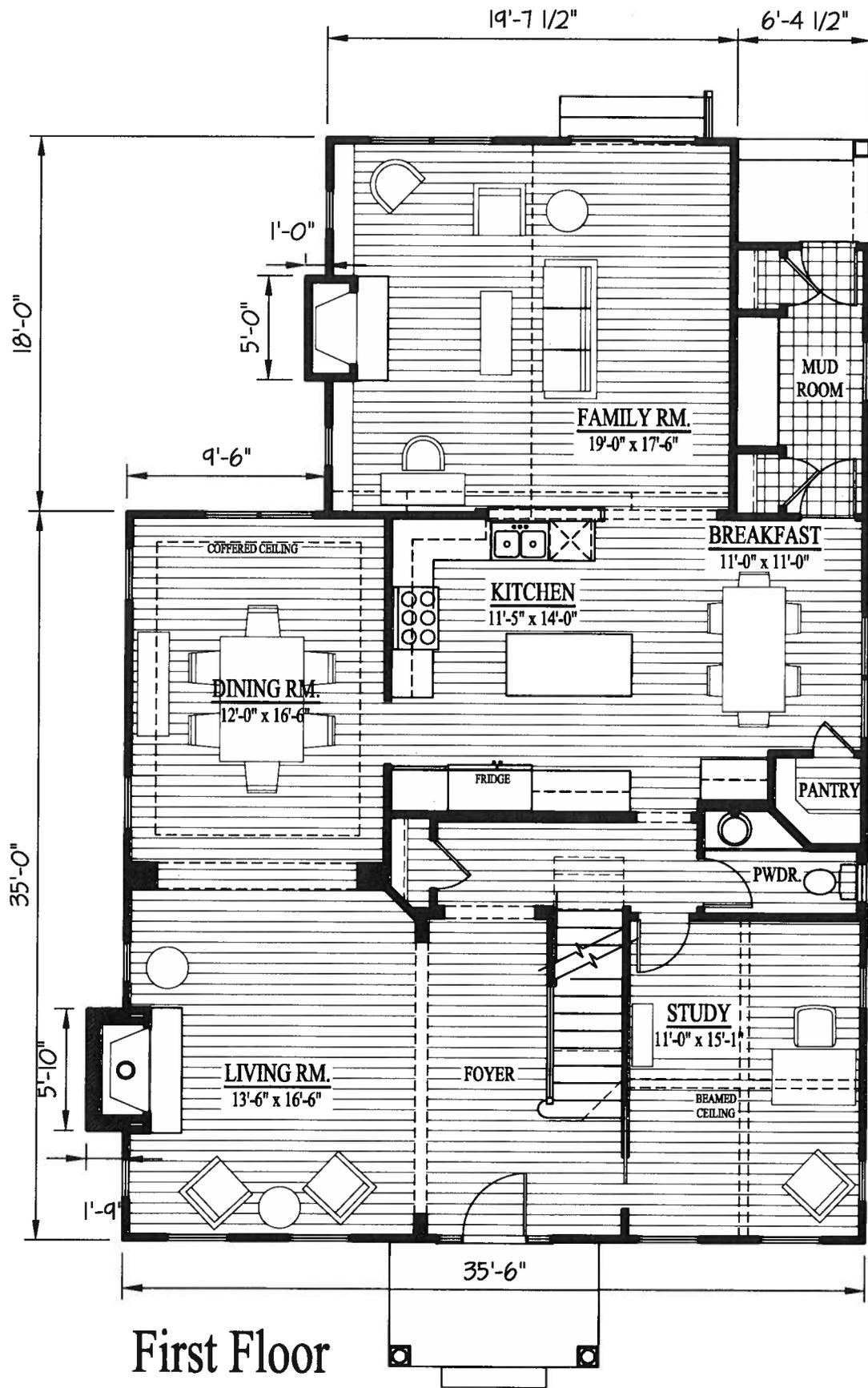




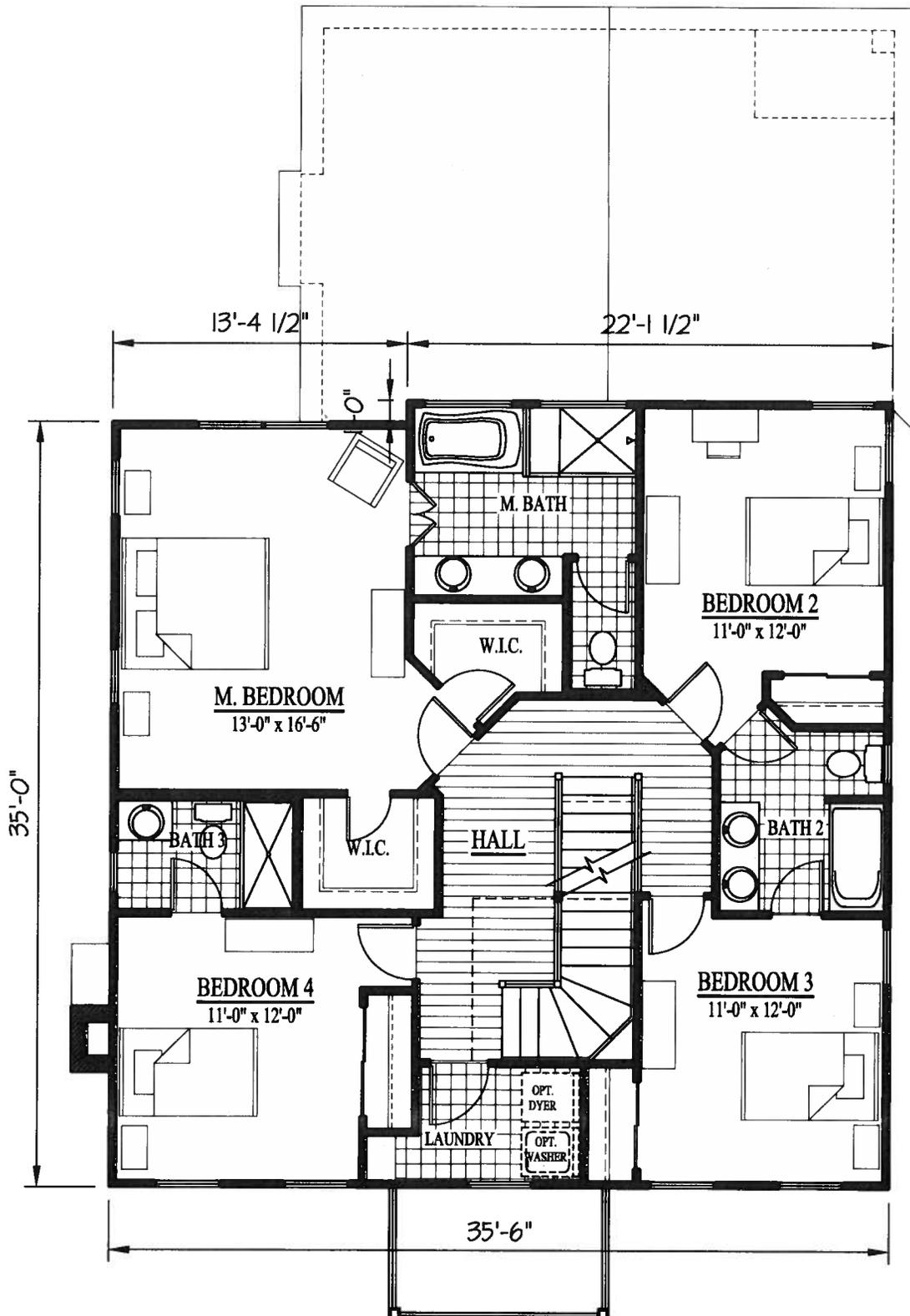
CODE COMPLIANT SITE PLAN  
(NOT PROPOSED)

SCALE = 1" = 10'-0"

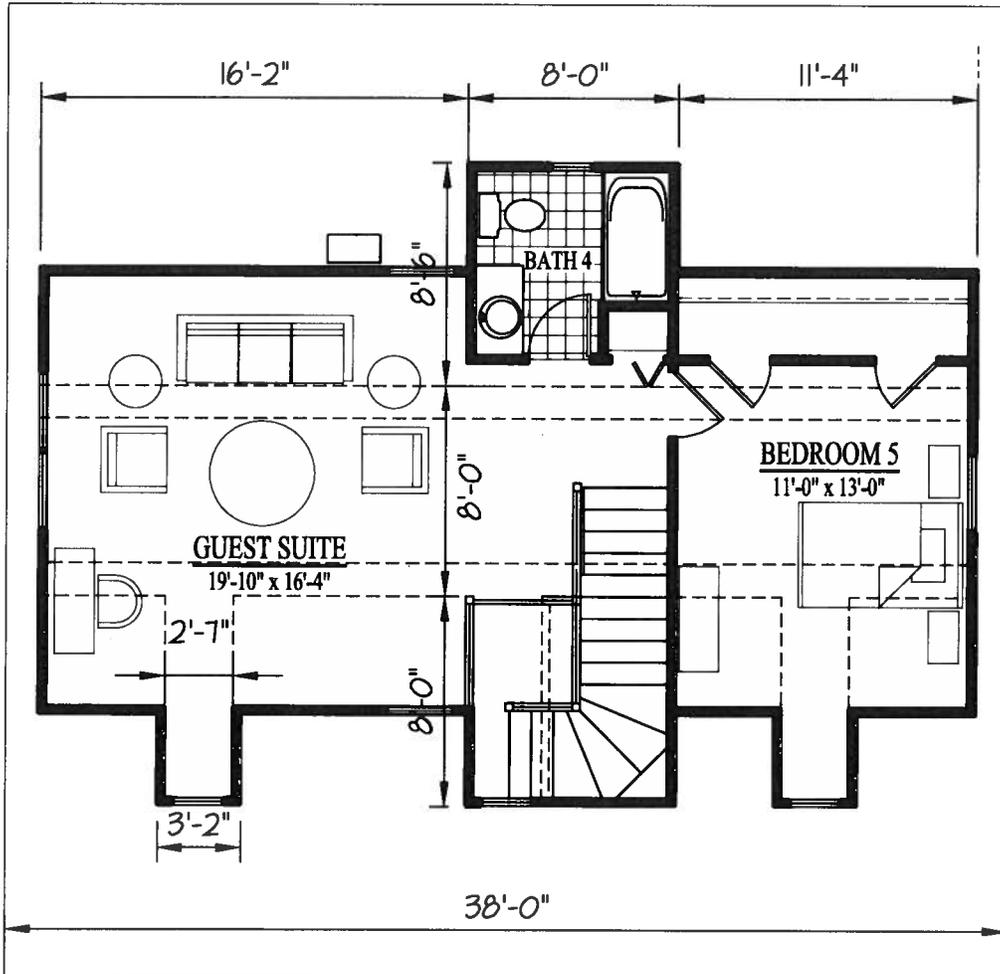
REVISED: 1-30-2012



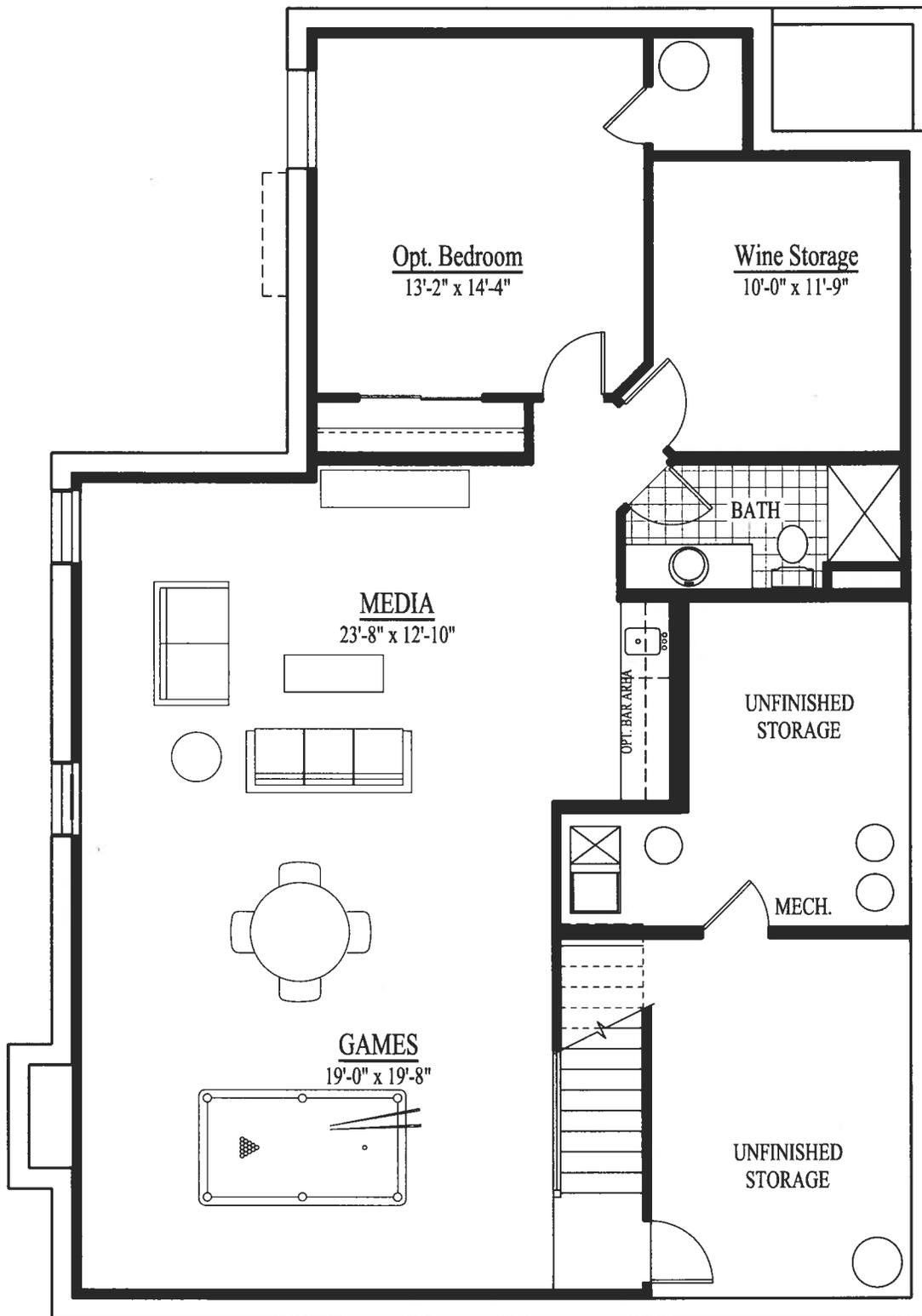
# First Floor



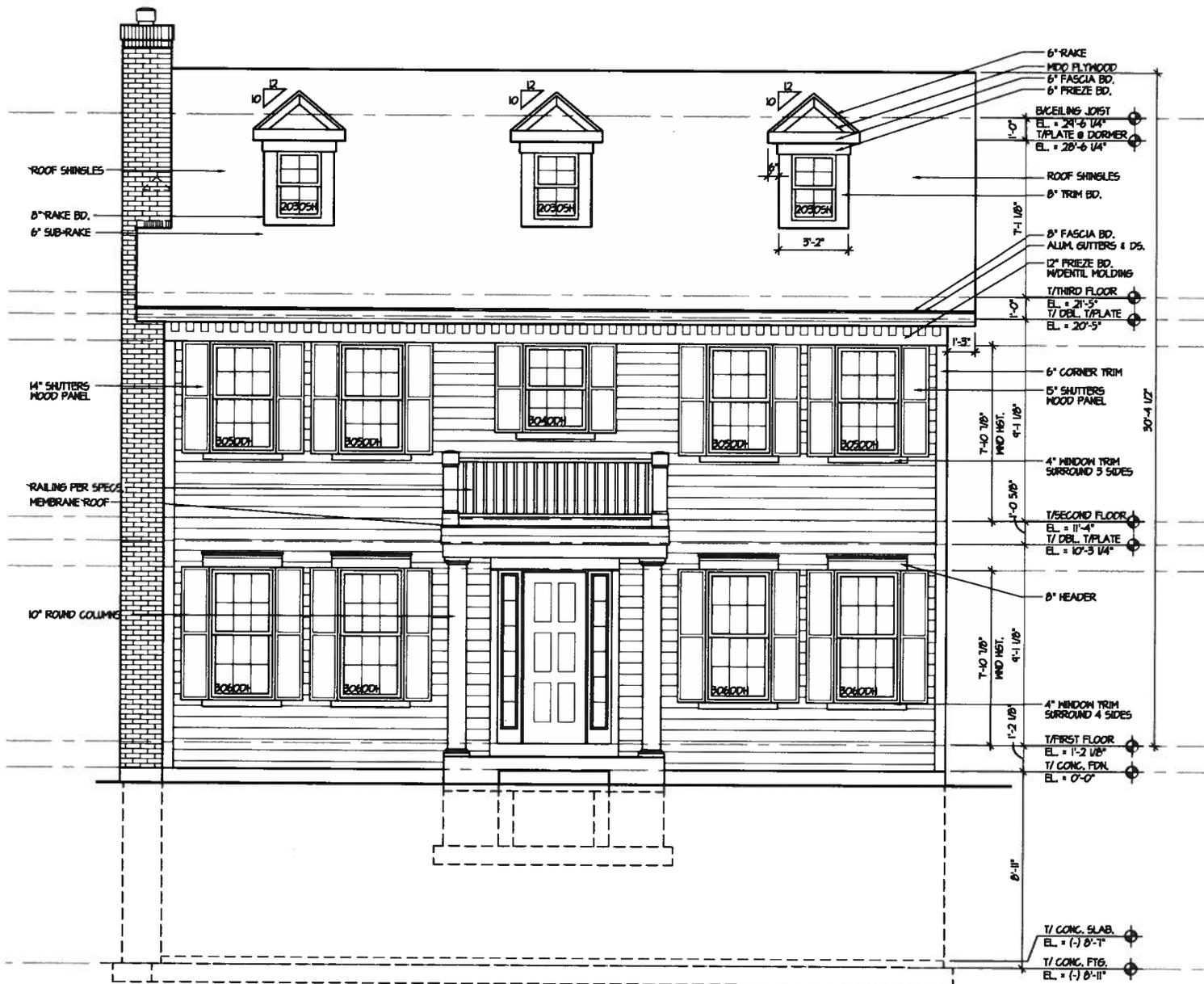
## Second Floor



# Attic



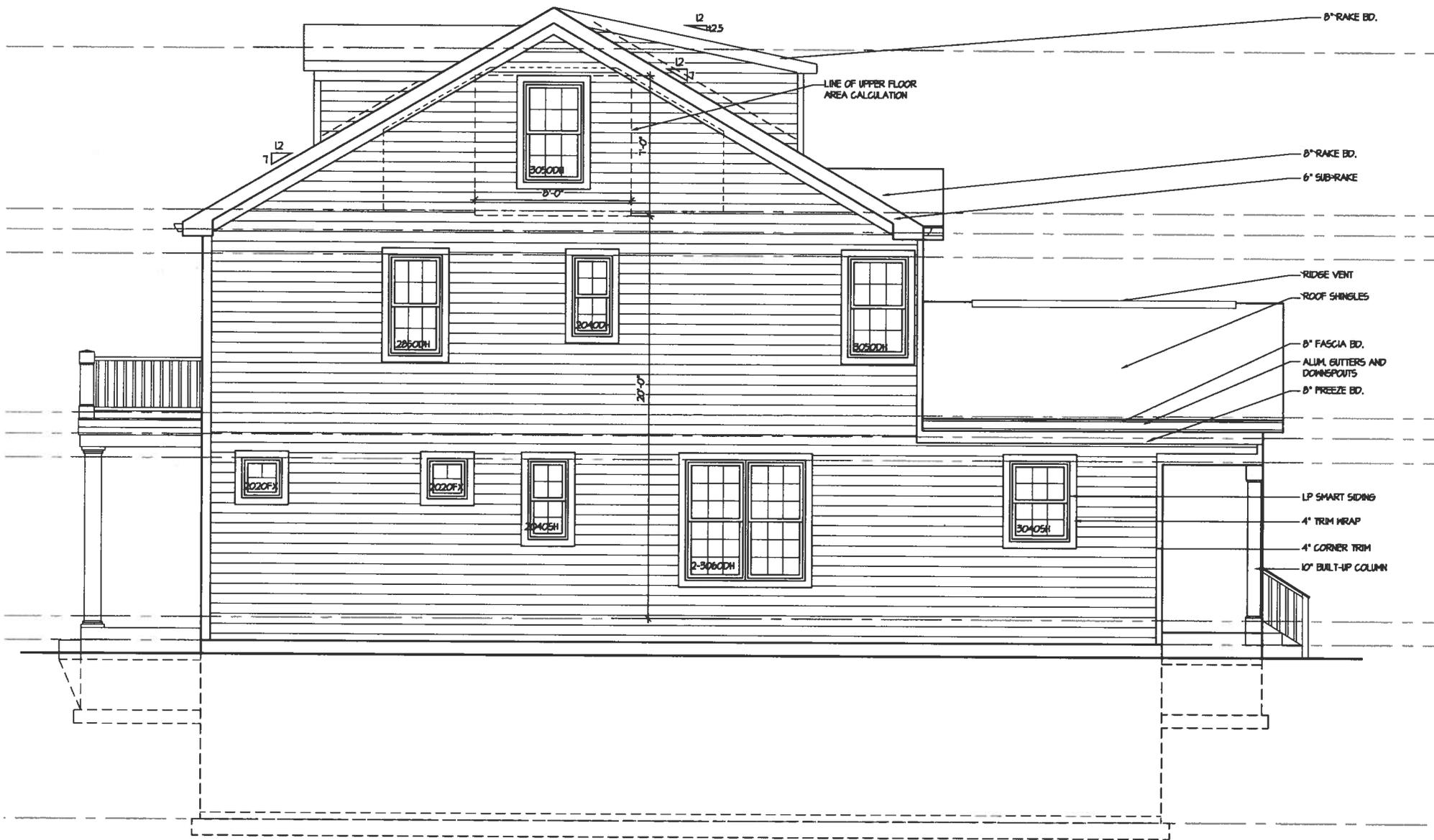
**Basement**  
 (Optional Finished Layout Shown)



**FRONT ELEVATION**

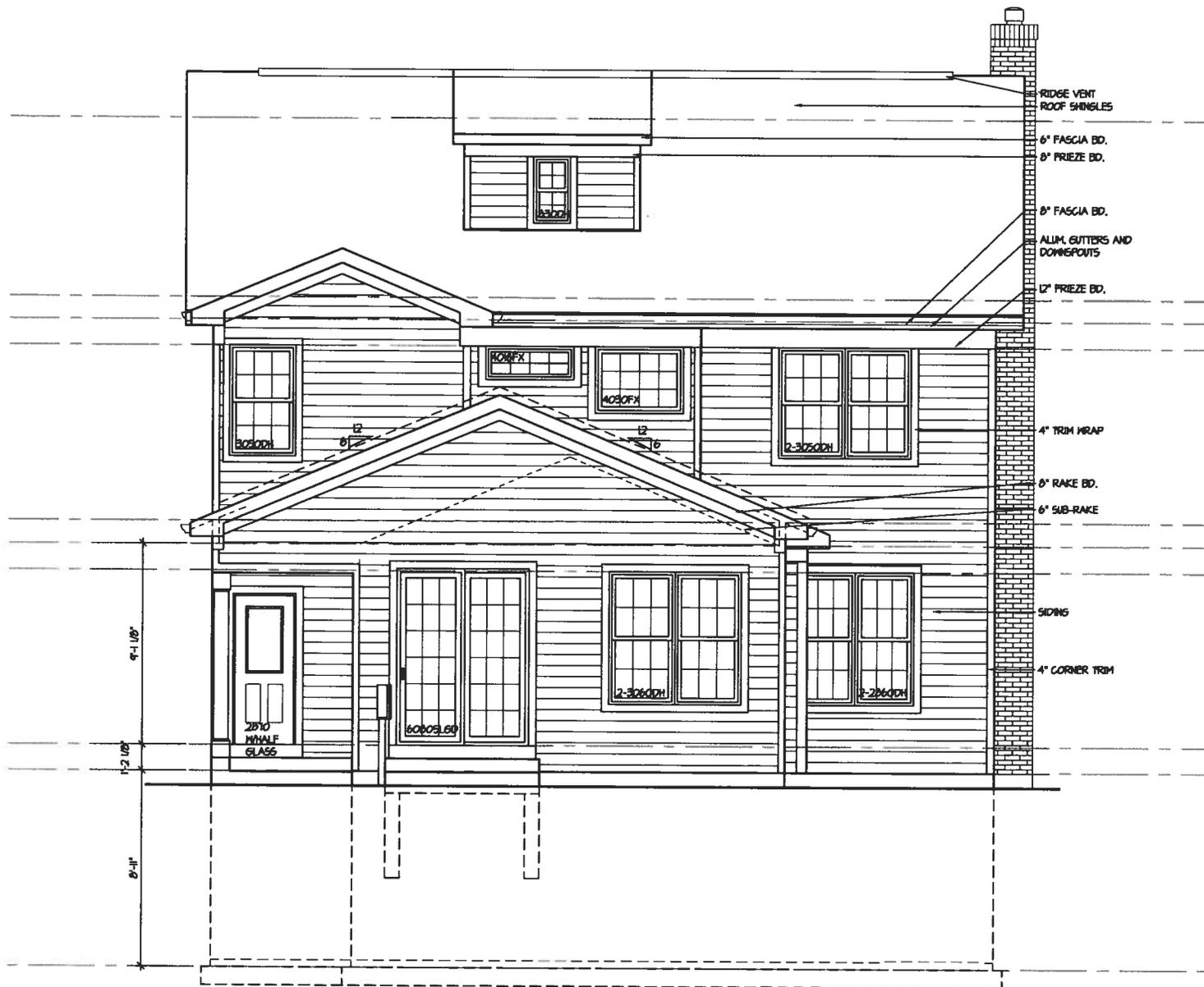
SCALE: 1/4" = 1'-0"





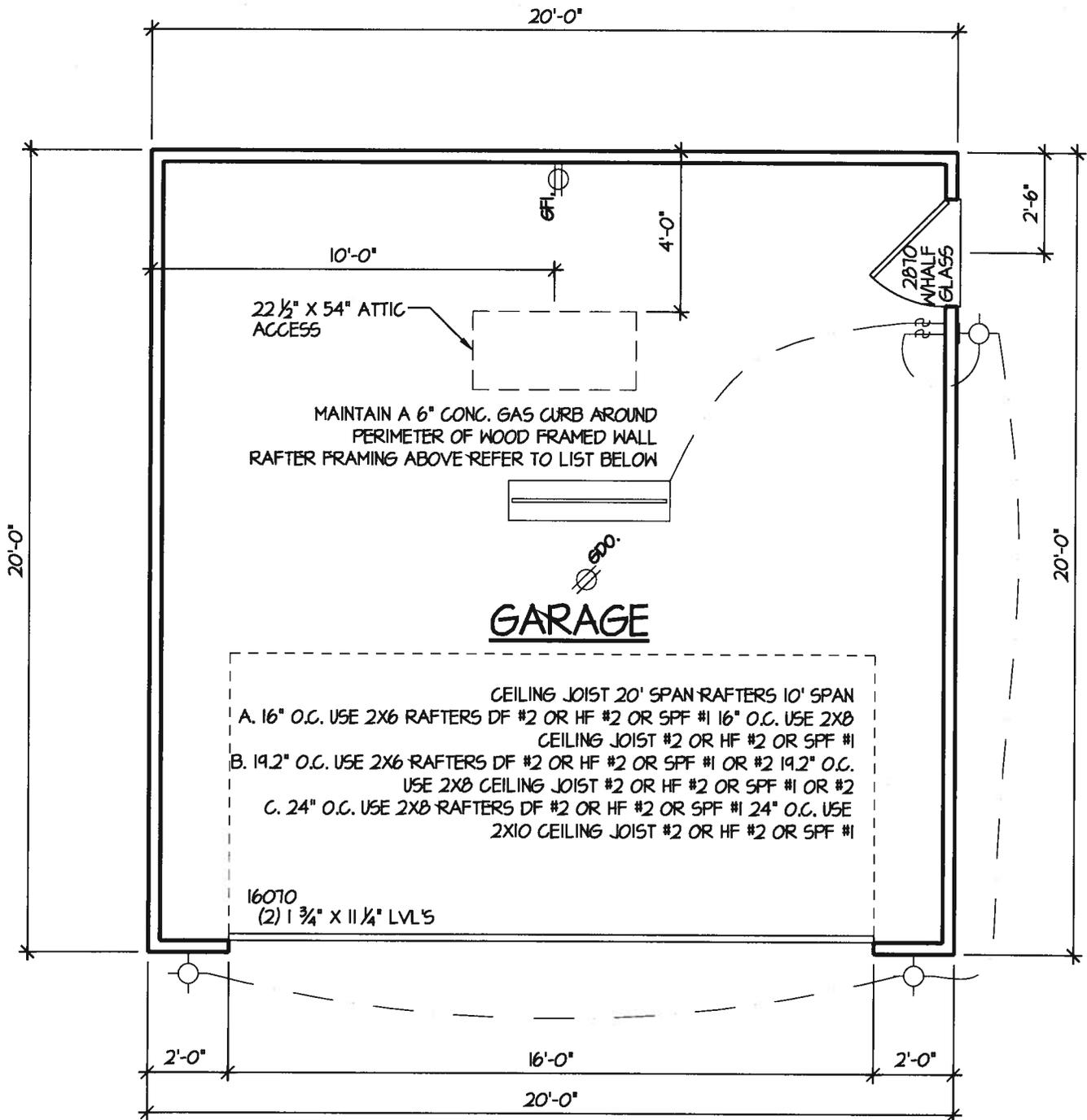
# RIGHT SIDE ELEVATION

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



**REAR ELEVATION**

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



# FIRST FLOOR PLAN

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

**NOTES:**

**ROOF INFORMATION**

REFER TO ROOF FRAMING LIST ABOVE FOR RAFTER FRAMING

**WALL INFORMATION**

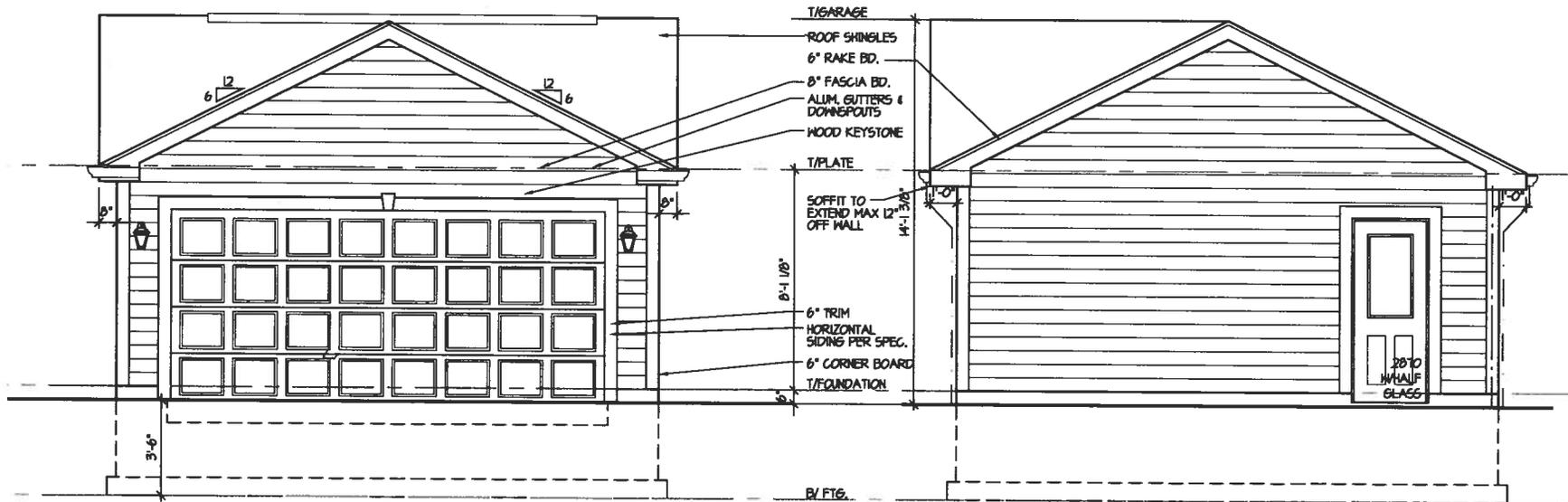
GARAGE WALL: 92 5/8" 2X4 #2 SPF GRADE OR BETTER @ 24" O.C.

**PLAN INFORMATION**

ALL DIMENSIONS ARE TO FACE OF STUD TO FACE OF STUD

THE CONDITIONS LISTED HERE ARE STANDARD FOR THIS PLAN ELEVATIONS.

EXCEPTIONS ARE NOTED IN THE PLAN

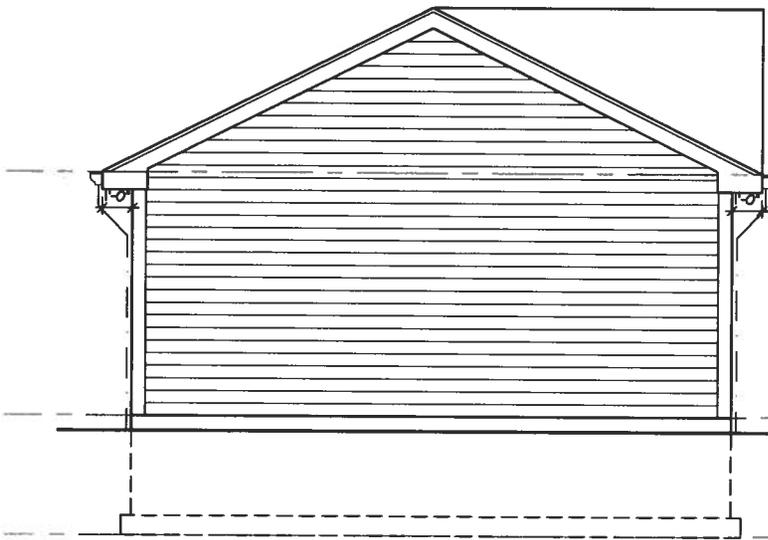


### FRONT ELEVATION

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

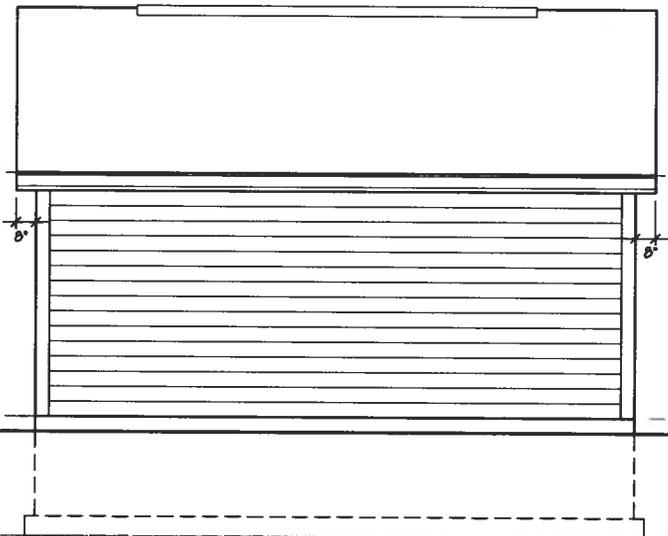
### RIGHT SIDE ELEV.

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



### LEFT SIDE ELEV.

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



### REAR ELEVATION

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



CASE NO. 12-16-V2

APPLICATION FOR VARIATION  
WINNETKA ZONING BOARD OF APPEALS

Owner Information:

Name: NORTH SHORE BUILDERS I, INC.

Property Address: 310 WALNUT STREET

Home and Work Telephone Number: (847) 772-8443 (Tom) / (847) 942-6882

Fax and E-mail: TMHICKMAN@NSBGREEN.COM; TOM.HICKMAN@TLHARCHITECTS.COM  
↳ (847) 963-1356

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

THOMAS HICKMAN, TLH ARCHITECTS & DEVELOPERS, LTD.

6519 RFD, LONG GROVE, IL 60047

PH. (847) 772-8443; FAX (847) 963-1356; TOM.HICKMAN@TLHARCHITECTS.COM

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

N/A

Date Property Acquired by Owner: MAY 29, 2012

Nature of Any Restrictions on Property: THROUGH LOT

Explanation of Variation Requested: SEE ATTACHED  
(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  p exists in order to grant a variation request.

Property Owner's Sign  Date: 6/6/2012  
NORTH SH... OWNER... ARCHITECT

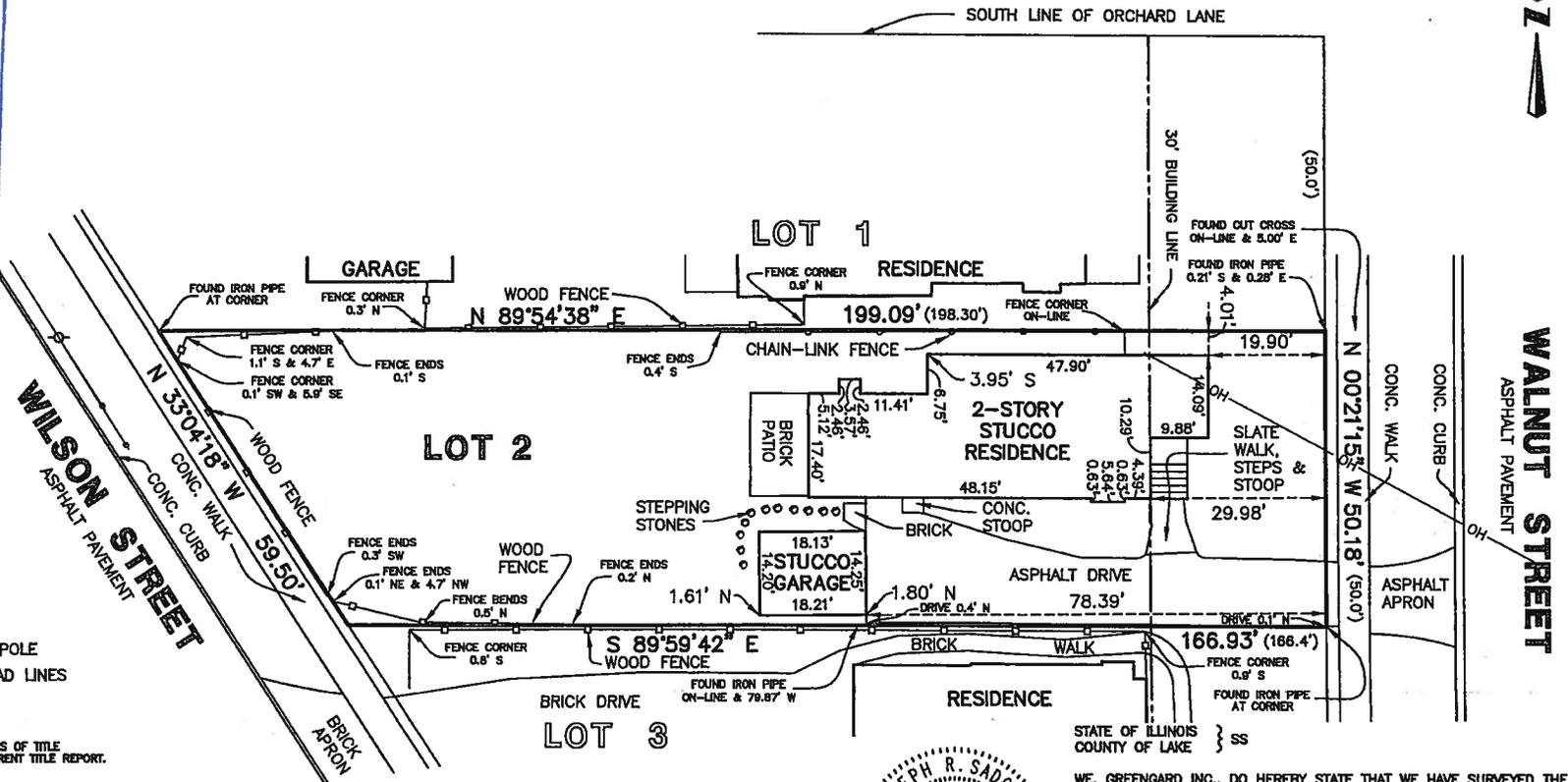
(Proof of Ownership is required)

**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.**

# PLAT OF SURVEY

LOT 2 IN McGUIRE & ORRS SUBDIVISION, A SUBDIVISION OF PART OF BLOCK 16 IN JOHN G. GARLANDS ADDITION TO WINNETKA IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 11, 1916 AS DOCUMENT NUMBER 5802853, IN COOK COUNTY, ILLINOIS.

**RECEIVED**  
**R**  
 JUN - 6 2012  
 BY:



## LEGEND

- POWER POLE
- OVERHEAD LINES

## SURVEYORS NOTES:

1. THIS SURVEY IS SUBJECT TO MATTERS OF TITLE WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT.
2. ( ) DENOTES RECORD DIMENSION.
3. BEARINGS HEREON SHOWN ARE ON AN ASSUMED BASIS.
4. ORIGINAL CLIENT - NORTH SHORE BUILDERS
5. ORIGINAL FIELD WORK COMPLETED - 04-20-12

## GENERAL NOTES:

1. DISTANCES ARE MARKED IN FEET AND DECIMAL PLACES THEREOF.
2. NO DIMENSION SHALL BE ASSUMED BY SCALE MEASUREMENT HEREON.
3. ONLY THOSE BUILDING LINE SETBACKS AND EASEMENTS WHICH ARE SHOWN ON THE RECORDED PLAT OF SUBDIVISION ARE SHOWN HEREON. THERE MAY BE ADDITIONAL TERMS, POWERS, PROVISIONS AND LIMITATIONS CONTAINED IN AN ABSTRACT, DEED, LOCAL ORDINANCES, DEEDS, TRUSTS, COVENANTS OR OTHER INSTRUMENTS OF RECORD.
4. COMPARE DEED DESCRIPTION AND SITE CONDITIONS WITH THE DATA GIVEN ON THIS PLAT AND IMMEDIATELY REPORT ANY DISCREPANCIES TO THE SURVEYOR.

## AREA

9,156 Sq. Ft. OR 0.21 ACRES (MORE OR LESS)



STATE OF ILLINOIS }  
 COUNTY OF LAKE } SS

WE, GREENGARD INC., DO HEREBY STATE THAT WE HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

DATED THIS 24<sup>TH</sup> DAY OF APRIL, AD. 2012.

JOSEPH R. SADOSKI  
 ILLINOIS  
 PROFESSIONAL LAND SURVEYOR NO. 3316  
 MY RENEWABLE LICENSE EXPIRES 11/30/12.

GREENGARD, INC.  
 111 BARCLAY BOULEVARD, SUITE 310  
 LINCOLNSHIRE, ILLINOIS 60069

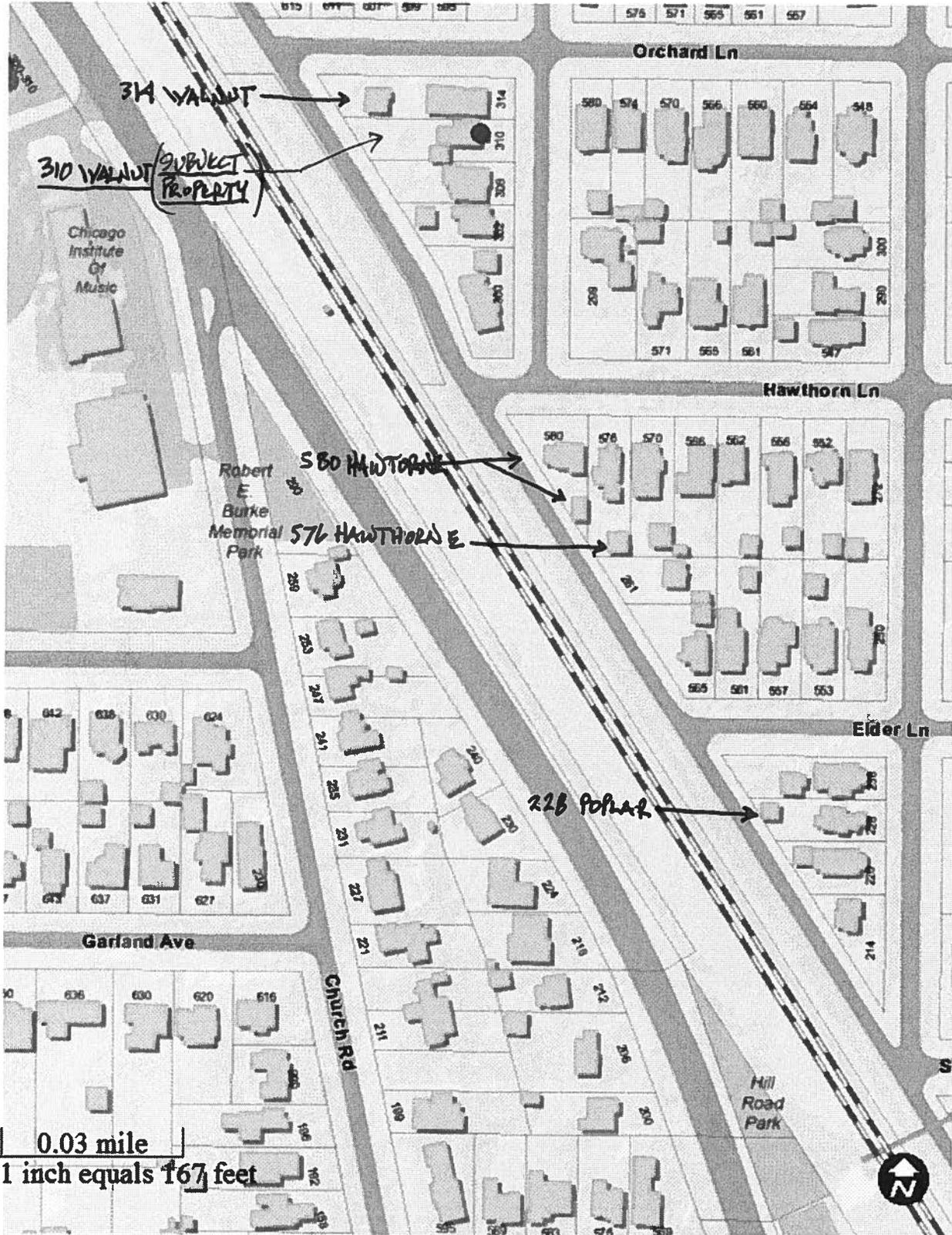
DESIGNED BY: AN	DATE: 04-23-12
CHECKED BY: JRS	DATE: 04-24-12
APPROVED BY:	DATE:



**GREENGARD INC.**  
 Engineers • Surveyors • Planners  
 111 Barclay Blvd., Suite 310, Lincolnshire, Illinois 60069-2906  
 847/634-3883 E-MAIL: 231@greengardinc.com FAX: 847/634-0887

SCALE:	1"=20'
DRAWING NO.:	57184
SHEET:	1 OF 1

310 WALNUT STREET - WINNETKA, ILLINOIS  
**PLAT OF SURVEY**





**WINNETKA ZONING BOARD OF APPEALS  
EXCERPT OF MINUTES  
JULY 9, 2012**

**Zoning Board Members Present:** Joe Adams, Chairman  
Mary Hickey  
Joni Johnson  
Bill Krucks  
Carl Lane

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

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

**Agenda Items:**

**Case No. 12-16-V2:** 310 Walnut St.  
North Shore Builders 1, Inc.  
Variations by Ordinance  
1. Intensity of Use of Lot  
2. Maximum Building Size  
3. Front Yard Setback  
4. Garages

\*\*\*

**Minutes of the Zoning Board of Appeals  
July 9, 2012**

**310 Walnut St., Case No. 12-16-V2, North Shore Builders 1, Inc., Variations by Ordinance: (1) Intensity of Use of Lot, (2) Maximum Building Size, (3) Front Yard Setback and (4) Garages**

Mr. D’Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by North Shore Builders 1, Inc. concerning variations by Ordinance from Section 17.30.030 [Intensity of Use of Lot], Section 17.30.040 [Maximum Building Size], Section 17.30.050 [Front Yard Setback], and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit the construction of a new residence and detached garage that will result in a front yard lot coverage along Wilson of 1,028.35 s.f., whereas a maximum of 915.49 s.f. is permitted, a variation of 112.86 s.f. (12.33%), a gross floor area of 3,773.07 s.f., whereas a

maximum of 3,463.08 s.f. is permitted, a variation of 309.99 s.f. (8.95%), a front yard setback of 10 ft. along Wilson for a detached garage, whereas a minimum of 51.42 ft. is permitted, a variation of 41.42 ft. (80.55%), and a north side yard setback for the detached garage of 2.25 ft., whereas a minimum of 8 ft. is required, a variation of 5.75 ft. (71.87%).

Chairman Adams swore in those that would be speaking on this case.

Tom Hickman from North Shore Builders introduced himself to the Board as the architect, along with Tony Myers, the vice president of North Shore Builders. He stated that after an extended description of what they are asking for, the simplest way to describe the request is to develop the lot as if it were not a through lot. Mr. Hickman stated that by definition, it is a through lot because of the street on the east and west sides. He added that everything they are proposing would fall within the constraints of the ordinance if it were not a through lot.

Mr. Hickman noted that Wilson ran on the west end of the lot and that it ran parallel to the railroad tracks. He informed the Board that none of the through lots facing Wilson have homes facing Wilson and that they all face in the other direction. Mr. Hickman then stated that on other blocks there are instances of homes facing Wilson, but which are not through lots. He stated that on this particular block, there are no homes facing Wilson. Mr. Hickman then stated that on the opposite side of Wilson, there is an approximate 12 foot concrete wall.

Mr. Hickman stated that with regard to the idea of a through lot, the ordinance attempted to protect the integrity of the front yard line of that second front yard which did not come into play here since there are no front yards facing Wilson. He then stated that there are stockade fences on the other homes facing Wilson.

Mr. Hickman then referred the Board to the drawing and stated that what they attempted to do is propose to develop the lot and be compatible with the north neighbor where a variance was given to bring their garage closer to Wilson to match up the garages, to maximize the backyard and build a traditional Winnetka home on a 50 foot wide lot with a detached garage as opposed to another solution. He stated that with regard to the second illustration, he pointed out what would happen to the garage if they had to adhere to the ordinance. Mr. Hickman indicated that you can see where the garage would get pulled up tight to the back of the home and that it would be closer to the neighboring home as well. He stated that the addition of a driveway would be necessary for that alternative which would destroy the backyard. Mr. Hickman stated that the backyard would be nonfunctional when compared with the proposed solution, which is the reason why they are seeking what they are asking for. He then stated that they felt that the hardship related to the fact that the lot is considered a through lot and that various different rules come into play since it is considered a through lot which is why they are asking for the requested variations. Mr. Hickman then asked the Board if they had any questions.

Chairman Adams asked if in a conforming design, the garage would not be attached to the home.

Mr. Hickman confirmed that is correct. He stated that they would have to pull the detached garage to the point where it would meet the setback requirements.

Chairman Adams asked if it is their testimony that if the garage was attached to the home and the remainder was yard, it would not work.

Mr. Hickman responded that he is not saying that would not work. He indicated that it is their contention that this is what Winnetka is about, particularly on 50 foot wide lots. Mr. Hickman stated that you see over and over in the Village 50 foot wide lots with a traditional single family home with a garage in the back. He then stated that the garage in combination with the back of the home would leave the rear facade open to the backyard. Mr. Hickman noted that if they were to attach the garage, they would lose half of the rear facade of the home in terms of the ability to open the home to the backyard. He also stated that with the same amount of area there, there would be more asphalt if they were to attach the garage.

Chairman Adams asked with regard to the home to the south, if it is new construction with an attached garage.

Mr. Hickman confirmed that is correct. He then stated that is because of the angle of the lot and the fact that it is a shorter lot. Mr. Hickman added that since the lot is shorter, if there was a garage in the back on that small lot, there would be a small area between the garage and the home.

Ms. Johnson asked how much shorter is that.

Mr. Hickman stated that they would be losing another 32 feet. He informed the Board that the other lot is 162 feet and they are at 198 feet. Mr. Hickman then stated that if they were to project a line into the next lot, the garage would end up on top of the home. He indicated that he is not saying that there would be the same benefit if they had to ask for a variance, but conforming to a 51 foot setback which is the average distance of the homes on the block from the street, that is how that line is determined. Mr. Hickman also stated that would be disregarding whether the fronts or rears of the homes were facing Wilson.

Ms. Johnson asked whether they could build the same kind of home as the one to the south. She is not sure if the zoning regulations have changed since the home to the south was built. She indicated that the garage on the home to the south is not close to the sidewalk as this proposed garage would be.

Chairman Adams referred the Board to the colored illustration in the packet of materials. He stated that the applicants would like to not have it treated like a through lot, but if they were to come up with a conforming alternative, if the drawbacks were more impervious surface, more driveway, etc., they would be trying to line up with the garage to the north.

Mr. Hickman stated that there is a piece of the ordinance now which speaks to the requirements for

certain irregularly shaped lots. He stated that it did not exactly apply because there is not a rear yard and that if the lot formed a point at the rear or if the rear lot line extended formed an angle of more than 45 degrees with the front lot line, the rear lot line and the rear yard setback shall be established for zoning purposes by the zoning administrator so as to conform as close as is practical to the intent and purposes of this title requiring uniform rear yards and appropriate spacing between buildings. Mr. Hickman stated that it is basically saying that the zoning administrator has the latitude to make something like this work in a way which is consistent with that concept of the rear yard where the garages line up, which is how they approached it.

Chairman Adams asked Mr. D'Onofrio how that rule applied.

Mr. D'Onofrio responded that it does not apply. He stated that related to a rear yard and that this is considered a front yard.

Mr. Hickman agreed that it is not a rear yard as defined.

Ms. Johnson stated that a utility pole was referred to in the northwest corner and asked if it can be moved.

Mr. Hickman responded that they did not explore that and that if they do not have to move it, it would be preferable not to.

Ms. Johnson also commented that it was hard to find.

Mr. Hickman stated that when you move utilities, there is a considerable expense and that they would prefer not to.

Ms. Johnson then asked with regard to the way to configure the other driveway, is there a way that they can flip it. She also asked if there was a reason not to go straight back to Wilson.

Mr. Hickman stated that they are attempting to provide two parking spaces within the lot. He informed the Board that the other garages which are close to Wilson end up with gates open and vehicles hanging out. Mr. Hickman also stated that there is not a lot of room between the garage and Wilson to park a vehicle and that it was done for that purpose in order to have the ability to turn in and park fully within the lot.

Ms. Johnson asked Mr. Hickman if it is their argument that they should have the GFA variation because if it is really a rear yard and if so, they would get the rear yard garage bonus.

Mr. Hickman indicated that he is not sure that he would word it that way, but yes.

Ms. Johnson then asked what they need the extra 300 s.f. for.

Mr. Hickman stated that with regard to the premise of allowing the 300 s.f. exception to the detached

garage and saying the garage has to be within the rear quarter of the lot, the lot by definition by technicality does not have a rear quarter and that they considered it a hardship to take that away in that circumstance. He also referred to the shape of the roof and the rules of the ordinance such as whether it is developed space or not counted in the square footage.

Chairman Adams asked Mr. Hickman if they can make something else smaller.

Mr. Hickman agreed that is correct.

Chairman Adams stated that they could then ask for fewer variances.

Mr. Hickman then stated that as an offering, they could do the alternative to reduce the amount of area covering that is in the front yard which is only over by 112 square feet. He also stated that they could reduce the amount of paving to fall under that threshold which would take away one variation.

Ms. Johnson stated that related to the intensity of use of lot.

Chairman Adams asked if there were any other questions.

Mr. Lane stated that with regard to the side yard for the north yard, its 2.25 ft. versus 8 ft. He asked what the need for that is and if it was for vehicles.

Mr. Hickman confirmed that is correct and that is the rationale for that. He stated that if it was the rear yard, then 2 ft. is the requirement. Mr. Hickman stated that they are intending to move it to 3 ft. if the variations are granted.

Mr. Lane asked if it could be done at 8 ft.

Mr. Hickman agreed that it could. He then stated that as you move the garage south, they would also move it to the east because it would be right up against the 10 foot line. Mr. Hickman then stated that if they are asking for 10 ft., it would move in the southeast direction.

Mr. Lane asked what the basis for 10 ft. is.

Mr. Hickman responded that there are two reasons and that first, when the project was originally investigated, it was mistakenly recorded in the records that the neighbor next door to the north had a variation for 10 ft. He then stated that after applying and looking further, they discovered in fact that is not where the neighbor was and that at the same time, the other more important rationale was trying to line up garage to garage.

Mr. Lane then asked how important is that and that when driving down an angled street, whether you would notice it.

Mr. Hickman indicated that it is not important from the street, but that it is important as it related to the north neighbor for the garages to line up and the yards to line up. He also stated that it related to open space to open space and structure to structure.

Mr. Lane asked how tall the home is.

Mr. Hickman stated that it would be 31 ft.

Mr. Lane then asked how the new home would compare with the other homes in the neighborhood.

Mr. Hickman indicated that he did not know the height of the other homes in the neighborhood and that it would be what is allowed under the ordinance.

Mr. Lane stated that the applicants are asking for a reasonable GFA variation.

Mr. Hickman reiterated that he did not know the height relationship to the other homes. He informed the Board that there would be a 9 ft. floor to ceiling height on the first and second floors and that it would have a typical roof. Mr. Hickman then stated that there would be a 6:12 pitch from front to back for the roof. He added if there was a height variation as compared to other homes, it related to the prevalence of 9 ft. floor heights these days.

Chairman Adams asked if there were any other questions. No additional questions were raised by the Board at this time. He then asked if there were any questions from the audience.

Dave Bender, 561 Orchard, informed the Board that he lived to the east of the intersection of Orchard and Walnut. He noted that his concern is not with the garage and that he thought that the garage in the back looked good and that for the yards to be together would have advantages. Mr. Bender stated that his concern is that the home would be larger than what is allowed by the ordinance. He reiterated that with regard to the garage, the way it would be done is appropriate. Mr. Bender then stated that this lot measured 9,156 s.f. and that it would become a larger building. He also stated that they are already looking for a 9% expansion of 310 s.f. of additional space on the home to the lot which is bigger than the others. Mr. Bender indicated that he is not sure why and informed the Board that he could not add on to the home where he has lived for 41 years. He stated that the rules have been in place for a long time. Mr. Bender noted that the home backed up to the original Chou home which has become a legend in time with regard to fraud. He stated that there would be no fraud involved here. Mr. Bender then stated that if he wanted to have a bigger home on that lot, in connection with the rules which have been in place for over 20 years, they were told those are the rules and were told no and referred to looking at a home on the size of a larger lot.

Chairman Adams asked if there were any other comments. He then stated that Mr. Bender's testimony related to Ms. Johnson's question. Chairman Adams stated that it was not that a specific room is critical and referred to reasonable return without the variations. He then stated that it was one of the issues relating to the home to the north. Chairman Adams added that with regard to

history, he referred to putting the garage back where the prior garage was. He then stated that this argument is to pretend that it is a backyard for all purposes.

Ms. Johnson stated that the minutes indicated that in the zoning case relating to the house to the north, the owners agreed to reduce the size of their garage and their home to bring the request into compliance with the GFA zoning provisions.

Richard Warnecke, 565 Orchard, informed the Board that he remodeled his home and referred to the screened porch and first floor bedroom. He stated that the porch was sacrificed and that a room was built. Mr. Warnecke stated that they chose to follow the ordinance and that they have lived in the home a long time. He stated that when you buy a lot, you should investigate whether you would be able to build what you want and that the ordinance should not be changed to satisfy exceptions. Mr. Warnecke commented that bothered him, but that he agreed with the garage design which he stated he had no problem with. He added that the ordinance is to restrict building and that it should be followed, especially for a newly developed lot.

Chairman Adams asked if there were any other comments. No additional comments were made by the audience at this time. Chairman Adams then asked Mr. Hickman if he would like to respond. He informed the applicant that there are seven Board members and that there are enough Board members present for a quorum with four votes needed in favor of the request. Chairman Adams stated that the Board would give the applicants the opportunity to continue the case as they are hearing the comments being made. He stated that the applicants could tweak their proposal and that is the applicants' right.

Mr. Hickman stated that in response to the comments made, he would like to make sure that people understand the request. He then stated that for this size lot in this zoning classification, they would be allowed to build this size home on the location which is not a through lot. Mr. Hickman stated that the fact that on a lot where there is a rear yard, a 400 s.f. exception would be allowed for a garage and that they could build the garage without penalty to the size of the home. He then stated that because it is a through lot and does not have a rear yard, they did not get the 400 s.f. exception, which is the reason why the home goes over the s.f. Requirements. Mr. Hickman added that it did not have anything to do with the size of the lot, but the designation of the lot.

Ms. Johnson stated that it does have something to do with the size of the lot.

Chairman Adams stated that the issue is that because it is a through lot the applicants did not get the garage bonus. He then stated that the question is that the applicants are asking the Board to suspend that and that there may or may not be logic to that. Chairman Adams then questioned do they suspend it for all purposes or if it is a logical place for the garage.

Mr. Warnecke asked if the applicants knew it was a through lot when they bought it and if so, why did they buy it.

Chairman Adams called the matter in for discussion.

Mr. Lane stated that he understood the issue with the lot being a through lot and backing up against a road with no homes across the street. He then stated that the placement of the garage is fine. Mr. Lane indicated that there could be some adjustments for the garage to eliminate the north side setback variation and that it did not make sense to allow that one. He stated that he did like the argument of lining up the garages. Mr. Lane then stated that he had the most trouble with GFA and that all homes on streets which are on through lots have the same standard. He stated that there is not an issue as to where to put the garage since it is an angled lot backing up to the railroad. Mr. Lane stated that the lot has two front yards and that those are the standards. He also stated that it would be reasonable to expect a slightly smaller home to reduce GFA. Mr. Lane concluded that in general, he is fine with the garage placement and that it should be moved to get rid of one variation request, but that he is not in favor of the GFA variation.

Ms. Johnson stated that she agreed with Mr. Lane's comments and pointed out that the request is for new construction and that they are not dealing with existing conditions where there might be a compelling reason for a GFA variation. She stated that although the applicants are not asking for a huge GFA variation, they should not be entitled to one foot for new construction under these circumstances. Ms. Johnson also stated that a lot of people do not get the garage bonus and then referred to her home. She then stated that no reason was articulated as to why the applicants needed 300 s.f. Ms. Johnson stated that the homes to the north and south are fairly new and that neither got a GFA variation. She concluded by stating that if they were to waive it for this request, then every single lot which is a through lot would be entitled to it on Wilson which would set a bad precedent.

Mr. Krucks stated that he had the same problem with GFA and that the applicants should be made to comply with that for his vote.

Ms. Hickey stated that she agreed with the comments made.

Chairman Adams then asked Mr. D'Onofrio if the applicants were to build an attached garage, would they get the 200 s.f. bonus.

Mr. D'Onofrio responded that they would not.

Ms. Klaassen noted that in order to receive the attached garage allowance the garage cannot be visible from any street.

Chairman Adams asked Mr. Hickman if he would like for the Board to vote on the request or not.

Mr. Hickman stated that if they agreed now to reduce the home size and not ask for a GFA variation, would it be possible to take that step now and not continue the request.

Mr. D'Onofrio stated that it would not and recommended that the Board make a clean

recommendation to the Village Council, particularly since it is new construction.

Chairman Adams asked if the applicants could appear on next month's agenda.

Mr. D'Onofrio indicated that would depend on when they receive the revisions and that the applicants will be accommodated.

Ms. Johnson asked what about the other tweaking.

Mr. Lane stated that there was talk about moving the garage. He then stated that if he saw the complete package and the GFA was reduced, he might be swayed. Mr. Lane suggested that the applicants move the garage if they can.

Ms. Johnson agreed with Mr. Lane's comments and added that the home to the north has a driveway which goes to Orchard. She commented that they did a wonderful job. Ms. Johnson added that there is more space between the home and Wilson there.

Mr. Lane also stated that there would be less impermeable surface if there was a straight driveway.

Tony Myers informed the Board that they would like to continue the request and that the home had already been sold. He informed the Board that 300 ft. could be a game changer for them. He also informed the Board that the same home was built a street away with the same square footage and elevations. He stated that the question is because the home had been sold, they are attempting to get the people in the home in January and that they would have to start a month later if the request is continued. He then stated that they could shrink the home by 300 s.f. and not build the garage until two months into the project. He stated that if square footage is the issue, it could be taken out of the home and added that they would rather not attach the garage to the back of the home. He informed the Board that the new buyers have a detached garage now and that although with 50 foot lots, people love detached garages; there is not a tight driveway down the side. He added that they considered Wilson an alley and that they would be happy to continue the request.

Chairman Adams informed the applicant that the Board cannot give advice to build a home without variations. He then stated that the applicant had a sense of the Board's position.

Mr. D'Onofrio indicated that there are a lot of moving parts here and that North Shore Builders is concerned with getting their client in. He stated that his concern is that he would hate for them to revise the plans and issue a building permit for a home without a garage and then for the applicant to come back and then go to the Village Council where there may be great potential for public flogging. Mr. D'Onofrio stated that someone may think the application is disingenuous on the part of the builder. He stated that he would not recommend that and for them to take a month to get a feel of the Board's position, which would allow them the opportunity to work with the Village staff to massage the request and not ask for a GFA variation, but for a garage.

Chairman Adams agreed that the matter would be continued until such time as the applicants have revised plans.

No vote was taken on this matter at this time.

Mr. D'Onofrio stated that the neighbors would not be informed of the next meeting date which is August 13, 2012.

**DRAFT**

**WINNETKA ZONING BOARD OF APPEALS  
EXCERPT OF MINUTES  
AUGUST 13, 2012**

**Zoning Board Members Present:** Joe Adams, Chairman  
Mary Hickey  
Carl Lane  
Jim McCoy

**Zoning Board Members Absent:** Joni Johnson  
Bill Krucks  
Scott Myers

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

**Agenda Items:**

Case No. 12-16-V2: **Continued from the July 9, 2012 meeting**  
310 Walnut St.  
North Shore Builders 1, Inc.  
Variations by Ordinance  
1. Front Yard Setback  
2. Garages

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**Minutes of the Zoning Board of Appeals  
August 13, 2012**

**310 Walnut St., Case No. 12-16-V2, North Shore Builders 1, Inc., Variations by Ordinance - (1) Front Yard Setback and (2) Garages**

Chairman Adams stated that the case is being continued from the last meeting and that the public notice had already been read into the record. He stated that they can presume that everyone read through the meeting minutes and for the applicant to focus on what is different from last month.

Tom Hickman from North Shore Builders introduced himself to the Board as the architect on this matter. He stated that they attempted to take insight and guidance from the Board’s comments raised at the last meeting. Mr. Hickman stated that they are asking for less to accomplish the main thing that they want to accomplish without a lot of the other peripheral issues. He indicated that

they previously asked for an increase in the size of the home above the allowable GFA and that they eliminated that by reducing the size of the home and the size of the garage. Mr. Hickman also stated that by reducing the size of the garage, they were able to bring the impermeable area of development in the Wilson Street front yard into compliance. He added that they would not be over the allowable coverage of front yard in that setback.

Mr. Hickman stated that left them with only two items, both of which are setback items and one of which was improved upon. He then stated that they improved upon the north side setback from the north neighbor and that they previously asked for that to be reduced to 2 feet and that now it would be reduced to 5 feet from the 8 feet which is allowed. Mr. Hickman also stated that the setback against Wilson would remain as originally requested at 10 feet. He noted that the bottom line is that they are trying to seek to place the garage similar to the way it would be placed if the lot were not a through lot in order to maximize the backyard for the ultimate property owners and reduce the amount of pavement on the lot.

Mr. Hickman then referred the Board to the revised illustrations. He stated that with regard to the proposal, they would be putting the garage near Wilson and that the home would be totally in compliance. Mr. Hickman informed the Board that if they were to adhere to the setback as called for, the garage would be pulled up close to the home and that all they would have would be a patio for the backyard. He then stated that the pavement in that situation versus the proposed would increase by approximately 300 square feet and that the proposal would result in an improvement to the green area and the functionality of the backyard. Mr. Hickman stated that he provided a fair summary of what had changed from the previous proposal and asked the Board if they had any questions.

Chairman Adams also asked the Board if they had any questions.

Ms. Hickey asked if the request would now be in compliance with the Wilson front yard setback.

Mr. Hickman confirmed that the home would be in compliance but the garage would not. He referred the Board to the "conforming location" illustration of the garage and stated that instead of it being put where they are asking to put it, it showed where the garage would have been.

Chairman Adams asked Ms. Klaassen even if the garage was connected to the home, they would not get the GFA bonus because it would be an attached garage facing the street.

Ms. Klaassen confirmed that is correct.

Chairman Adams noted that there is a home like that on Wilson. He then asked if there were any other questions. No additional questions were raised by the Board at this time. Chairman Adams then called the matter in for discussion.

Chairman Adams began by stating that he would be inclined to be in favor of the request. He referred to the concerns which were raised last month and addressed by the applicant. Chairman

Adams then stated that people view Wilson more as an alley.

Ms. Hickey referred to precedents.

Chairman Adams commented that the applicant has done a good job.

Mr. McCoy commented that the request made sense to him.

Chairman Adams then asked for a motion. He noted that the Board is to make a recommendation to the Village Council since the request represented new construction.

Mr. Lane moved to recommend approval of the zoning variances for 310 Walnut. He stated that in going through the various standards, with regard to reasonable return, if the garage was pushed up to the home as close as it would be required to be, given the two front streets, there would be no backyard basically which would make it difficult to resell the home in that circumstance. Mr. Lane stated that the unique circumstances are because of the two front yard setbacks on Wilson and Walnut and also the fact that the Wilson frontage is angled making it similar to an alley, along with the fact that it backed up to the train tracks. He stated that the request would not alter the character of the locality and that putting the garage where it is proposed would be more consistent with the garages in the neighborhood and makes the character of the locality more consistent.

Mr. Lane stated that with regard to the light and air of surrounding properties, two garages close to each other would represent no issue. He stated that there would be no hazard from fire and that with regard to the taxable value of the land, the request would be consistent and maintain the value of properties in Winnetka. Mr. Lane stated that with regard to congestion, the driveway allowed for pulling into the garage would not be an issue. He concluded by stating that the public health, safety, comfort, morals and welfare of the Village would not be otherwise impaired.

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

AYES: Adams, Hickey, Lane, McCoy

NAYS: None

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

1. The requested variations are within the final jurisdiction of the Village Council.
2. The requested variations are in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are practical difficulties or a particular hardship which prevents strict application of

Section 17.30.050 [Front Yard Setback], and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance which are related to the use or the construction or alteration of buildings or structures.

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

1. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the zoning regulations. Because the lot is a through lot and the Wilson St. frontage is at an angle, a garage in a conforming location would severely limit the quality space of a “backyard.” In addition to the lack of backyard space customary for a modern day Winnetka home, a conforming location would require a significant increase in the impermeable lot coverage due to the increased length of a driveway.
2. The plight of the owner is due to unique circumstances which are related to the characteristics of the property and not the owner. The subject site is a through lot with Walnut St. on one side and Wilson St. on the opposite side, therefore requiring improvements to comply with two front yard setbacks. One unique circumstance is the fact that Wilson St. functions more like an alley, especially with the railroad tracks across Wilson St. A second unique circumstance is the fact that the Wilson St. frontage is at an angle, which impacts the location of the garage relative to the front yard setback as well as the north side yard setback.
3. The variations, if granted, will not alter the essential character of the locality. The proposed detached garage will be adjacent to the detached garage on the neighboring property to the north, 314 Walnut St., which had a variation approved by the Village Council in 2005 to allow the detached garage to encroach the required setback from Wilson St. There are several properties already developed along Wilson St. that are through lots with detached garages located equal to or closer to the lot line than what is proposed by the applicant. Therefore the improvement will be consistent with the neighborhood character.
4. An adequate supply of light and air to adjacent property will not be impaired. The proposed detached garage will abut a neighboring detached garage and not have a negative impact on the supply of light and air. In fact the proposed location may improve the supply of light and air to the adjacent property by moving the garage further from the residences.
5. The hazard from fire or other damages to the property will not be increased as the proposed improvements shall comply with building code standards, including fire and life safety requirements. Also, by keeping a greater distance between structures the hazard from fire or other damages will be decreased.
6. The taxable value of the land and buildings throughout the Village will not diminish. The value of the developed property as proposed will be greater with a larger, more occupant-friendly backyard, and therefore the taxable value of the property should be enhanced and in turn enhance the taxable value of the Village.

7. Congestion in the public street will not increase. The property will continue to be used as a single-family residence and the proposed variations will not limit the ability to provide required parking on the lot.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired with the proposed detached garage located within the required front yard setback along Wilson St. or within the required north side yard setback.

# AGENDA REPORT

**SUBJECT:** R-32-2012 - Proposed 596 Oak Subdivision

**PREPARED BY:** Brian Norkus, Assistant Director of Community Development

**DATE:** August 20, 2012

## Introduction

The attached subdivision request proposes to subdivide the existing single parcel at 596 Oak Street measuring 41,887 square feet into two (2) lots. The proposed division would result in a creation of a vacant lot (*Lot 1*) measuring 14,025 square feet to the west, with the existing house to remain on a lot (*Lot 2*) measuring 27,862 square feet.

The current property owner, Charles Harvey, has entered into a contract with purchasers Steve and Joann Hudson of Winnetka, who intend to maintain the existing residence at 596 Oak as their personal residence and to market the vacant lot for development of a new single family home.

The subject parcel is located in the *R-4 zoning district* (see map below), which requires a minimum lot area of 13,300 for corner lots, and a lot area of 12,600 square feet for interior lots.

The proposed division of 596 Oak Street complies with the Village Zoning Ordinance minimum lot area requirements described above, and also comply with the minimum lot width requirement of 70 feet for corner lots and 60 feet for interior lots. Compliance with zoning standards is described in more detail later in this report.



Figure 1 - zoning map

### **Village Subdivision Review process**

Due to the relatively built-out nature of the Village, a large majority of subdivision activity occurs in established neighborhoods with existing utilities and roadways. For such subdivisions, the review process typically entails a two-step review process, with the applicant submitting a proposed “Final Plat”, which is reviewed first by the Plan Commission, with final approval by the Village Council. (In more complex divisions such as those requiring the construction of public utilities, the subdivision review process is split into separate “Preliminary” and “Final” review phases).

The Plan Commission evaluates proposed subdivisions for technical compliance with the Village zoning ordinance, subdivision ordinance and Comprehensive Plan. In addition, subdivisions are evaluated by the Commission for consistency with the surrounding neighborhood and with the overall intent of the zoning ordinance.

### **Development history and surrounding zoning**

The subject parcel and surrounding neighborhood was one of the earliest developed areas of the Village, with many homes dating to the late 1800’s. The existing residence at 596 Oak Street was built in the mid-to late 1800’s, and is shown on an 1896 Village atlas (“*Exhibit A*”) as being the only home on the block (“Block 39”) in 1896. Village records indicate that homes to the immediate south (605, 609 and 615 Cherry) would be built shortly thereafter, in 1898. Abutting homes on Cherry Street were built on comparatively smaller lots measuring approximately 50 feet in width.

The majority of the neighborhood initially developed prior to the Village’s first zoning ordinance, adopted in 1921. As zoning regulations evolved, zoning districts would be defined and delineated to reflect the predominant pattern established in those earlier decades. The subject property and areas to the *north* and *east* would be zoned R-4 for a moderately larger lot size of 12,600 square feet, while the area to the immediate *south* would be zoned R-5 for minimum lot area of 8,400 square feet reflective of the development patterns established earlier.

### **Compliance with zoning standards**

The extent to which the proposed subdivision complies with minimum zoning standards is summarized in the attached “*Zoning Compliance Matrix*” (**Table 1**). The proposed subdivision complies with basic quantitative measures, including minimum lot area, lot depth and lot width. **Table 1** details the zoning requirements which will apply to the proposed two lot subdivision; noteworthy standards (highlighted) include the fact that the proposed 14,025 square foot Lot 1 will allow construction of a new residence with a Gross Floor Area of 4,481 square feet, and requires a minimum front setback of 30 feet.

### **Neighborhood character**

As proposed, the subdivision of 596 Oak Street results in the smaller lot to the west (*Lot 1*) measuring 14,025 square feet, which complies with minimum zoning requirements, and is relatively reflective of surrounding lot sizes within the R-4 zoning district. The attached “*Exhibit B*” was prepared to assist the Plan Commission in evaluating the proposed subdivision for consistency with the surrounding neighborhood context, and shows lot sizes for parcels elsewhere on Oak Street. Due to the fact that the area developed largely prior to adoption of zoning regulations in the Village, *Exhibit B* shows more variation in lot sizes than in other areas of the Village, such as areas west of downtown

Winnetka, which were platted later, and which are characterized by more uniform lot sizes than the subject neighborhood.

Similarly, the attached *Exhibit C* depicts current front yard setbacks observed by individual homes on Oak Street, as well as “average setbacks” for homes on block faces (highlighted). This analysis was performed to allow a comparison of the *minimum* required 30’ front setback of the underlying R-4 zoning district with the more generous front setbacks observed by nearby existing residences, including the existing 596 Oak residence with a front setback of 87 feet.

Average setbacks to the *east* of the subject parcel are significantly larger than the minimum setback of 30 feet, while the average setback of the block directly across the street observes an average of 31 feet.

### **Plan Commission’s Recommendation**

Notice of the Plan Commission’s July 25, 2012 meeting was sent to neighbors within 250 feet of the subject parcel. Written communications were received from three neighbors residing at 475 Cedar, 567 Oak, and 611 Oak, voicing their opposition to the proposed subdivision (copies attached).

At the Plan Commission’s July 25, 2012 meeting, the Plan Commission considered the proposed subdivision, and received comments from two additional neighbors residing at 605 Cherry and 577 Oak Street. Draft minutes of the Plan Commission’s July meeting are attached.

The Plan Commission noted that the proposed subdivision would result in lots which are consistent with size and width of other lots in the neighborhood, and would be a positive step toward construction on the subject property being consistent in scale and size with surrounding properties, compared to the alternative of a new home being built on the existing single lot.

The Plan Commission voted 8-0 with one recusal to recommend approval of the proposed subdivision, subject to certain conditions. Most noteworthy of those conditions is a recommendation to impose a restrictive covenant requiring a minimum front yard setback of 40 feet on Lot 1, versus the minimum of 30 feet, to better assure that new construction be consistent with the larger setbacks observed elsewhere in the immediate neighborhood.

Final conditions recommended by the Plan Commission are as follows:

1. Provision of utility easements along the east, north and south property lines as described in the agenda report, subject to dimensional modifications along the south lot line of Lot 2 to avoid conflict with the existing coach house location;
2. Provision of standard utility easement language;
3. Provision of a signature block for the Community Development Director;
4. Provision of a restrictive covenant on the final plat, requiring a minimum front yard setback of 40 feet on Lot 1, versus the zoning ordinance minimum of 30 feet.
5. The plat of subdivision shall not be recorded, and no permits for construction on Proposed Lot 1 shall be issued until the accessory shed on Proposed Lot 1 is demolished.

**Recommendation:** Consider adoption of Resolution R-32-2012, which would grant final approval of the proposed 596 Oak Subdivision, subject to the restrictive covenants outlined above and contained within the Resolution.

TABLE 1 - ZONING COMPLIANCE MATRIX

Item	Requirement	Proposed Lot 1	Proposed Lot 2
<b>LOT AREA REQUIREMENTS</b>			
Minimum Lot size (exclusive of area dedicated to private street easements)	12,600 sq. ft. minimum for <u>interior</u> lot	14,025 sq. ft.	
	13,300 sq. ft. minimum for <u>corner</u> lot		27,862 sq. ft.
Minimum Average Lot Width	60 feet for interior lot	75 ft.	
	70 feet for corner lot		149 ft.
Minimum Lot Depth	120 feet	187 ft.	187 feet
Minimum rectangular area	16335 sq. ft.	Complies	Complies

Item	Requirement	Proposed Lot 1	Proposed Lot 2
<b>LOT COVERAGE AREA LIMITATIONS</b>			
Maximum Lot Coverage ( Lot 1 - vacant )			
* Buildings	3,506 sq. ft. (25%)		
* Total	7,012 sq. ft. (50%)	New residence must comply	
Maximum Lot Coverage (Lot 2)			
* Buildings	6,965 sq. ft. (25%)		3,642 sq. ft. (13%)
* Total	13,931 sq. ft. (50%)		11,754 sq. ft. (42%)

Item	Requirement	Proposed Lot 1	Proposed Lot 2
<b>GROSS FLOOR AREA LIMITATIONS</b>			
Maximum Gross Floor Area (Lot 1)			
Maximum	4,481 sq. ft.	New residence must comply	
Maximum Gross Floor Area (Lot 2)			
Maximum	8,223 sq. ft. (29.5%)		6,057 sq. ft. (21.7%)

Item	Requirement	Proposed Lot 1	Proposed Lot 2
<b>SETBACK AND YARD AREA REQUIREMENTS - LOT 1</b>			
Minimum front setback	30 feet	Must comply	
Minimum rear yard	25 feet	Must comply	
Side Yard Requirements			
* Minimum	7.5 feet	Must comply	
* Total	18.75 feet	Must comply	
<b>SETBACK AND YARD AREA REQUIREMENTS - LOT 2</b>			
Minimum front setback (north)	30 feet	87 feet (complies)	
Minimum corner setback (east)	30 feet	Existing nonconformities * garage/coach house (13.75 feet) * pool (20 feet)	
Minimum side yard (west)	12 feet	23.57 feet (complies)	
Minimum Rear Yard (north)	25 feet	Proposed new residence must comply	

**RESOLUTION NO. R-32-2012**

**A RESOLUTION GRANTING APPROVAL  
OF A PLAT OF SUBDIVISION  
("526 Oak Subdivision")**

**WHEREAS**, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

**WHEREAS**, the Council of the Village of Winnetka ("Village Council") find that establishing standards for the use, development and subdivision of land within the Village is a matter pertaining to the affairs of the Village; and

**WHEREAS**, the property commonly known as 526 Oak Street, Winnetka, Illinois (the "Subject Property"), is legally described as follows:

The East 150 feet of the North Half of Block 39 in Winnetka in Sections 20 and 21, Township 42 North, Range 13, East of the Third Principal Meridian;

Also:

That part of Block 39 in Winnetka aforesaid, described as follows:  
Commencing on the South line of Oak Street 150 feet west of the Southeast corner of Walnut and Oak Streets; thence West along the South line of Oak Street 74 feet; then South parallel to the East line of said Block 39 to the East and West center line; thence East 74 feet; thence North to the place of beginning, situated in the Village of Winnetka, County of Cook, State of Illinois.

**WHEREAS**, the Subject Property is located in the R-4 Single-Family Residential Zoning District provided in Chapter 17.16 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code; and

**WHEREAS**, on May 23, 2012, the owner and contract purchasers of the Subject Property submitted to the Village of Winnetka a plat of subdivision titled 596 Oak Subdivision ("Plat of Subdivision"), pursuant to which the Subject Property will be divided into two contiguous lots of record, which shall thereafter be known as "Lot 1 and Lot 2 of 596 Oak Subdivision, in the East Half of the Northwest Quarter of Section 21, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois;" and

**WHEREAS**, the proposed subdivision of the Subject Property into two lots of record complies with the minimum lot area, minimum lot width and the other applicable lot standards in the R-4 Single-Family Residential Zoning Districts; and

**WHEREAS**, the existing residence on the Subject Property will remain on Lot 2 of the proposed subdivision, while Lot 1 of the proposed subdivision will be remain vacant for conveyance and future development; and

**WHEREAS**, Lot 2 of the proposed subdivision, as currently developed, complies with the applicable limitations for lot coverage, maximum building size, setbacks and yards, with the sole exception of a legally nonconforming garage/coach house, which observes a corner yard setback along the east property line of 13.75 feet, whereas a corner yard setback of 30 feet is required; and

**WHEREAS**, the proposed subdivision of the Subject Property, when implemented in accordance with this resolution, does not create any new nonconformities; and

**WHEREAS**, the proposed subdivision of the Subject Property into two lots of record affords the Village the opportunity to obtain utility easements; and

**WHEREAS**, the proposed lot areas and lot widths of Lots 1 and 2 of the proposed subdivision are consistent with the surrounding area; and

**WHEREAS**, the proposed subdivision of the Subject Property will not materially increase the adverse impact of the existing, nonconforming coach house; and

**WHEREAS**, the undivided Subject Property exists as a single lot that is significantly larger than those surrounding it and the proposed subdivision of the Subject Property will serve to protect the neighborhood from the construction of an oversized home on the existing single lot parcel; and

**WHEREAS**, on July 25, 2012, pursuant to due notice, the Plan Commission considered the proposed subdivision of the Subject Property and, by a vote of 8 in favor, none opposed, and one recusal, found the proposed subdivision to be consistent with all applicable Village requirements and recommended that the approval of the proposed subdivision of the Subject Property be granted, subject to several conditions, including the standard utility easement, and signature requirements; and

**WHEREAS**, the Plan Commission's positive recommendation was also subject to the conditions (i) that the Plat of Subdivision provide a restrictive covenant requiring a minimum

front yard setback of 40 feet on Lot 1, rather than the 30-foot minimum provided under the Zoning Ordinance, and (ii) that the Plat of Subdivision not be recorded, and that no permits shall be issued for construction on Lot 1 unless and until the accessory shed on Proposed Lot 1 is removed; and

**WHEREAS**, the proposed subdivision in all other respects meets the requirements of Title 16 of the Winnetka Village Code and all other applicable ordinances.

**NOW, THEREFORE**, be it resolved by the Council of the Village of Winnetka as follows:

**SECTION 1:** The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2:** The Plat of Subdivision prepared by B.H. Suhr & Company, Inc., titled “596 Oak Subdivision” and dated May 22, 2012, a copy of which is attached hereto as Exhibit A, is hereby accepted and approved, subject to the conditions set forth in Section 3 of this Resolution.

**SECTION 3:** The approval of the Plat of Subdivision is subject to the following conditions:

- A. Utility easements shall be provided along the east, north and south property lines, in the dimensions recommended by Village staff in the Plan Commission’s agenda report, subject to dimensional modifications along the south lot line of Lot 2 to avoid conflict with the existing coach house location;
- B. The Village’s standard utility easement language shall be added to the Plat of Subdivision;
- C. A signature block for the Director of Community Development shall be added to the Plat of Subdivision;
- D. A restrictive covenant shall be shown on the final Plat of Subdivision, requiring a minimum front yard setback of 40 feet on Lot 1, rather than the minimum front yard of 30 feet established under the Zoning Ordinance; and
- E. The plat of subdivision shall not be recorded, and no permits for construction on the proposed Lot 1 of the proposed subdivision shall be issued until the accessory shed on Lot 1 of the proposed subdivision is demolished.

[Remainder of this page intentionally left blank.]

**SECTION 4:** This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 5:** This Resolution shall take effect immediately upon its adoption.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2012, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

## **Exhibit A**

To: Brian Norkus  
Village of Winnetka

From: Stephen and Joanne Hudson

Date: May 23, 2012

Re: 596 Oak Subdivision

This memorandum requests the formal subdivision of the property known as 596 Oak Street, Winnetka, Illinois which is situated at the southwest corner of Oak Street and Walnut Street. This property is currently owned by Charles Harvey. My wife and I are purchasing this home from Mr. Harvey who has lived there for approximately 40 years. Mr. Harvey has agreed to assist us in the subdivision process and he has signed off on the subdivision application. In total, the subject property is 224' wide along Oak Street and is 187' deep along Walnut Street. The area of the property is approximately .96 acres or 41,888 square feet. The property has always had two Property Identification Numbers – one for the eastern lot with dimensions of 150' wide and 187' deep and one for the western lot with dimensions of 74' wide and 187' deep. Our proposal is to create two legal lots – one of 75' x 187' on which a new home could be built at some future date. The remainder of the property, where we intend to live, would be a lot measuring 149' x 187' on which the current residence is situated.

The existing property consists of a late 19<sup>th</sup> century two-story, clapboard farmhouse, a carriage house/two-car garage, and a swimming pool along the east side of the home. The existing home is set back approximately 83' from Oak Street. There is currently a circular drive with one end of the driveway extending across the western parcel for approximately 20'. On the western parcel is a dilapidated brick garden shed which is no longer in use.

This block of Oak Street consists of only two homes – 622 Oak (150' wide along Oak Street by 100' deep along Cedar Street) and the subject property. The east side of the lot is bordered by Walnut Street; on the east side of Walnut is one residence – 576 Oak Street. The west side of the lot is bordered by two properties – 622 Oak Street (sides to the subject property) and 475 Cedar (backs up to the subject property); 465 Cedar sides to the lot but by only a sliver of property measuring approximately 8-10' wide. To the south, the subject property is bordered mainly by the driveway and garage of 591 Cherry (faces Walnut) and portions of the lots at 601, 605, and 609 Cherry. Across Oak Street to the north are four homes – 625, 611, 607, and 597 Oak Street. See attached map detailing the approximate lot size of each of these addresses.

The residence at 596 Oak is oriented to the front, rear, and east side yard. The west side of the lot is relatively overgrown and is not utilized in any way currently (except for the old garden shed). We propose to subdivide the total property in order to maintain the existing home as-is on the east lot and to better utilize the current land while avoiding creating over dense land usage. We propose to subdivide into two parcels almost along the current PIN lines – the western lot with dimensions of 75' (vs the current 74' PIN) by 187' and the eastern lot which would measure 149' along Oak Street by 187' deep.

The minimum lot width for this block of Oak Street is currently 60'; the 75' width proposed would be 25% wider than this minimum. The minimum lot size for the parcel to be created under R4 zoning is 12,600 square feet; post subdivision, the parcel to be created will total 14,025 square feet (11% greater than the minimum) and the west parcel where the current home is situated will total 27,863 square feet. This subdivision will provide for better use of the land at 596 Oak Street and will maintain a density in the neighborhood and on the block lower than all of the other blocks surrounding the subject property. This subdivision also allows us to keep the current home on a conforming but smaller lot rather than have it demolished to make way for the construction of a home that would be significantly larger than any other in the immediate neighborhood.

Thank you for your consideration.

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

**APPLICATION FOR LAND SUBDIVISION  
WINNETKA PLAN COMMISSION**

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

Charles Harvey, 596 Oak Street, Winnetka, IL 60093  
(T) 847-441-6707 (E) charles.harvey@ubs.com

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

B. H. Suhr, 540 Custer Avenue, Evanston, IL 60202  
(T) 847-864-6315 (F) 847-864-9341 (E) surveyor@bhsuhr.com

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

H. Gary Frank Architects, 525 Chestnut St, Winnetka, IL 60093  
(T) 847-501-4212 (F) 866-543-5783 (E) gary@hgaryfrankarchitects.com

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

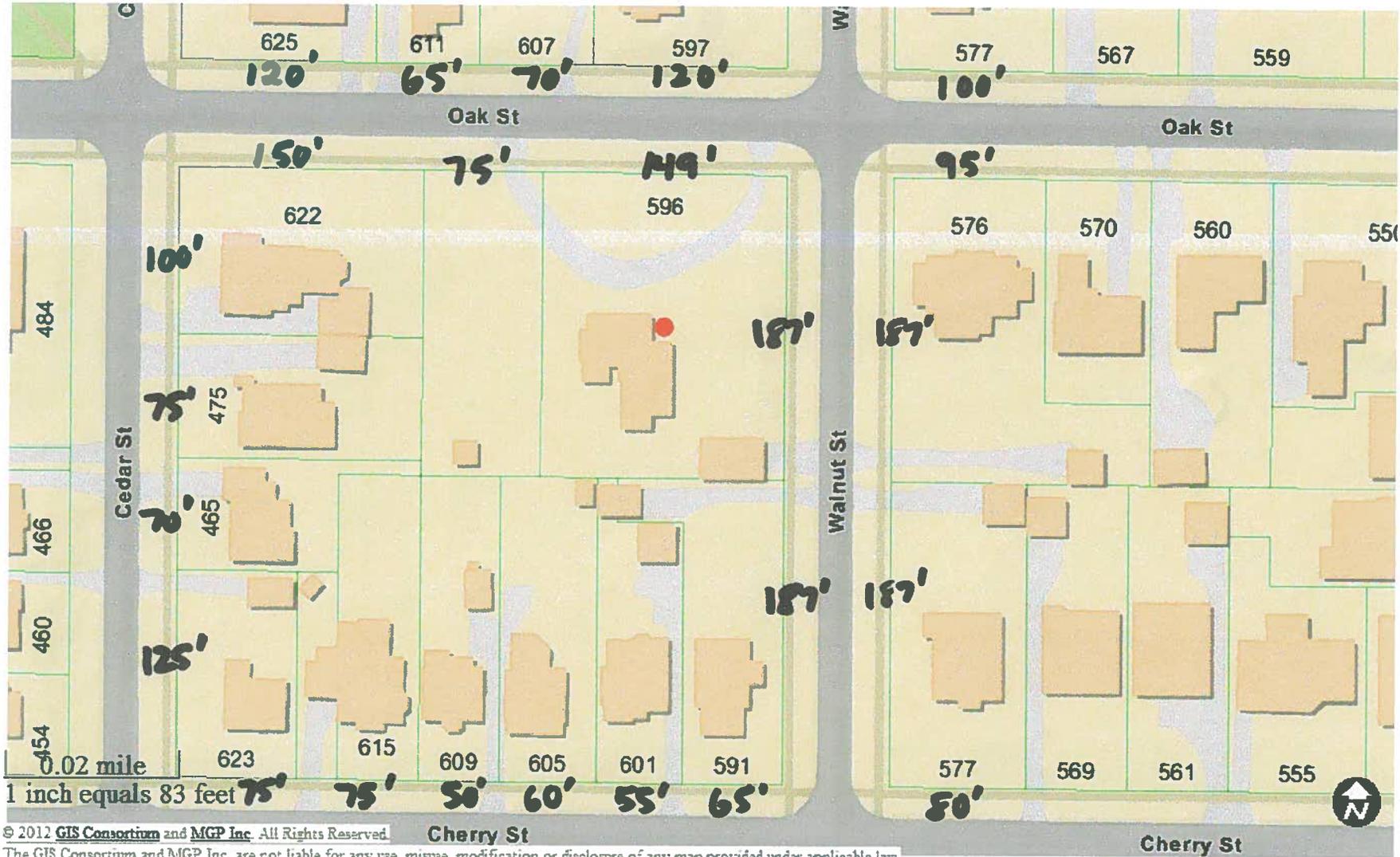
Robin King, 669 Walden Rd, Winnetka, IL 60093  
(T) 847-446-3972 (F) 847- - (E) robin@rkinglaw.net

Date Property Acquired by Owner ? 1975

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

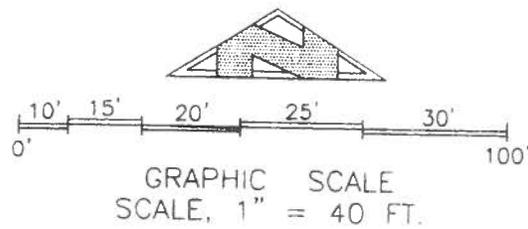
Signature: Charles D. Harvey

Date: 5/25/12



# 596 OAK SUBDIVISION

THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 42 N



NORTH SIDE OF PICKET FENCE IS 0.85' NORTH, WEST SIDE IS 1.83' EAST

WEST SIDE OF PICKET FENCE IS 1.47' EAST

WEST SIDE OF RUSTIC FENCE POST IS 0.72' EAST

WEST SIDE OF RUSTIC FENCE POST IS 0.23' WEST  
WEST SIDE OF RUSTIC FENCE POST IS 0.44' WEST

EAST SIDE OF RUSTIC FENCE IS 1.47' WEST

EAST SIDE OF RUSTIC FENCE POST IS 1.41' WEST

EAST END OF CHAIN LINK FENCE IS 1.62' WEST

EAST SIDE OF WOOD FENCE POST IS 1.65' WEST

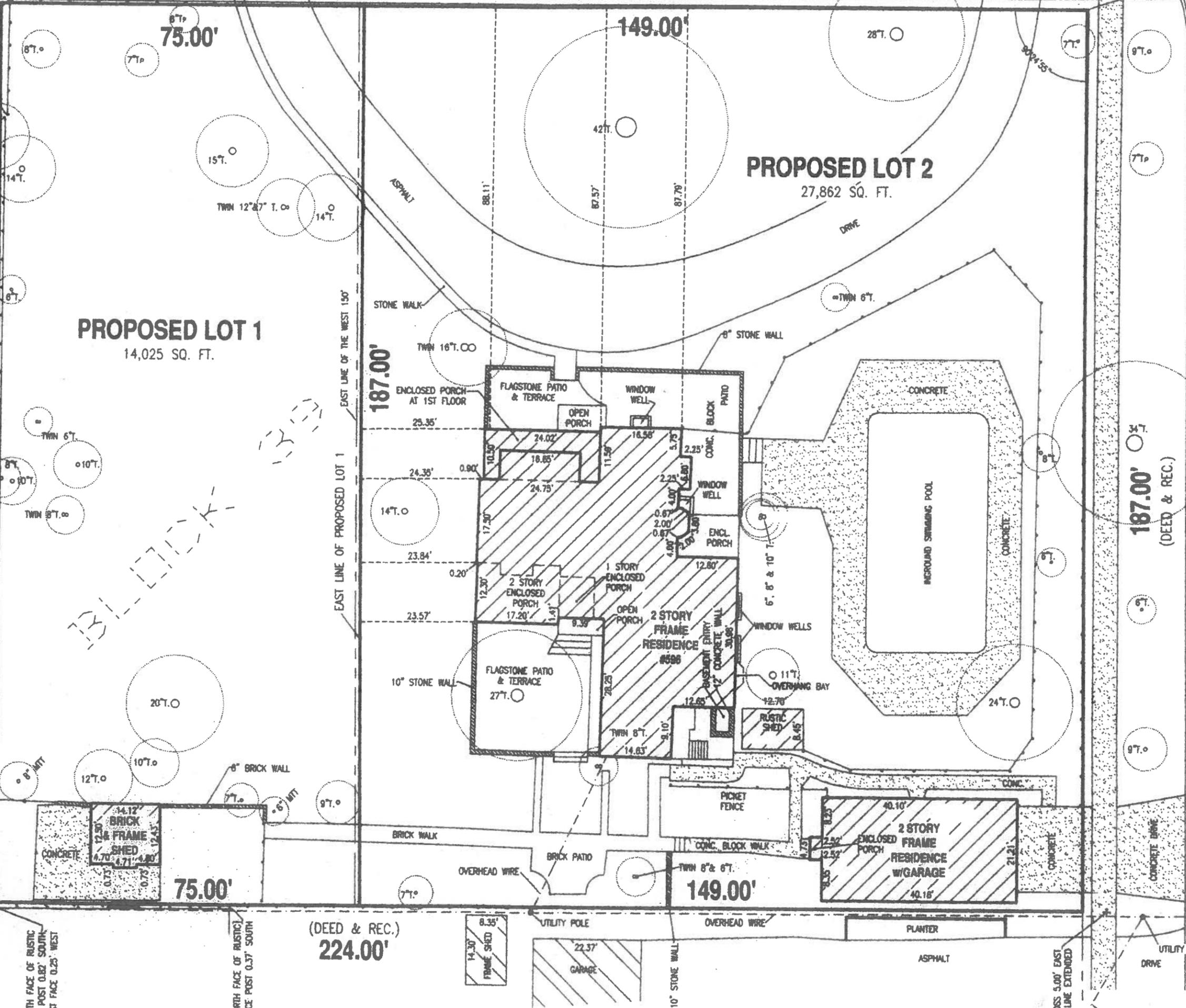
WEST SIDE OF RUSTIC FENCE POST IS 1.65' WEST, NORTH FACE 0.28' SOUTH

OF WOOD FENCE POST IS T; SOUTH FACE IS 0.21' SOUTH

UTILITY POLE  
IRON PIPE 1.76' W & 0.75' WEST

WEST FACE OF RUSTIC FENCE POST 0.82' SOUTH, EAST FACE 0.25' WEST

DRY FACE OF RUSTIC FENCE POST 0.37' SOUTH



STREET

WALNUT

(DEED & REC.)  
224.00'

187.00'  
(DEED & REC.)

(DEED & REC.)  
187.00'

**PROPOSED LOT 1**  
14,025 SQ. FT.

**PROPOSED LOT 2**  
27,862 SQ. FT.

75.00'

149.00'

75.00'

149.00'

EXHIBIT A - 1896  
VILLAGE ATLAS

MAP  
OF

THE VILLAGE OF

WINNETKA

1896

SCALE  
400 FT. = 1 IN.

F. H. ENO - Supt. PUBLIC WORKS.





EXHIBIT C - Oak Street setbacks and average setbacks on selected blocks



**Brian Norkus**

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**From:** Mary Liz Jast <rmlajast@comcast.net>  
**Sent:** Monday, July 23, 2012 7:04 PM  
**To:** Brian Norkus  
**Subject:** 596 Oak St. subdivision

*We are opposed to the subdivision of 596 Oak Street and would appreciate if you would so advise the Winnetka Plan Commission. The proposed subdivision would (i) eliminate green space; (ii) result in increased population density; (iii) result in increased traffic on the street; (iv) foster safety concerns for sidewalk and street traffic.*

*Ray and ML Jast  
567 Oak Street  
Winnetka, IL 60093  
847 446-6055*

## Brian Norkus

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**From:** Dirk Degenaaars <ddegenaaars@pearlmarkrealestate.com>  
**Sent:** Tuesday, July 24, 2012 3:02 PM  
**To:** Brian Norkus  
**Cc:** loubelle741; Caroline Degenaaars  
**Subject:** Proposed 596 Oak Subdivision

Mr. Norkus –

I am writing on behalf of my mother-in-law, Carolyn Little, who has resided at 475 Cedar Street, Winnetka, since 1988. Mrs. Little is unable to access a computer currently and has been copied on this note to you. She is also unfortunately not able to attend tonight's meeting of the Winnetka Plan Commission but desires her opinion to be heard.

Mrs. Little asked that I express her deep concern over, and strong objection to, the proposed subdivision of 596 Oak Street. She believes this proposed subdivision will alter current land use and the overall character of the neighborhood. She is also concerned this proposed subdivision would particularly impact her residence at 475 Cedar Street by allowing a house and/or garage of undetermined size to be built very close to her property.

Sincerely –

Dirk Degenaaars on behalf of Carolyn S. Little

## Brian Norkus

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**From:** Barbara Alt <bitstom@gmail.com>  
**Sent:** Wednesday, July 25, 2012 12:26 PM  
**To:** Brian Norkus  
**Subject:** Proposed 596 Oak Street subdivision

To the members of the Winnetka Plan Commission:

We moved into our home at 611 Oak Street on April 28, 1973. Our daughter was two years old. Our two sons arrived in ensuing years. We have lived in Winnetka for nearly 42 years and here in our home on Oak Street for 39 years.

We are most fortunate to have lived in one of our village's untouched neighborhoods for most of our lives. Two of our children, their spouses and our five grandchildren all live in Winnetka. Each one is regularly in our home as we all continue to enjoy the beauty of our small block, particularly on our front porch which becomes our family room, dining room and living room. Our porch directly faces the proposed subdivision of 596 Oak Street. We plan on remaining in our home for the rest of our lives.

Our block on Oak Street is a small one with only six houses between Cedar and Walnut. In recent years three new families have bought homes on our block. While major renovations have been made in each, our wonderful new neighbors have carefully maintained the original integrity of each old home, thus leaving the block unchanged in its traditional Winnetka beauty.

Ours is one of our village's oldest and most gracious neighborhoods. Our home was built in 1898. It is on one of the few remaining blocks which has not had a single tear-down. Nor has it been chopped up into subdivisions onto which new houses, often lacking in aesthetic quality, have been squeezed onto small parcels of land. It would be devastating to see this happen on this beautiful and traditional block, marring its integrity.

596 Oak Street is a magnificent open property, beautifully maintained. It has been a joy to see the family which has owned it for the past 35 years playing in their glorious west yard with all generations participating. How heartbreaking it would be to have it subdivided.

We very much regret not being able to attend tonight's Plan Commission's meeting. We are out of town with three of our grandchildren on a long planned vacation and are thus unable to attend.

We are most grateful for the Plan Commission's thoughtful and careful consideration of maintaining one of Winnetka's last remaining iconic blocks.

Sincerely yours,

Barbara and Tom Alt

611 Oak Street  
Winnetka  
847-446-4356

**WINNETKA PLAN COMMISSION  
MEETING MINUTES  
JULY 25, 2012**

**Members Present:** Gene Greable, Chairman  
Jan Bawden  
Jack Coladarci  
Paul Dunn  
John Golan  
Louise Holland  
Joni Johnson  
Keta McCarthy  
John Thomas

**Non-voting Members Present:** None

**Members Absent:** Patrick Corrigan  
Chuck Dowding  
Matt Hulsizer  
Jeanne Morette

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

**Call to Order:**

The meeting was called to order by Chairman Greable at 7:35 p.m.

**Adoption of Minutes of Previous Meeting**

Chairman Greable informed the Commission that any non-substantive comments to be made to the June 27, 2012 meeting minutes were to be sent to Mr. Norkus. He then asked if there were any non-substantive comments which were not forwarded to Mr. Norkus.

The Commission members confirmed that their non-substantive comments were sent to Mr. Norkus.

Chairman Greable stated that Ms. Morette also sent her comments to Mr. Norkus. He then asked the Commission if there were any substantive changes to be made to the meeting minutes. No substantive changes were made at this time. Chairman Greable then asked for a motion.

A motion was made and seconded to approve the Plan Commission meeting minutes from June 27, 2012. The meeting minutes were unanimously approved.

### **Consideration of Proposed 596 Oak Street Subdivision**

Chairman Greable stated that the Commission would discuss the proposed subdivision of 596 Oak Street and welcomed the applicants. He then asked Mr. Norkus to provide an overview.

Mr. Norkus stated that notice of the proposed subdivision of 596 Oak Street was mailed to approximately 30 neighbors within 250 feet of the subject parcel. He stated that the proposal is to divide the existing single parcel which measured approximately 42,000 square feet into two lots, which would result in the creation of a new vacant, buildable lot to the west of the existing 596 Oak Street residence and that the lot which would measure 14,025 square feet. He stated that the property is located in the R-4 zoning district identified in an illustration in the agenda material on page 1 and on the PowerPoint slide screen.

Mr. Norkus stated that the R-4 zoning district is identified in the darker orange color in the illustration which required under the zoning regulations to have a minimum lot area of 12,600 square feet and a lot width of 60 feet. He then stated that due to the proposed configuration of the 596 Oak Street subdivision, with the smaller of the two lots to measure 14,200 square feet plus that lot to the east, both would conform to the ordinance's minimum area and minimum width requirements. Mr. Norkus also stated that the agenda report included a detailed history of the development of the area. He indicated that it is worth pointing out the history of the neighborhood which is one of the earliest developed neighborhoods in the Village with most of the homes and lots developed prior to the Village's first zoning ordinance which was adopted in 1921. Mr. Norkus noted that the map showed the location of the property on the southern edge of the R-4 zoning district and that it abutted to the immediate south properties which are located in the R-5 zoning district which allowed a greater level of density and smaller lot size. He added that the R-5 zoning district has the same 60 foot minimum width requirement, with a smaller minimum lot size of 8,400 square feet.

Mr. Norkus then referred the Commission to an illustration of the view of the proposed subdivision in the context of the neighborhood shown on Exhibit B which showed the lot sizes of the two proposed lots in yellow which would measure 14,025 square feet and 27,862 square feet. He stated that the illustration also showed the surrounding lots which provide the neighborhood context of lot sizes. Mr. Norkus stated that this area was platted before and developed first prior to the adoption of the first zoning ordinance in 1921 and that the size and width of the lots in this general vicinity are less uniform than in other areas of the Village. He then stated that for example, the lots to the immediate west which are referred to as the "tree streets" have more of a uniform width and a more uniform size which is typical of 50 foot wide lots.

Mr. Norkus stated that the following illustration which he identified as Exhibit C represented a different look at the neighborhood context. He stated that shown on the map is an evaluation or study of the lot size variations and provided a view of what the established setbacks were in the surrounding neighborhood. He indicated that some consideration was given by the Village staff for the possibility of recommending a restrictive covenant to increase the minimum front setback beyond the zoning ordinance minimum of 30 feet, to better reflect the setback pattern established by existing homes in the surrounding neighborhood. Mr. Norkus noted that the R-4 zoning district required a minimum setback of 30 feet similar to that in the R-5 zoning district to the immediate south. He indicated that the other zoning districts such as the R-3 and R-2 district require greater setbacks of 40 or 50 feet.

Mr. Norkus indicated that Exhibit C includes an “average of the block” calculation for each block in the surrounding neighborhood, across the street to the north and for those lots to the east. He stated that the idea behind this Exhibit was to provide idea of the established character of the neighborhood, and to allow consideration by the Commission of the impact of a home built at the allowed minimum setback of 30 feet. He described the results as a “mixed bag” with a smaller average setback of 31 feet across the street, while blocks to the east along Oak Street have an average setback ranging from 44 to 55 feet.

Ms. Johnson asked a question with regard to the zoning ordinance’s average setback requirement for front yard setbacks.

Mr. Norkus responded that, in general, the zoning ordinance requires that new homes observe a the greater of (a) the minimum setback of 30’ feet, or (b) a setback calculated based on the average of other existing homes on the block. He noted that the average setback does not apply to the subject vacant lot, due to the fact that the average setback requirement does not apply to the first three homes on any given block. He noted that in this case, because this subdivision would be creating a third lot on this block, the average does not apply. He stated that the purpose of the average setback requirement in the zoning ordinance is assure that homes built in established neighborhoods observe a setback reflective of the established character of a neighborhood.

Mr. Norkus informed the Commission that the agenda report included a detailed summary of the extent to which the proposed subdivision complied with the ordinance minimum area requirements. He reiterated that the ordinance would be fully complied with by the proposed subdivision. Mr. Norkus then stated that the agenda report also pointed out that there are two existing zoning nonconformities on the 596 Oak Street property. He informed the Commission that the existing coach house along Walnut Street is located closer than 30 feet to the Walnut Street property line and that the same is true of the existing in-ground pool which is located along the east side of the residence. Mr. Norkus indicated that in the case of a subdivision like this, when there are existing nonconformities such as this, the Commission is charged with evaluating whether in the context of the proposed subdivision, whether there would be any material increased adverse impact arising of those existing nonconformities. He stated that the question is

whether the proposed subdivision would make those nonconformities worse for the neighbors or the Village as a whole. Mr. Norkus stated that if the Commission found that there would be an increased adverse impact, they can deny the subdivision request on that basis.

Mr. Norkus stated that the Village staff also evaluated the proposed subdivision in connection with its consistency with the Village subdivision regulations. He noted that with regard to the request, there are certain technical modifications to fulfill the basic requirements of the Village code. Mr. Norkus indicated that utility easements were addressed in the agenda report which show the request for a 5 foot utility easement along both street lines and the southerly lot line of both lots. He then stated that since the agenda report was sent out, the applicants raised a question with regard to the existing coach house along the southerly property line of the easterly lot and the fact that it is located within 2 feet from that property. Mr. Norkus informed the Commission that the applicants' concern was that the easement would sneak under that coach home which may present a concern which could cloud title and the utility easement for the Village which is required to allow for the continued maintenance and replacement of the overhead pole line on the south property line. He noted that they discussed the utility easement concern with the electric department which was happy to have the easement narrowed to abut the coach house so that there would be no overlap. Mr. Norkus added that they would come up with language to cover the situation with regard to the Village's needs.

Mr. Norkus stated that with regard to the last minor detail, a minor correction was asked for to provide an additional signature block for the Community Development Director's signature. He noted that the Village sends notice of a subdivision request to everyone located within 250 feet of the subject property's boundaries. Mr. Norkus stated that he would like to acknowledge for the record printed copies of written emails from the Jasts at 567 Oak Street and an email sent on behalf Carolyn Little of 475 Cedar also noting their concerns and opposition to the proposed subdivision. He stated that the emails were circulated to the Commission yesterday. Mr. Norkus then stated that a third email which was not circulated to the Commission was a new email which was received today from the neighbors across the street from the westerly lot at 611 Oak Street. He also stated that the applicants are here and that he would be happy to answer any questions.

Chairman Greable asked the Commission if there were any questions for Mr. Norkus.

Mr. Coladarci asked if the Hudsons were to move out and sell the property, what would stop anyone from tearing down the home and the pool and if they could ask for a subdivision of that lot.

Mr. Norkus indicated that there is nothing which would necessarily prevent the subsequent further subdivision of the easterly lot. He informed the Commission that a three lot subdivision is very much within the technical requirements of the zoning ordinance in that three lots would conform to the minimum lot area and width.

Mr. Coladarci then asked if that happened, what would be the setback.

Mr. Norkus stated that there would be a minimum 30 feet from Oak Street and that the setback from Walnut would be a variable depending on how wide the lot is, but for the neighborhood, there would be between 24 and 30 feet for the width.

Chairman Greable agreed that three 75 foot lots could be made.

Mr. Coladarci asked why it was decided that 31 feet would be the appropriate setback for the house next to it at 40 feet and the subject house at 70 feet. He stated that setback would put it way out in front.

Chairman Greable informed Mr. Coladarci that 31 feet is the average of four homes across the street.

Mr. Coladarci stated that the average south side setback would be 63.5 feet which would still put the home in front of the 596 Oak residence, but not as much.

Mr. Norkus stated that there is a good cause for the Commission to look at the front yard setback requirement for the vacant lot. He stated that it depended on the view of what constituted the "neighborhood character". Mr. Norkus stated that there is a sense that what is across the street seemed to be important in terms of established character. He then stated that with regard to the other side of the coin, the fact that on the southerly side of Oak Street, currently where the calculation is between the two homes on either side, there is a significant setback.

Mr. Norkus stated that he would like to point the Commission's attention to the emails from the 475 Cedar property owner, who is concerned primarily with size and the resulting proximity of the new home on the westerly lot to her property line. He stated that every increase in setback has an impact elsewhere on the lot, and that pushing the house further back from the front property line comes at some cost to the neighbor at 475 Cedar, by pushing the house to south. He added that the Village staff did not put together a specific recommendation for an increased setback, but nonetheless wanted to give the Commission something to consider.

Mr. Golan asked if all plats or subdivision requests go before the Commission or if it is being presented to the Commission because of the nonconformities.

Mr. Norkus noted that all subdivision plans go before the Commission. He referred the Commission to an illustration depicting alternative front setbacks of 30, 40 and 50 feet on the westerly lot. Mr. Norkus noted that there are highlighted in yellow certain trees in the front yard area which range from 12 inches and smaller toward the street.

Ms. Johnson stated that she and Ms. Bawden agreed that the more the home is pushed back from the front, it would come out somewhere else and that variances might be needed in the future, which is something they do not like to see for new construction. She questioned whether they would be able to squeeze a two car garage on the property for a 4,500 square foot home which

she described as modest. Ms. Johnson also stated that there would be a driveway onto Oak Street even if there is a 40 foot setback.

Mr. Thomas indicated that there is plenty of room on the vacant lot, and that its size looks small only compared to the large lot to the east. He added that it is nearly 1/3 of an acre. Mr. Thomas stated that it was showed that depending on what to do with the trees, it is simple to visualize a home with a two or three car garage in the back and a driveway going out. He reiterated that you can see easily that there is plenty of room on the lot without affecting the trees even with a 50 foot setback.

Mr. Norkus noted that there is a potential balance to strike, with one neighbor concerned with looking at the backyard and another neighbor is concerned with the front yard.

Mr. Dunn indicated that he wondered if the trees which are in the proximate middle part of the lot but which are not colored in yellow belong to the west property line. He then stated that if they were to push the front yard setback to 50 feet that might save the trees near the street, but that it would affect the middle part of the lot's trees.

Ms. Bawden asked if any of the trees are heritage trees.

Mr. Norkus stated that he is not aware if they are. He then stated that with regard to the trees along the west property line, there is a cluster of two trees which straddle the property line which measure 8 inches and 10 inches whose species was not identified. Mr. Norkus also stated that there is 6 inch tree to the north, the middle tree measured 10 inches and that there is a 10 inch twin tree to the south. He stated that he wanted to point the Commission's attention to another concern that further south is a 20 inch tree located square in the middle of the rear yard.

Mr. Thomas stated that if they were to build something, the arborist would look at the trees and say whether they cannot be cut down or replaced.

Ms. Johnson stated that if a tree is taken down of a certain size, they would have to provide a replacement.

Mr. Norkus then stated that the vacant lot, compared to other vacant lots throughout the Village, this lot has a pretty beneficial arrangement of trees and that they tend to be close to the property line, and thus away from construction activity, with no large trees squarely in the middle of the lot. Mr. Norkus indicated that things could be far worse from a tree protection standpoint.

Chairman Greable asked if there were any other questions.

Mr. Golan asked if for the purchaser of the entire property, would there be a contingency on the development of the lot to determine where the home would be set for his benefit.

Mr. Norkus confirmed that is correct.

Ms. Bawden stated that the Commission can put in restrictive covenants.

Chairman Greable again asked if there were any other comments. He then stated that the setback question will be discussed further. Chairman Greable asked Mr. Norkus if the Village staff thought that the setback should be 40 feet.

Mr. Norkus stated that he looked closely at the lots to the east on Oak Street and saw a generous setback, which initially led him to conclude that a larger setback would be appropriate, thinking that 40 or even 50 feet could be supported, particularly given the setbacks of the 596 Oak residence. Mr. Norkus stated that it was after looking at the setback across the street that it became less clear. He stated that the zoning ordinance provides some clarification, in that the average setback formula does not take into consideration houses across the street. Mr. Norkus informed the Commission that they have the flexibility to decide if the ordinance is adequate in terms of requiring a minimum 30 foot setback, or if based on established patterns to the east that a greater setback is appropriate.

Ms. Johnson added that Mr. Coladarci pointed out that if three lots were made, it would have an average setback requirement.

Mr. Norkus confirmed that is correct and that it would apply to the fourth home.

Ms. Johnson asked if there were any restrictions as to how far back on the lot they can build if a new home on the existing lot.

Mr. Norkus stated that in the absence of a resubdivision, a new house could be built within 30 feet of Oak Street.

Ms. Johnson then asked if there is no average setback issue.

Mr. Norkus responded that there is not, because the block currently has only two lots, and the average setback requirement applies only to those blocks with 4 or more lots.

Chairman Greable asked if there were any other questions.

Ms. Bawden asked if the side yard setback is a minimum of 7 feet for the vacant lot.

Mr. Norkus stated that side yards are based on the width of the lot, which requires a minimum of amounting to 10% of the width of the lot, and that both sides of lot 1 must total 18.75 feet which is 25% of the lot width. Mr. Norkus stated that meant that the builder or seller has the ability to pick which side the 7 foot side yard would be provided on and which side received 11.25 feet. He stated that the designer could also split the sides equally with a little over 9 feet on either side. Mr. Norkus informed the Commission that in past subdivisions, the Commission has imposed restrictive covenants be in place for a larger side yard setback abutting the affected property

owners, which would be to the west in this case.

Chairman Greable asked if there could be an 11 foot side yard to the west and a 7 foot side yard to the east.

Mr. Norkus confirmed that is correct. He added that there has been precedent for Plan Commission imposing a restrictive covenant dictating that the larger side yard be on a particular side of the lot, either for the benefit of neighboring properties or to protect trees.

Chairman Greable asked if there were any other questions.

Mr. Coladarci stated that if they assume that the home on Lot 2 is torn down and to figure out the setback for two or more houses on that lot, if there is a 30 foot setback on Lot 1, and a 35-foot setback for the two new homes, there would be a significant change on the whole street.

Chairman Greable stated that the Commission is evaluating a subdivision of the easterly lot.

Ms. Bawden indicated that it related to unforeseen consequences.

Mr. Coladarci then asked what would happen if they did not put a restrictive covenant of 50 feet and the home is torn down. He stated that there would then be an adverse impact and that they have to decide the difference between 30 feet versus 50 feet.

Chairman Greable again asked if there were any other questions. No additional questions were raised by the Commission at this time. He then asked the applicants if they would like to comment.

Steve and Joann Hudson introduced themselves to the Commission. He informed the Commission that the property owner, Charles Harvey was unable to attend. Mr. Hudson then stated that they are pursuing the subdivision as part of their goal to purchase and keep the home at 596 Oak Street. He noted that the home was the first on the block and that it was built in the 1880's. Mr. Hudson described the home as a wonderful home which would fit their family perfectly. Mr. Hudson then stated that with regard to the side lot, they are attempting to subdivide the lot which has a separate PIN and tax bill. He noted that the pool is oriented toward the east and that for the new lot, they are attempting to create mostly unused and open space. Mr. Hudson stated that to keep the home, it would be necessary for them to split off the property and that they are proposing a 75 foot wide lot which is significantly larger than the minimum lot size. He added that they would maintain as much green space as they can on the two lots.

Mr. Hudson informed the Commission that the alternative to the plan included building one 11,000 square foot home or building two or three homes all of which would be permitted under the ordinance. He stated that there is no alternative which included keeping things as they are. Mr. Hudson stated that they all would like to keep the green space, but that it would not be

financially feasible. Mr. Hudson asked the Commission if they had any questions.

Ms. Johnson asked the applicants if they are from Hudson Real Estate. She then asked for their input if the subdivision went through, whether they concurred with Mr. Thomas that the new proposed lot 1, depending on the front yard setback if it is 40 feet, will be a fairly reasonable lot size to build a 4,500 square foot home with a garage in the back.

Mr. Hudson stated that a home of that type would be marketable.

Ms. Johnson then asked if they considering moving the west boundary to the east 2 feet in order to make lot 1 wider. She stated that currently, there is 24 feet between the western wall of the home and the proposed new property line.

Mr. Hudson informed the Commission that they looked at variations in width for Lot 1 between 60 feet and 85 feet and they felt that to fit the block and street the best and for green space, to have something in the middle which is a 75 foot wide lot. He stated that it is true that when you look at the map that 75 feet looked small when compared to a 150 feet wide lot. Mr. Hudson indicated that there would be better green space and less density with that alternative.

Ms. Johnson stated that in the application, it was noted that the architect information is H. Gary Frank.

Mrs. Hudson informed the Commission that Mr. Frank assisted them with their current home.

Mr. Hudson stated that Mr. Frank also gave them input with regard to a 60 foot wide lot versus an 85 foot wide lot. He stated that it was determined that a 75 foot wide lot would fit better than either a 60 foot wide lot or an 85 foot wide lot.

Ms. Johnson then asked if there is a current design plan for the proposed lot 1.

Mrs. Hudson stated that they planned to keep the home as is and to move into the home as is.

Mr. Dunn asked with regard to the circular drive, how did they plan to re-design that.

Mr. Hudson responded that they planned to move the west side of the driveway into the existing lot. He also stated that the tree in the parkway would go inside and that they would maintain the oval shape.

Chairman Greable asked with regard to the curb cut, what would happen if they were to move that and that now, it is located between two trees. He indicated that he did not see how they can move it.

Mr. Hudson stated that it would go just to the east of that small tree.

Chairman Greable stated that it would still be an issue and referred to the old curb cut being retained for lot 1.

Mr. Hudson indicated that it can be somewhere entirely different.

Mrs. Hudson stated that they envisioned one curb cut and to keep the curb cut numbers the same.

Mr. Hudson also stated that there would be a separate driveway and curb cut for the new property.

Chairman Greable stated that approval would be needed for that.

Ms. Holland stated that the garage facing Walnut is the coach house and asked the applicants if they were going to keep it as a coach house.

Mrs. Hudson responded that they plan to keep it as is.

Ms. Holland asked if it would remain the same with improvements on the interior. She also asked if the footprint would not change.

Mr. Hudson stated that it could, but that is not their plan.

Mr. Golan asked with regard to the proposed lot 1, if it already had a separate tax ID number.

Mrs. Hudson confirmed that is correct and that its dimensions are 71 feet x 187 feet.

Mr. Hudson informed the Commission that it is not viewed as divided lots.

Mr. Norkus then informed the Commission that the Village and Cook County had entirely different views as to what constituted legally divided lots. He noted that the county's role is that they are not involved in the determination of approval of new lots. Mr. Norkus stated that the county's role in relation to property divisions is that the County assigns Parcel Identification (PIN) numbers which can be changed by the owner at will. He then stated that a property owner can ask for two parcels without approval by the Village and that the existence of a separate tax ID number did not itself constitute a subdivided lot. Mr. Norkus noted that the Village does not view these as two separate lots because at some point in the two parcels' history, a frame shed building was built on Lot 1 for use of the property owners of the primary residence on the lot 2. This construction across parcel boundaries eliminated the lot as a separate lot for zoning purposes.

Ms. McCarthy asked the applicants with regard to the pool, what kind of condition is it in and that the home is older.

Mrs. Hudson responded that the pool is in good shape and that they plan to keep it.

Mr. Hudson informed the Commission that Mr. Harvey put the pool in.

Ms. McCarthy then asked if they planned to upgrade any of it.

Mr. Hudson stated that in the future, there may be a way for an automatic pool cover.

Mrs. Hudson added that the pool is fully in use now.

Chairman Greable asked if there were any other questions.

Mr. Coladarci asked Mr. Hudson if he would not object to a 40 foot setback.

Mr. Hudson stated that they do not know what it will be. He commented that a 30 to 40 foot setback would be good and that a 50 foot setback would penalize future owners and would require them to make the home too far back.

Chairman Greable again asked if there were any other questions. No additional questions were raised by the Commission at this time. He then asked if there were any questions from the audience. Chairman Greable noted for the record that there were three letters in opposition to the proposed subdivision.

Phil Hoza stated that he and his wife, Lucy, live contiguous to both properties at 605 Cherry Street behind the two properties. He informed the Commission that their home is the third home in from Walnut. Mr. Hoza stated that a number of garages used to be horse barns and that the home was one of three sister homes built in the 1890's and all of which are the same. He noted that the average lot width is 60 feet.

Mr. Hoza then stated that as you walk around the block, he enjoyed the property which he described as beautiful. He indicated that he would like to see a plan change with new good neighbors and that he would hate to see the property subdivided into three properties and for developers to not keep the delightful home. Mr. Hoza again described the home as a beautiful home which is setback well. He commented that the trees are actually insignificant in terms of the setback. Mr. Hoza stated that there is an oak tree in the center of the driveway and that there are three other trash trees which would be up to the arborist in terms of what would happen to them. He then stated that in the parkway, there are three 4 inch trees which were planted within the last year.

Mr. Hoza stated that the impact to him in the back of the home if it is properly subdivided would have no impact on them. He then stated that for a local homeowner adjoining both properties, he would like to see the Hudsons use good judgment to subdivide the property and bring a new neighbor into the neighborhood. Mr. Hoza concluded by commenting that he loved to see large, big homes.

Dale Park of 577 Oak Street introduced himself to the Commission. He stated that the home that they are talking about was owned by Jim and Gertrude Allen. Mr. Park informed the Commission that he has driven past the home for years and years. He stated that when he received the materials, he looked at the outline of homes in the area and described lot 1 as small. Mr. Park then stated that they would have to figure out where to put the driveway and three car garage. He stated that to have the driveway which would come in off of Oak Street with a raised garage door during the day with them living across the street would not be attractive to them. Mr. Park commented that coach homes would be great for a multi-car garage and that there is space above that. He then stated that lot 1 would be packed with stuff and that it should be carefully preserved for those driving down Oak Street. Mr. Park commented that there is a beautiful entrance to the Village on Oak Street and he did not see how they would be able to put a garage in the rear of lot 1. He described it as a challenge and concluded by commenting that it would be too small.

Chairman Greable asked if there were any other comments. No additional comments were made by the audience at this time. He then called the matter in for discussion.

Chairman Greable stated that draft findings have been provided for the Commission to evaluate in relation to the proposed subdivision. He stated that the first finding is that the proposed lot area of 14,025 feet and 27,862 would comply with the zoning ordinance minimum. Chairman Greable stated that the second finding is that the proposed lot area and width are consistent with the surrounding neighborhood. He stated that the third finding is that in the context of the proposed subdivision, there would be no material increased adverse impact arising from the existing nonconforming coach home which is 14 feet from the east property line and that the setback of the in-ground pool is at 20 feet from the east property line. Chairman Greable stated that the fourth finding is that the existing lot is significantly larger than those surrounding it and that the proposed subdivision serves to ensure that the new home built in the neighborhood be more in scale with the existing neighborhood than if a new home was built on the existing larger lot. He then asked if there were any others.

Ms. Johnson stated that the issues are addressed on pages 8 and 9 in the packet and were drafted by Kathy Janega. She suggested that the Commission go through those.

Chairman Greable agreed that the Commission would look at the findings on page 8 and asked if there were any other comments.

Mr. Thomas stated that with regard to the comment that proposed Lot 1 is too small to allow a garage, he informed the Commission that on Cherry Street, there are two car garages with the garages in the rear of those properties. He added that those lots are smaller than this lot. Mr. Thomas indicated that there would be more than adequate room for a two car garage at the back end of the lot and referred to a garage measuring 20 feet by 20 feet. He then stated that as the Commission read through the items on page 8, to refer to the finding relating to the existing trees. Mr. Thomas stated that the tree issues can be dealt with.

Ms. Johnson referred to Mr. Park's issue with regard to whether it is a big enough lot. She stated that legally, it is big enough and that they may end up with something which is massive for the lot. Ms. Johnson then pointed out that the homes on Cherry Street to the south are in the R-5 zoning district which had different requirements.

Mr. Coladarci informed the Commission that his home is a narrower home. He then asked if the garage can be put in the front.

Mr. Norkus noted that there are limitations with regard to the extent to which front facing garage doors are allowed. He informed the Commission that they would be limited to no more than 50% of the front elevation.

Chairman Greable stated that zoning would cover the garage.

Mr. Norkus stated that the garage could be put in the front. He indicated that there are protections in the ordinance which were intended to limit the size of garages with regard to visual impact.

Ms. Johnson asked if they were to put in a detached garage, would they get a zoning bonus.

Mr. Norkus confirmed that a detached garage could receive a gross floor area bonus. He also stated that there are incentives for *attached* garages in the back of the home.

Ms. Holland informed the Commission that she is a neighbor of 596 Oak Street and asked to be recused from the vote on the subdivision. She also informed the Commission that she spent time at the Historical Society and commented that she is happy that the applicants planned to keep the home. Ms. Holland stated that the home was built in 1852 and that it is the second oldest home in the Village with a home on Gage Street being the oldest. She also stated that the home was built by David Wilder who was the chairman of the school board and was on the Village board when it was created. Ms. Holland informed the Commission that the home was the location of the first dancing school in the Village and that the Dudley family occupied the home. She stated that Edwin Clark designed the home and lived in the home for 12 years. Ms. Holland also stated that he did the most recent remodeling between 1911 and 1922. She then stated that as a representative of the Landmark Preservation Commission, the home has a great deal history for the Village and that she applauded the applicants for keeping it the way it is. Ms. Holland described the home as very crucial to the Village's history.

Chairman Greable stated that the Commission is asking for all views and opinions. He referred to the list of his findings and suggested that the Commission go through the findings on page 8 of the materials. Chairman Greable asked if there were any other findings to discuss.

Ms. McCarthy asked the applicants if they were planning to develop Lot 1 themselves or to sell it.

Mr. Hudson responded that they planned to sell the lot to a developer. He then stated that a bigger lot would result in a bigger home.

Mr. Thomas stated that the findings listed on page 8 cover the findings raised by Chairman Greable.

Chairman Greable indicated that his findings are more specific to the proposed subdivision than the 1998 memo on page 8. He suggested that the Commission go through the findings and discuss them.

Finding #1 - The proposed lot area of 14,025 feet and 27,862 would comply with the zoning ordinance minimum.

The Commission voted in favor of adopting finding # 1.

Finding #2 - The proposed lot area and width are consistent with the surrounding neighborhood.

Chairman Greable suggested that this has been the subject of some discussion. He asked if there were any addition discussion. The Commission adopted voted in favor of Chairman Greable's finding # 2.

Finding #3- In the context of the proposed subdivision, there would be no material increased adverse impact arising from the existing nonconforming coach home which is 14 feet from the east property line and that the setback of the in-ground pool is at 20 feet from the east property line.

Chairman Greable asked for the Commission's vote. The Commission voted in favor of adopting finding # 3.

Finding #4 - The existing single lot is significantly larger than those surrounding it and that the proposed subdivision serves to ensure that the new home built in the neighborhood be more in scale with the existing neighborhood than if a new home was built on the existing larger lot.

Chairman Greable asked for the Commission's vote. The Commission voted in favor of adopting finding #4.

Chairman Greable then stated that the Commission could discuss the findings on page 8 of the agenda report materials which are the Village Attorney's 1998 memorandum.

Mr. Norkus stated that Ms. Janega's memorandum represented an attempt to clarify the Plan Commission's role in reviewing subdivisions. He stated that in 1998, there was a perception among the Commission that its role in evaluating subdivisions was merely to look at the quantitative measures such a minimum lot size and lot width, and questioned whether they had authority to look at other qualitative factors. He stated that the Village attorney's memorandum

represented an attempt to explain that the Plan Commission is able to consider contextual issues such as whether lots that are marginally sized, or whether a proposed subdivision interrupts an otherwise regular pattern of development. Mr. Norkus stated that the language reads the way it does largely because of subdivision issues which had been growing at the time. He explained that there had been a trend developing where larger corner lots were being subdivided in a fashion which changed the orientation of a block, and described an example. Mr. Norkus stated that now, such a subdivision would be made more difficult to achieve through the ordinance.

Mr. Norkus stated that the findings that Chairman Greable read earlier were an attempt to answer many of the standards of the Village attorney's memorandum. Mr. Norkus stated that they serve the same purpose and that Chairman Greable's reading represented an attempt to give the Commission language for the appropriate findings (a) through (g).

Chairman Greable asked if there were any other comments. No additional comments were made by the Commission at this time. The Commission members then read through the findings on page 8 of the materials.

Mr. Dunn stated that with regard to the findings, the findings were drafted in 1998 and do not apply specifically to the question raised tonight. He then stated that he did not know if it would be appropriate to through all of them. Mr. Dunn described the request as straightforward and that he did not believe that the Commission had to go through all of the findings to understand the straightforward request.

Chairman Greable suggested that the Commission scan the findings.

Ms. Bawden stated that even though Mr. Dunn is saying what issue is to be defined, they would need to discuss the restrictive covenants. She then stated that the Commission's role is to maintain the integrity of the 2020 Plan.

Mr. Dunn stated that if there were objections to this specific request, they should discuss the objections.

Ms. Bawden stated that the Commission is to hone in on what the request is with regard to the reading of the 2020 Plan.

Chairman Greable stated that the Commission can put conditions on the approval to minimize the adverse impacts of the proposed subdivision. He then referred to the possible initial conditions for approval of the subdivision previously raised:

1. Subject to the removal of the existing shed on lot 1 prior to the recording of the lot.
2. Subject to the new home on lot 1 utilizing the existing curb cut and minimizing the impact on mature parkway trees.

3. Subject to the possible increase in the minimum front yard setback of 30 to 40 feet.
4. Subject to the imposition of a restrictive covenant on lot 1 requiring the larger side yard of 11.25 feet to be observed from the westerly property line and for the smaller minimum side yard of 7. feet to be observed from the east property line.

Chairman Greable asked Mr. Norkus if there were any other conditions.

Mr. Norkus referred to the minor technical corrections to add a signature block, and to add utility easements, addressed in the agenda report.

Mr. Coladarci asked if the driveway would be allowed to use the side yard.

Mr. Norkus confirmed that driveways are permitted to encroach on required side yards.

Chairman Greable asked if there were any other comments.

Ms. Johnson stated that if the Commission put conditions on the approval, the applicants could withdraw the request. She then asked if the conditions would be recorded on the plat.

Mr. Norkus stated that any recommended restrictive covenants would go to the Village Council, and that with the Council's approval of such covenants, they would be added to the final plat document and recorded with the Cook County recorder.

Ms. McCarthy asked if there were flood water issues.

Mr. Norkus stated that this is a question which frequently comes up. He indicated that the simple answer is that there should not be a perceptible change to water runoff coming from the site. Mr. Norkus noted that the Village's engineering standards for new construction required the development of vacant land to ensure that there is no increase in the rate of water runoff over today's undeveloped condition. He added that the property is shedding little water in its current condition.

Ms. Johnson stated that she had an issue with finding (e). She stated that as the Zoning Board of Appeals liaison, for new construction, people ask for variances which she commented are difficult to get. Ms. Johnson then stated that by imposing conditions on the subdivision, she agreed with it in theory, but that developers would ask for variances for GFA or something else. She indicated that she is not sure what is the answer. Ms. Johnson also stated that she agreed with Ms. Holland and the fact that the home is the second oldest in the Village being preserved is a major plus. Ms. Johnson commented that the other concerns are subsidiary to that. She stated that she hoped that the history from this request is provided for a future developer.

Mr. Norkus stated that in the event a zoning variation were applied for on the vacant lot, that

request would include a detailed history of the parcel, particularly its subdivision.

Chairman Greable added that there is also a good record. He stated that a lot of information is being considered and that a considerable amount of time was spent thinking about the context of the neighborhood. Chairman Greable stated that they have to make sure that the Commission addressed the issue and come up with findings and conditions. He stated that the record would be very thorough. Chairman Greable noted that the Commission is an advisory committee and that the Village Council can either agree with their recommendation or throw it out.

Ms. Bawden stated that the side yard setbacks could be played with. She then stated that with regard to the curb cut process, there are a couple of options relating to either the number of curb cuts or their specific position. Ms. Bawden then asked Mr. Norkus what is the process for curb cuts.

Mr. Norkus referred the Commission to the illustration which showed the existing west curb cut cutting across the frontage of the new lot 1. He then stated that a larger view of the frontage of lot 1 showed a tree on the east side which is smaller than the one on the west. Mr. Norkus stated that to the west might not be easily relocated due to its size.

Mr. Hudson stated that with regard to the idea of keeping the curb cut where it is, it would result in the driveway coming across the lot all the way down. He commented that would be a worse situation than putting it as far west as they can.

Mr. Norkus informed the Commission that if a developer wanted to relocate the driveway and curb cut, there is an approval process which involved both engineering and forestry disciplines. He then stated that from an engineering standpoint, there is not an overwhelming concentration of curb cuts and that the lot to the west can be served by a single curb cut. Mr. Norkus added that Forestry would have to evaluate how close the driveway would come to the tree.

Mr. Golan asked who would pay for the curb cut. He stated that the applicants are proposing a wonderful use of the land and that it will be developed. Mr. Golan commented that while a 40 foot setback is reasonable, other than that, the Commission should not be dictating the side yard.

Ms. Johnson stated that if the Hudsons were to put in their own curb cut to the east of where it is now, she asked if that will that enter an engineering discussion with the new property owner which may not want them right next to each other.

Mr. Norkus indicated that it is unlikely to be too close from an engineering standpoint. He noted that there are driveways which are within 6 inches of each other.

Chairman Greable stated that there has been enough discussion and that the Commission is to resolve the conditions. He reread the minimum conditions being suggested by the Commission as follows:

1. The provision of utility easements as described in the agenda report and modifications to avoid conflict with the coach house location.
2. Provision of standard utility easement language.
3. Addition of a signature block for the Community Development Director.

Chairman Greable then asked if there was any disagreement with those proposed conditions. The Commission stated that there was no disagreement with the proposed conditions.

Chairman Greable then stated that it is possible to subject the approval to the removal of the existing shed on lot 1 as a technical condition. He then asked the Commission if that condition should be put in or not.

Mr. Norkus informed the Commission that the only reason to do that is that it related to a timing matter and that they do not want to record a plan and have the lot sit for years with a shed on it. He stated that under the ordinance, there is a nonconforming situation having an accessory building like a shed on a lot with no principle structure on it. Mr. Norkus indicated that it should be included as a condition.

The Commission agreed that would be fine.

Chairman Greable asked the Commission if the approval should be subject to the new home utilizing the curb cut and to minimize impact to parkway trees. A vote was taken and the Commission voted against the recommendation.

Chairman Greable asked the Commission if the approval should be subject to a possible increase in the minimum front setback from 30 to 40 feet.

A vote was taken on raising the setback to 40 feet and the Commission voted in favor of the recommendation.

Chairman Greable asked the Commission if the approval should be subject to the imposition of a restrictive covenant on lot 1 requiring the larger side yard of 11.25 feet be observed from the westerly property line and the smaller minimum side yard of 7 feet be observed from the east property line.

A vote was taken with the Commission voting against the recommendation with two Commission members voting in favor of the recommendation.

Chairman Greable then stated that before a motion is made, he asked Mr. Norkus if he had any comments.

Chairman Greable then asked for a motion to approve the subdivision application for 596 Oak Street with the findings as set forth and with the conditions and covenants recommended by the Commission.

Mr. Coladarci made a motion to approve the subdivision application for 596 Oak Street with the findings as set forth and with the conditions and covenants recommended by the Commission.

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

AYES: Bawden, Coladarci, Dunn, Golan, Greable, Johnson, McCarthy, Thomas

NAYS: None

RECUSED: Holland

**The Plan Commission recommends approval of the proposed 596 Oak Subdivision, subject to the following conditions:**

1. Provision of utility easements as described in the agenda report, subject to dimensional modifications along the south lot line of Lot 2 to avoid conflict with the existing coach house location;
2. Provision of standard utility easement language;
3. Provision of a signature block for the Community Development Director;
4. Provision of a restrictive covenant on the final plat, requiring a minimum front yard setback of 40 feet on Lot 1, versus the zoning ordinance minimum of 30 feet.
5. The plat of subdivision shall not be recorded, and no permits for construction on Proposed Lot 1 shall be issued until the accessory shed on Proposed Lot 1 is demolished.

**In making this recommendation, the Plan Commission makes the following findings:**

1. The proposed lot area of 14,025 feet and 27,862 would comply with the zoning ordinance minimum.
2. The proposed lot area and width are consistent with the surrounding neighborhood.
3. In the context of the proposed subdivision, there would be no material increased adverse impact arising from the existing nonconforming coach home which is 14 feet from the east property line and that the setback of the in-ground pool is at 20 feet from the east property line.
4. The existing single lot is significantly larger than those surrounding it and that the proposed subdivision serves to ensure that the new home built in the neighborhood be more in scale with the existing neighborhood than if a new home was built on the existing larger lot.

## **AGENDA REPORT**

**SUBJECT:** R-33-2012 - D's Haute Dogs – Liquor License Request

**PREPARED BY:** Katherine S. Janega, Village Attorney

**REFERENCE:** August 21, 2011 Village Council Agenda, pp. 170-190  
May 17, 2011 Village Council Agenda, pp. 181-193  
March 16, 2010 Village Council Agenda, pp. 394 - 410  
October 20, 2009 Village Council Agenda, pp. 62 - 69

**DATE:** August 31, 2012

### **Background**

At the August 21, 2012, Village Council meeting, the Council provided policy direction on the request of Jared Boyar, owner of D's Haute Dogs, for conditional approval of an application for a Class A liquor license with TV and Sidewalk Liquor Service riders. Unlike his three prior requests, which sought the creation of a new license classification for his hot dog establishment, the current request is based on an expansion of the D's Haute Dogs space, menu and business operation so that it would now meet the definition of "restaurant" in the Village's Liquor Ordinance (Chapter 5.09 of the Winnetka Village Code), and thus be eligible for a Class A liquor license and related riders.

In addition to establishing that the business proposed to be licensed is a restaurant as defined in Section 5.09.010 of the Village Code, an applicant for a Class A liquor license must also meet the individual eligibility requirements set out in Sections 5.09.070 and 5.09.080, which include submitting to a background check. In addition, the premises must meet the location and premises eligibility and sanitation requirements of Sections 5.09.180, 5.09.200 and 5.09.230 of the Liquor Ordinance.

The application was presented to the Village Council for policy direction because, although Mr. Boyar's responses to the inquiries from the Chief of Police indicated his intent for the proposed expanded operation to meet the requirements for a Class A license, the attachments to the license application were not in full compliance. Staff therefore could not present a resolution for approval to the Council.

The Council's August 21<sup>st</sup> discussion included consideration of several conditions recommended by the Village Manager, Chief of Police and Village Attorney to address both the procedural eligibility requirements and the unique circumstances of Mr. Boyar's proposed change in business from a fast casual food restaurant to a license-eligible restaurant "where complete meals are actually and regularly served."

### **Resolution R-33-2012**

Immediately following the August 21<sup>st</sup> Council meeting, the Village Attorney drafted Resolution R-33-2012, which incorporated the conditions that were discussed at the Council meeting. The draft Resolution was circulated for review by the Village Manager and Chief of Police. The Assistant to the Village Manager and the Village Attorney next met with Mr. Boyar

on the morning of August 23 to discuss that initial draft Resolution and the conditions it would impose. The Resolution was then revised to reflect the internal discussions and review, the discussions with Mr. Boyar, and written materials received from Police Chief Kreis and Mr. Boyar since August 23<sup>rd</sup>. (See Attachments 1 and 2)

The underlying rationale for the conditions in Resolution R-33-2012 has not changed. As explained at the August 21<sup>st</sup> meeting, two unique factors drive the need for more expansive conditions than those that are ordinarily incorporated into a resolution that makes a liquor license available. First, the conditional approval of the license in this case precedes the signing of the lease and the construction of the new restaurant space, although the lease is a required component of the application materials. Second, Mr. Boyar hopes to preserve many of his current menu offerings and to continue his current midday business, which does not offer complete meals and often includes large numbers of high school students. Because of these two factors, the conditions in Resolution R-33-2012 are divided into two categories. Section 3 contains conditions that must be met before the Liquor Commissioner can issue the license, and Section 4 contains conditions that are to be incorporated into the license itself, so that they will apply to the licensee's actual operations.

For ease of reference, the following discussion addresses the conditions in the order they appear in Resolution R-33-2012 and includes the full text of the corresponding Resolution provisions.

### **Section 3 Conditions**

**Lease, Building Permit and Menu Requirements.** To establish eligibility for a liquor license under Sections 5.09.070, 5.09.080 and 5.09.180 of the Liquor Ordinance (WVC §§5.09.070, 5.09.080, 5.09.180), all liquor license applicants are required to submit a lease that covers the term of the license, plans that depict the restaurant premises, and a copy of the menu.

Because D's Haute Dogs has only submitted preliminary information, the conditions in Section 3.A through 3.D are necessary to assure that the application file will contain the same documentation required of all other liquor license applications. First, the lease is necessary to establish the right of the business to operate in the proposed space for the term of the license. Next, space plans are needed to establish not only that the final location, size and configuration of the space will be as proposed, but also that they are consistent with the class of liquor license that will be issued. Third, the menu is necessary to determine that the type of food service proposed will be a bona fide restaurant as defined in Section 5.09.010 of the Liquor Ordinance, and not one of the types of ineligible establishments enumerated in paragraph 22 of Section 5.09.080(A). Finally, all liquor licensees are required to file such additional documentation as proof of dram shop liability insurance, a State of Illinois liquor license, and food service license.

The proposed texts of Sections 3.A, 3.B, 3.C and 3.D are as follows. Mr. Boyar has indicated that all are acceptable.

**Section 3.A:** A copy of the executed lease for the expanded Restaurant Premises shall be filed with the Village no later than 30 days after the date of this

Resolution. Said lease shall specifically authorize the operation of a restaurant, including the service of alcoholic beverages.

**Section 3.B:** No later than 30 days after the lease is signed, D's Haute Dogs, LLC or the owner of the Restaurant Premises shall file a complete application for a building permit to modify the Restaurant Premises, as generally depicted in the license application materials.

**Section 3.C:** The applicant shall file the final menu for review no more than 30 days after the Village's grant of conditional approval.

**Section 3.D:** The Local Liquor Control Commissioner shall not issue the License unless and until all other documentation required for the issuance of the Licenses has been filed by the applicant and reviewed and approved by the Village.

The 30-day deadline for filing the signed lease, building permit application and final menu are consistent with Mr. Boyar's representations that he intends to proceed immediately, and all three conditions operate to the benefit of both the Village and Mr. Boyar. First, they allow the Village to resolve any discrepancies regarding the restaurant space at the earliest opportunity, while leaving flexibility where it is needed most, in the construction process itself, by not setting time limits for the actual completion of the work. The early menu requirement, in turn, leaves ample time to determine that the resulting establishment will not only be a place where complete meals are not only offered, but will also be a place "where complete meals are actually and regularly served," thereby avoiding potential delays in opening the restaurant and reducing the potential for a post-opening discovery that could affect license eligibility. As noted at the August 21<sup>st</sup> meeting, this is a realistic concern, since several years ago one licensee had to surrender its liquor license when the Village confirmed that the type of service offered by that restaurant was inconsistent both with the business as described in the application materials and with the eligibility standards. By surrendering the license, that licensee avoided revocation proceedings that could have jeopardized future license applications.

The catch-all condition in Section 3.D is necessary to assure that the Resolution is not read to alter or omit the other pre-license documentation requirements that apply to all applications.

**Premises Eligibility and Certificate of Occupancy.** Sections 3.E and 3.F contain the same inspection requirements that apply to all liquor licensees and that have been incorporated into all resolutions that authorize a liquor license before the premises can lawfully be occupied. Section 3.E pertains to the inspection by the Police Department to assure the eligibility of the premises under the Liquor Ordinance, while Section 3.F pertains to the Certificate of Occupancy that is required at the end of all building construction. The proposed texts of Section 3.E and 3.F are as follows. Mr. Boyar has also indicated that these two provisions are acceptable.

**Section 3.E:** The Local Liquor Control Commissioner shall not issue the Licenses unless and until the Restaurant Premises comply with the Village Code's eligibility requirements for a Class A Liquor License with TV Rider

and Sidewalk Liquor Service Rider, which shall be determined by the Police Department following an inspection of the completed premises.

**Section 3.F:** The Local Liquor Control Commissioner shall not issue the Licenses unless and until the construction of the Restaurant Premises has been completed in accordance with all applicable Village codes, which shall be determined by the Community Development Department following a final inspection of the completed Restaurant Premises, and which shall be evidenced by the issuance of a final Certificate of Occupancy for the Restaurant Premises.

**Release and Waiver.** The conditional approval given by Resolution R-33-2012 is being granted at the request of D's Haute Dogs, and that conditional grant serves to induce D's Haute Dogs to proceed to incur additional business liabilities in reliance on the Village's formal representation that it will issue the license once all conditions have been fulfilled. Section 3.G contains a release and waiver to protect the Village in the event the ultimate plan described by Mr. Boyar does not materialize. This protection is necessary because the conditional license approval is being granted at such an early point that not all application materials have been received and, absent the conditional approval, the application could not be processed. It is also necessary because, in Section 5, the Village reserves the right to deny the application if any of the conditions for issuance of a Class A license are not met, or if the Liquor Control Commissioner determines that the other eligibility requirements have not been met.

Under the typical license and permit application scenario, the Village and its employees are protected from liability arising from the processing, issuance or denial of permit or license. (745 ILCS 10/2-104, 10/2-109 and 10/2-206) In this case, however, the Village is making a formal representation that it will issue the requested liquor licenses when certain conditions have been met, which moves the licensing processing in this case into contractual territory. Because this departure from the normal process is at the request of the applicant, it is necessary to preserve both the Village's statutory immunities and its discretion to review the completed application so that the Village's exposure to risk is no different from what it would be in the typical license application process. Simply put, the Village needs the protection of an enforceable release and waiver of claims from the person who has requested that the Village commit to issuing a license long before it would otherwise have been required to do so.

The language of the proposed release and waiver follows. As with the other conditions in Section 3, Mr. Boyar has indicated that it is acceptable.

**Section 3.G:** D's Haute Dogs, LLC shall sign a consent, release and waiver, in a form provided by the Village, (i) consenting to summary and automatic rescission of the conditional approval and to summary and automatic revocation or surrender of the conditional license upon written notice from the Village that the final documentation, construction and/or operation of the business renders the applicant, its business or the Restaurant Premises ineligible, (ii) waiving any right to a hearing prior to such rescission, revocation or surrender, and (iii) releasing any claims D's Haute Dogs, LLC,

may have against the Village, its officers, employees and agents, including the Local Liquor Control Commissioner, for any costs or damages applicant may have incurred, including without limitation the loss of business, in the event the Local Liquor Control Commissioner determines that D's Haute Dogs has not met all applicable conditions for the issuance of the Licenses.

#### **Section 4 Conditions**

**Unaccompanied Minors and BASSET Training.** The most significant concern raised by the D's Haute Dogs liquor license application is that Mr. Boyar's current business attracts significant numbers of unaccompanied minors, particularly high school students, and he has expressed the desire to retain many of the elements of his current business model at the same time he is attempting to make the transition to the kind of full-meal service restaurant that is the hallmark of the Class A license.

Initially, Village staff was also concerned because the application showed that the two owners of the business, Mr. Boyar and his wife, had no other restaurant experience. This latter concern was allayed somewhat when Mr. Boyar related that both he and his wife had other restaurant experience, some of which included the service of alcoholic beverages and management roles. Staff has asked Mr. Boyar to update his application accordingly. (See Attachment 1)

To address the concerns about underage service, the initial draft of Resolution R-33-2012 included a condition that would have limited unaccompanied minors to the "old" area of the restaurant, which is the location of the current business and seats ten. The initial draft of the Resolution also would have required a full-time host/hostess to be situated at the front entrance. It also included a condition requiring the owners, manager, host/hostess, and every employee who will either be taking orders for alcoholic beverages or serving alcoholic beverages, to obtain BASSET training certification before the license issues. All new employees in those categories would also be required to obtain BASSET training within 10 days after their employment.

When Village staff met with Mr. Boyar, he expressed particular concern about the space limitation for the unaccompanied minors, because on certain days, such as days when New Trier High School does not have a full day of classes, he has a substantial number of teenage customers and the current space is not sufficient to comfortably accommodate them. As an alternative to restricting unaccompanied minors to the seating area of the current restaurant, Mr. Boyar suggested that the unaccompanied minors be confined to the rear of the new dining area.

However, because one of the Police Department's key liquor enforcement tools is visual inspection from the street or sidewalk, staff informed Mr. Boyar that his proposal would probably not be acceptable and suggested that the parties work to identify another area for unaccompanied minors. Mr. Boyar and Village staff also considered limiting the hours for liquor service to avoid lunch time, but both sides quickly ruled that out after determining that such a

rule could hinder the transition of the business from a casual carry-out eatery to a full service restaurant.

After giving the matter further thought, Chief Kreis has suggested that unaccompanied minors not be seated in the rear half of the new space during the first six to 12 months under the new liquor license. He has also recommended modifying the BASSET requirement to require one-time training rather than ongoing training. Chief Kreis notes that BASSET training has been required following violations, that he has also required BASSET training for three entities requesting a beer garden on public property, and that he would also recommend the same conditions for all applicants who have not recently held liquor licenses in Winnetka. (See Attachment 2)

The discussions with Mr. Boyar also led staff to consider more flexibility in the placement of the host/hostess, so that, rather than having the resolution fix the requirement for a designated host/hostess on the premises at a specific location, the presence and location of the host/hostess issue could be adjusted to the ebbs and flows of customer traffic. For example, another employee could double as host/hostess during slower business hours, as is often done in other restaurants.

The conditions in Section 4 have been revised to reflect both the discussions with Mr. Boyar and Chief Kreis's comments. The condition in Section 4.A prohibits unaccompanied minors in the rear half of the new portion of the restaurant. In Section 4.B, the BASSET training provision has been revised so that it now allows for one-time training, with proof of training to be provided as a condition of the initial issuance of the license, and thereafter only as part of the annual license renewal process. The revised BASSET provision is similar to the Illinois Liquor Control Commission's model BASSET ordinances. (See Attachment 3) The host/hostess requirement has been eliminated from the Resolution, so that the host/hostess at D's Haute Dogs will be treated in the same manner as all other liquor licensees in the Village.

The revised language in Sections 4.A. and 4.B has not yet been fully discussed with Mr. Boyar. However, Village staff believes that this language provides a reasonably balanced regulation, particularly given the additional flexibility as to the duration of the conditions that has been added to the Resolution. (See Section 6 Conditions, below.) The language of Sections 4.A and 4.B is as follows.

**Section 4.A:** No unaccompanied minors shall be seated in the rear half of the new portion of the Restaurant Premises. For purposes of this provision, an unaccompanied minor means a person under the age of 18 who is not accompanied by a parent, legal guardian or relative who is at least 21 years old.

**Section 4.B:** Prior to the issuance of the Licenses, the Licensee shall submit proof to the Chief of Police that the owners, manager, host/hostess and every employee who will take alcoholic beverage orders from or serve alcoholic beverages to patrons has successfully completed BASSET training. Thereafter, all such persons who have not previously obtained BASSET

training certification shall be required to successfully complete the BASSET training and submit proof thereof to the Village whenever Licensee applies for renewal of its Class A license. In addition, proof of such training shall also be maintained by the Licensee at all times and shall be made available upon demand by any member of the Winnetka Police Department or any designee of the Local Liquor Control Commissioner or the State Liquor Control Commission.

**Sales Records.** Section 4.C is the operational counterpart to the menu requirement. While the menu requirement establishes that complete meals are offered, Section 4.C imposes the recordkeeping requirements are necessary to provide a factual basis for determining that the expanded operation meets the definitional standard for restaurants that complete meals also be “regularly served.” This recordkeeping requirement expands on the requirements that the State Liquor Control Commission imposes on all retail liquor licensees, including restaurants (see Attachment 4), and is similar to the kind of recordkeeping the Council imposed on Trifecta to determine the extent of wine sales from its automatic dispensers. Section 4.C provides as follows:

**Section 4.C:** Each sales receipt shall identify the menu and beverage items sold, and shall indicate whether carry-out or dine-in service was provided. Licensee shall make the receipts available for inspection by the Local Liquor Control Commissioner or his or her designee upon request.

**Surrender of License.** Section 4.D is a companion provision both to the waiver and release required by Section 3.F and to the reservation of rights in Section 5, in that it requires the licensee to surrender the license if the operation of the food service turns out not to be restaurant as defined in Section 5.09.010 of the Liquor Ordinance. The remedy afforded by this provision is analogous to the denial of an application if all of the requirements have not been met. Like the Section 3.F waiver, Section 4.D is necessary to put the Village in as close a position as possible to the position it is in under the typical license application scenario. It also puts the licensee in the same position he would be in under the standard application process. Section 4.D provides as follows:

**Section 4.D:** The licensee shall agree to surrender the liquor license, without prejudice to future applications, in the event the operation of the food service does not constitute a restaurant as defined in Chapter 5.09 of the Village Code.

## **Section 5 Conditions**

**Reservation of Rights.** The language in Section 5 serves the same purpose as the condition in Section 3.D, in that it is a general provision that preserves the discretion of the Local Liquor Commissioner to determine the qualifications for the ultimate issuance of the Licenses. This is of particular import, because the specific conditions of the Resolution address the Class A license requirements, while the Resolution will also result in the issuance of TV and Sidewalk Service riders. Section 5 provides as follows:

**SECTION 5:** The Village reserves the right, and the Local Liquor Commissioner is hereby authorized, to deny the application for liquor license if any of the conditions for the issuance of the Licenses set forth in Section 3 of this Resolution are not met or if the Local Liquor Commissioner otherwise determines that the Restaurant Premises does not meet the premises eligibility standards of Chapter 5.09 of the Village Code, or if the final menu does not demonstrate that D's Haute Dogs will be offering and serving complete meals.

### **Section 6 Conditions**

**Discretion to Lift Conditions.** Section 6 requires the conditions in Section 4 to remain in effect for at least six months after the actual issuance of the Class A license, or until the end of the current license year (March 31, 2013), whichever is later. After that initial period, Section 6 authorizes the Local Liquor Commissioner to lift any of the conditions if she determines that they are no longer necessary. However, Section 6 does not allow Resolution R-33-2012 to supersede any requirements of the Village's Liquor Ordinance and therefore limits the authority to lift conditions if a condition becomes part of the Liquor Ordinance. The text of Section 6 is as follows:

**SECTION 6:** The conditions set forth in Section 4 of this Resolution shall remain in place through March 31, 2013, or through the last day of the sixth month after the initial issuance of the Licenses, whichever is later. Thereafter, the Local Liquor Control Commissioner shall be authorized to remove any or all of the conditions set forth in said Section 4 upon determining that such condition or conditions are no longer necessary to assure that the operations of D's Haute Dogs Restaurant will continue to comply with all eligibility requirements for the Licenses. Notwithstanding the foregoing, in the event that the Village Code is amended to make any of the conditions set forth in Section 4 mandatory for all holders of any or all of the Licenses granted herein, then said conditions shall not be removed as long as such conditions remain a part of the Village Code.

### **Reference Materials** (appended after R-13-2012):

- |              |                 |   |
|--------------|-----------------|---|
| Attachment 1 | August 25, 2012 | E-mail from Jared Boyar to Chief Kreis, forwarded on August 25, 2012                        |
| Attachment 2 | August 27, 2012 | E-mail from Chief Kreis to the Village Attorney.  |
| Attachment 3 |                 | Relevant excerpts of Illinois Liquor Control Commission Model BASSET ordinance provisions.  |
| Attachment 4 |                 | Relevant excerpts of Illinois Liquor Control Commission Rules, Sections 100.130 and 100.260 |

**Recommendation:** Consider adopting Resolution R-33-2012, approving the application of D's Haute Dogs for a Class A liquor license with TV Rider and Sidewalk Service Rider, subject to the terms and conditions stated in the Resolution.

**RESOLUTION NO. R-33-2012**

**A RESOLUTION AUTHORIZING  
A CLASS “A” LIQUOR LICENSE FOR D’S HAUTE DOGS**

**WHEREAS**, D’s Haute Dogs, LLC, operates a fast casual food restaurant, known as D’s Haute Dogs, at 551 Lincoln Avenue; and

**WHEREAS**, D’s Haute Dogs, LLC, proposes to expand its business by increasing its menu to offer and serve full meals in a larger space that will be formed by expanding D’s Haute Dogs’ existing space into adjoining space in the same building at 551 Lincoln Avenue (“Restaurant Premises”); and

**WHEREAS**, D’s Haute Dogs, LLC, and the owner of the building at 551 Lincoln Avenue have reached agreement on the terms of a 5-year lease agreement for D’s Haute Dogs, LLC to lease the Restaurant Premises; and

**WHEREAS**, the improvements to the Restaurant Premises that are necessary for the operation of the expanded D’s Haute Dogs restaurant operation cannot be undertaken until the lease is signed; and

**WHEREAS**, D’s Haute Dogs, LLC, has filed an application with the Local Liquor Commissioner, requesting a Class A liquor license with a TV Rider and a Sidewalk Service Rider, to allow the service of alcoholic beverages at the expanded D’s Haute Dogs Restaurant; and

**WHEREAS**, although D’s Haute Dogs, LLC, has not yet signed the lease for the Restaurant Premises, its application materials contain the draft lease and a site plan for the Restaurant Premises, and otherwise demonstrate the good faith intent of D’s Haute Dogs, LLC, to meet all of the requirements necessary to qualify for a Class A liquor license with a TV Rider and a Sidewalk Service Rider; and

**WHEREAS**, Council action is required to authorize a new Class A liquor license with a TV Rider and a Sidewalk Service Rider for issuance to D’s Haute Dogs, LLC; and

**WHEREAS**, because the lease has not yet been signed and the improvements to the Restaurant Space have not been constructed, Village Staff has recommended that the Council’s approval be subject to several conditions to assure that the completed Restaurant Premises and expanded business will meet all of the requirements for the requested licenses; and

**WHEREAS**, because the D’s Haute Dogs Restaurant will continue to offer some of its current menu offerings and it is reasonable to expect that customers under the age of 18 will continue to frequent the business without being accompanied by a parent or other adult relative (“Unaccompanied Minors”), Village Staff has also recommended that the license to be issued also contain certain conditions to assure that the principal business of the expanded restaurant will be to offer and serve full meals, and that the sale of alcoholic beverages will be incidental and complementary to such service and that alcoholic beverages will be properly served only to persons who are at least 21 years old; and

**WHEREAS**, the Council of the Village of Winnetka find and determine that the conditions suggested by Village staff are reasonable under the circumstances.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Village of Winnetka as follows:

**SECTION 1:** The Council hereby adopts the foregoing recitals as its findings of fact, as if fully set forth herein.

**SECTION 2:** A Class A Liquor License with a TV Rider and a Sidewalk Service Rider (collectively, the “Licenses”) is hereby authorized for issuance to D’s Haute Dogs, LLC (the “Licensee”), for the operation of a restaurant at 551 Lincoln Avenue, subject to terms and conditions hereinafter set forth.

**SECTION 3:** The Licenses authorized by this resolution shall not be available for issuance, nor shall the Licenses be issued to D’s Haute Dogs, LLC, unless and until all of the following conditions are met:

- A. A copy of the executed lease for the expanded Restaurant Premises shall be filed with the Village no later than 30 days after the date of this Resolution. Said lease shall specifically authorize the operation of a restaurant, including the service of alcoholic beverages.
- B. No later than 30 days after the lease is signed, D’s Haute Dogs, LLC or the owner of the Restaurant Premises shall file a complete application for a building permit to modify the Restaurant Premises, as generally depicted in the license application materials.
- C. The applicant shall file the final menu for review no more than 30 days after the Village’s grant of conditional approval.
- D. The Local Liquor Control Commissioner shall not issue the License unless and until all other documentation required for the issuance of the Licenses has been filed by the applicant and reviewed and approved by the Village.

- E. The Local Liquor Control Commissioner shall not issue the Licenses unless and until the Restaurant Premises comply with the Village Code's eligibility requirements for a Class A Liquor License with TV Rider and Sidewalk Liquor Service Rider, which shall be determined by the Police Department following an inspection of the completed premises.
- F. The Local Liquor Control Commissioner shall not issue the Licenses unless and until the construction of the Restaurant Premises has been completed in accordance with all applicable Village codes, which shall be determined by the Community Development Department following a final inspection of the completed Restaurant Premises, and which shall be evidenced by the issuance of a final Certificate of Occupancy for the Restaurant Premises.
- G. D's Haute Dogs, LLC shall sign a consent, release and waiver, in a form provided by the Village, (i) consenting to summary and automatic rescission of the conditional approval and to summary and automatic revocation or surrender of the conditional license upon written notice from the Village that the final documentation, construction and/or operation of the business renders the applicant, its business or the Restaurant Premises ineligible, (ii) waiving any right to a hearing prior to such rescission, revocation or surrender, and (iii) releasing any claims D's Haute Dogs, LLC, may have against the Village, its officers, employees and agents, including the Local Liquor Control Commissioner, for any costs or damages applicant may have incurred, including without limitation the loss of business, in the event the Local Liquor Control Commissioner determines that D's Haute Dogs has not met all applicable conditions for the issuance of the Licenses.

**SECTION 4:** The Local Liquor Control Commissioner shall be authorized to issue the Class A liquor license with TV Rider and Sidewalk Service Rider only if said Licenses contain the following additional conditions:

- A. No unaccompanied minors shall be seated in the rear half of the new portion of the Restaurant Premises. For purposes of this provision, an unaccompanied minor means a person under the age of 18 who is not accompanied by a parent, legal guardian or relative who is at least 21 years old.
- B. Prior to the issuance of the Licenses, the Licensee shall submit proof to the Chief of Police that the owners, manager, host/hostess and every employee that will take alcoholic beverage orders from or serve alcoholic beverages to patrons has successfully completed BASSET training. Thereafter, all such persons who have not previously obtained BASSET training certification shall be required to successfully complete the BASSET training and submit proof thereof to the Village whenever Licensee applies for renewal of its Class A license. In addition, proof of such training shall also be maintained by the Licensee at all times and shall be made available upon demand by any member of the Winnetka Police Department or any designee of the Local Liquor Control Commissioner or the State Liquor Control Commission.
- C. Each sales receipt shall identify the menu and beverage items sold, and shall indicate whether carry-out or dine-in service was provided. Licensee shall make the receipts

available for inspection by the Local Liquor Control Commissioner or his or her designee upon request.

D. Licensee shall agree to surrender the Licenses, without prejudice to future applications, in the event the operation of the food service does not constitute a restaurant as defined in Chapter 5.09 of the Village Code.

**SECTION 5:** The Village reserves the right, and the Local Liquor Commissioner is hereby authorized, to deny the application for liquor license if any of the conditions for the issuance of the Licenses set forth in Section 3 of this Resolution are not met or if the Local Liquor Commissioner otherwise determines that the Restaurant Premises does not meet the premises eligibility standards of Chapter 5.09 of the Village Code, or if the final menu does not demonstrate that D's Haute Dogs will be offering and serving complete meals.

**SECTION 6:** The conditions set forth in Section 4 of this Resolution shall remain in place through March 31, 2013, or through the last day of the sixth month after the initial issuance of the Licenses, whichever is later. Thereafter, the Local Liquor Control Commissioner shall be authorized to remove any or all of the conditions set forth in said Section 4 upon determining that such condition or conditions are no longer necessary to assure that the operations of D's Haute Dogs Restaurant will continue to comply with all eligibility requirements for the Licenses. Notwithstanding the foregoing, in the event that the Village Code is amended to make any of the conditions set forth in Section 4 mandatory for all holders of any or all of the Licenses granted herein, then said conditions shall not be removed as long as such conditions remain a part of the Village Code.

**SECTION 7:** The maximum number of licenses to be issued in each class of license established for the sale the table that is attached to this resolution as Exhibit A, which is incorporated herein by of alcoholic liquor under Chapter 5.09 of the Winnetka Village Code shall be as set forth in reference and shall be appended to said Chapter 5.09 of the Winnetka Village Code.

[Remainder of this page intentionally left blank.]

**SECTION 8:** This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 9:** This resolution shall be in full force and effect immediately upon its adoption.

**ADOPTED** this 6<sup>th</sup> day of September, 2012, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

**RESOLUTION NO. R-33-2012**  
**Exhibit A**

**Appendix to Winnetka Village Code Chapter 5.09**

**Authorized Liquor Licenses**

<b>Classification</b>	<b><u>Number</u></b>	<b><u>Licensee</u></b>
A	5	D' Haute Dogs Kyoto Michael Lemongrass Little Lan's
A-1	7	Avli Restaurant Café Aroma Corner Cooks/Jerry's Little Ricky's Mirani's O'Neil's Trifecta Grill
B	2	Grand Food Center Lakeside Foods
C	Unlimited	Issued on an event-by-event basis
D	1	Acute Angle Wines
E	0	
E-1	0	
E-2	1	Winnetka Wine Shop
TV Rider	4	D's Haute Dogs Avli Restaurant Little Ricky's Trifecta Grill
Packaged Meal Rider	1	Avli Restaurant
Sidewalk Restaurant Rider	5	Café Aroma Corner Cooks D's Haute Dogs Little Ricky's Mirani's Winnetka Wine Shop
P	1	Winnetka Park District

## Kathy Janega

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**From:** Patrick Kreis  
**Sent:** Monday, August 27, 2012 8:03 AM  
**To:** Kathy Janega; James Christensen  
**Subject:** FW: Addendum

FYI

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**From:** Jared Boyar [mailto:jnboyar@aol.com]  
**Sent:** Saturday, August 25, 2012 3:08 PM  
**To:** Patrick Kreis  
**Subject:** Addendum

Chief Kries:

In speaking with the Village Attorney, it became readily apparent that I had failed to list both my wife and my extensive experience in the restaurant industry. Kathy had mentioned that there may have been certain limitations placed upon us as we were considered "first timers" in the industry.

From 1998-2003 I worked as a waiter, host, carry out operator and Sunday manager for Patrick O'Neil at O'Neil's on Greenbay Road.

My wife has extensive restaurant experience.

From 1997-1998 Lindsey owned and operated the Lo Cal Zone in Arlington Heights.  
From 1998-2001 Lindsey worked at Swank as a cocktail waitress in Chicago.  
From 2001-2002 Lindsey worked as the day manager at MK North in Northfield.  
From 2002-2006 Lindsey worked as the day manager at Joe's Stone Crab in Chicago.

I hope this helps clarify that we are not first timers in this business, while we may be first time owners in Winnetka.

Best Regards-

Jared Boyar  
[jnboyar@aol.com](mailto:jnboyar@aol.com)

## Kathy Janega

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**From:** Patrick Kreis  
**Sent:** Wednesday, August 29, 2012 2:24 PM  
**To:** Kathy Janega  
**Cc:** Megan Pierce  
**Subject:** Conditional Liquor License

Kathy,

Here are my thoughts on the Suggested Conditions from Section V. 7. of your Aug. 16, 2012 agenda report.

- a. For a period of time (6-12 months), unaccompanied minors shall not be seated in the rear half of the new portion of the restaurant. This area is somewhat concealed from the staff working behind the counter and will be more difficult to supervise. This requirement still leaves more than 50% of the entire seating area for unaccompanied minors.
- b. Basset training is available from a number of area vendors. It is also available on-line for \$25 per person. My recommendation is this training be required for all owners, manager and staff members allowed to serve alcoholic beverages. One-time training is adequate. I will not insist on constant re-certification (I believe the certificates are good for 3 years). If personnel are hired with previous certification, a copy of the certificate can be supplied to meet the requirement. This requirement will be recommended by me for all applicants who have not recently held liquor licenses in Winnetka or other jurisdiction. This requirement is not unprecedented. We have required it for violation mediation before. More recently I have required it for 3 entities requesting to run a beer-garden on public property.

Patrick Kreis  
Chief of Police  
Winnetka Police Department  
410 Green Bay Road  
Winnetka, IL 60093-2576  
847-716-3400

**LIQUOR CONTROL COMMISSION**  
**SAMPLE BASSET TRAINING ORDINANCES**  
**Relevant Excerpts**

**NOTE:** The following information is taken from the State Liquor Control Commission's web site. It has been reformatted for the Council Agenda.

**“BLANKET” ORDINANCE**

A Blanket type of ordinance, requires anyone who sells or serves alcoholic beverages, including management personnel, to show proof of completion of BASSET training.

**EXAMPLE OF BLANKET ORDINANCE**

- (a) For licenses on or after (A date 90 days after passage of Ordinance) and all original or renewal applications for a class (Chosen by the LLA) liquor licenses shall be accompanied with proof of completion of a State certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purchases of alcoholic beverages, pursuant to that license.
- (b) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.
- (c) After ( 90 days after passage of Ordinance), any new owner, manager, employee, or agent requiring BASSET training, shall within ninety(90) days from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.
- (d) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this ordinance to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.
- (e) Municipalities and establishments must honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

## **“SELECTIVE” ORDINANCE**

This type of ordinance is designed to allow for consideration of exposure to the sale and or use of alcohol. Establishments where the primary source of income is derived from liquor sales and liquor is sold and served mainly for consumption on premises: bars, nightclubs, taverns, etc. and food is incidental to the sale of alcohol inherently impose a greater likelihood of alcohol-related incidents to the community and should be considered a high risk establishment.

A restaurant type of establishment where food is the primary source of income and sales of alcoholic beverages are secondary, by its nature, is a medium to low risk threat to the community.

Under the same classifications, a major food or pharmacy type of establishment, that considers the sale of alcohol a minor part of gross sales are considered low risk establishments. Where as, liquor stores, convenient grocery stores, or gas stations would impose a higher risk. Security, management, and accessibility are not as controlled in high risk establishments.

## **EXAMPLE OF SELECTIVE ORDINANCE**

- (a) For licenses effective on or after (A date 90 days after passage of Ordinance) and all original or renewal applications for a class (Chosen by LLA) liquor licenses shall be accompanied with the proof of completion of an State of Illinois Liquor Control Commission certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all management personnel and anyone whose job description entails pouring, mixing, or dispensing of alcohol working on the premises pursuant to that license.
- (b) All persons who sell or serve alcoholic beverages and anyone whose job description entails the checking of identification for the purchase of alcoholic beverages in establishments where the majority of gross revenue is collected by the retail sale of alcoholic beverages shall also be required to complete BASSET training.
- (c) At least one person shall be required to be on premise, who has completed BASSET training, during hours when alcoholic beverages may be purchased.
- (d) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.
- (e) After (A date of 90 days after passage of Ordinance), any new employee, manager, or agent requiring BASSET training, shall within ninety (90) days from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.
- (f) A photo copy of certificate of completion for all employees, managers, or agents required by this ordinance to have BASSET training shall be maintained, by the establishment, in a manner that will allow inspection, upon demand, by any designee if the Liquor Control Commissioner.
- (g) The Liquor Commissioner reserves the right to require BASSET training for all employees of any establishment when deemed necessary. A ruling of this kind shall remain binding until repealed by the Liquor Commissioner.

**ILLINOIS ADMINISTRATIVE CODE**  
**TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY**  
**SUBTITLE A: ALCOHOL**  
**CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION**  
**PART 100 THE ILLINOIS LIQUOR CONTROL COMMISSION**

**Relevant Excerpts**

**Section 100.130 Books and Records**

- e) It is the duty of each retail licensee to keep on the licensed premises invoices, or copies thereof, covering purchases of alcoholic liquor for a period of 90 days after such purchase, unless the State Commission has granted a waiver in response to a written request in cases where books and records are kept at a central business location within the State of Illinois. If granted a waiver, each licensee will be required to have at each location a copy of the waiver granting permission to have the invoices located at a central business location. A copy of the waiver must be available for inspection at the location of the business within 30 days of the date of the signed waiver. An administrative fee of \$10.00 per location, or \$100 maximum for businesses with multiple locations of 10 or more, will be assessed. Before any change is made in the central business location where the invoices are to be kept, the Illinois Liquor Control Commission should be notified and a new waiver request form must be submitted to the Illinois Liquor Control Commission for prior approval. The waiver will remain effective unless and until a new waiver request has been approved by the Illinois Liquor Control Commission. Periodic updates may be required.

(Source: Amended at 18 Ill. Reg. 4811, effective March 9, 1994)

**Section 100.260 Uniform Systems of Accounts**

- a) It shall be the duty of all retail licensees of this Commission for the purpose of this Act, to keep the minimum uniform records described in this Rule at a location within the State of Illinois for the purpose of inspection at all reasonable times by representatives authorized in writing by the chairman or a member of the Illinois Liquor Control Commission, or by representatives authorized in writing by any local Liquor Control Commissioner that issues the local license.
- b) Retail licensees maintaining records on the cash basis:
- 1) A record of cash receipts from all sources. This record must be kept in accordance with the Rules and procedural requirements of the Illinois Department of Revenue, as set forth in the Retailers Occupation Tax Act [35 ILCS 120] and 86 Ill. Adm. Code 130: Subpart H.
  - 2) A record of all cash disbursements for payment of merchandise purchases. This record must be documented by paid invoices or receipts.
  - 3) A record of all cash disbursements for operating expenses (including rent, salaries, light, power and heat, payroll and other taxes) and all other expenses. This record shall show to whom payment was made and for what purpose.

- 4) Monthly or quarterly statements must be available for inspection disclosing cash receipts, cash disbursements for merchandise purchases and cash disbursements for operating expenses, and all other expenses, which will reflect the licensee's gross profit, net profit or loss, and the person or persons sharing directly or indirectly in the said net profit or loss. Where physical inventories are not taken quarterly, it will be permissible to determine gross profit on the basis of deducting purchases from sales.
  - 5) A record must also be maintained of cash on hand and cash in the bank. Bank statements and canceled checks must also be on file.
- c) Retail licensees maintaining records on an accrual basis:
- Retail licensees who maintain records on an accrual basis may continue their present methods. This method of record keeping must also be one conforming to the Rules and Regulations of the Illinois Department of Revenue as cited above. The records of such licensees shall be documented in the same manner as those of licensees on the cash basis. In addition they shall maintain records supporting entries made for accruals of income and expenses.
- d) Beneficial interest:
- 1) All documents, including but not limited to bills of sale, contracts of purchase, evidence of mortgage indebtedness or leases of licensed premises, evidence of original capital investment, a record of who provided such capital funds and from what bank or other lender, if any, said funds were obtained, and any agreements for sharing profits other than on the basis of shares of stock owned or sharing of profits set forth in the articles of partnership, shall be maintained and available for inspection. Also, if the licensee is a corporation, a listing of all stockholders of record shall be maintained. If the licensee is a partnership, the articles of partnership shall be available for inspection.
  - 2) Requirements for maintenance of records of beneficial interest specified under the preceding paragraph shall not be applicable to licensees having one or more classes of equity securities registered with the Securities Exchange Commission. Nor shall they be applicable to licensees of which more than 50 per cent of the voting securities are owned by a company that would be exempted hereunder if it were the licensee.
  - 3) Licensees availing themselves of the exemption stated in the preceding paragraph shall notify the Illinois Liquor Control Commission in writing that they are exempt under this provision, as above stated, and are filing annual reports with the Securities Exchange Commission, and that this exemption shall be effective so long as they are filing such annual reports.
- e) Each retail licensee must also have available for inspection said licensee's Retailer's Occupation Tax Registration Certificate as issued by the Illinois Department of Revenue.
- f) Each retail licensee of this Commission shall maintain and preserve the required records as set forth in this Rule for at least three calendar years.

(Source: Amended at 18 Ill. Reg. 4811, effective March 9, 1994)