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ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING BEFORE THE VILLAGE OF ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

OF APPEALS

RE: 515 NORTH CHESTNUT AVENUE - ZBA #23-044 PUBLIC HEARING

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 8th day of January, 2024 at the hour of
7:00 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA
MICHAEL O'CONNOR
FRANK PORTERA

ALSO PRESENT:

DEREK MACH, Development Planner
KELLEY A. GANDURSKI, Attorney for the Board
NANCI JULIUS, Village Engineer
GREG SMITH, Village Attorney
STEVE HAUTZINGER, Design Planner

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ACTING CHAIRPERSON JAFFE: All right, good evening. We're going to call this month's Zoning Board of Appeals meeting to order. First, we will start with roll call.

MR. MACH: Chairman Siavelis.

(No response.)

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Here.

MR. MACH: Mr. Jaffe.

ACTING CHAIRPERSON JAFFE: Here.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Here.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Here.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Here.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Here.

ACTING CHAIRPERSON JAFFE: So, is there a motion to install me as Acting Chair for this evening's meeting?

COMMISSIONER DRAKE: I move that we install Board Member Jaffe as Acting Chair for tonight's proceedings.

COMMISSIONER LANAGHAN: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

MR. MACH: I'm sorry. Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

ACTING CHAIRPERSON JAFFE: All right, next will be the Pledge of Allegiance. The flag is located in this corner.

(Pledge of Allegiance recited.)

ACTING CHAIRPERSON JAFFE: So, next, we will approve the minutes from the December 2023 meeting. Have all the members had a chance to review the minutes, and if so, are there any errors that need to be called out and amended?

(No response.)

ACTING CHAIRPERSON JAFFE: None being heard, is there a motion to approve?

COMMISSIONER PORTERA: So moved.

ACTING CHAIRPERSON JAFFE: Is there a second?

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COMMISSIONER SELBKA: Second.

ACTING CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

ACTING CHAIRPERSON JAFFE: All opposed?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, hearing procedures. If less than six members are present, there is an option to the petitioner to continue the meeting. It takes four affirmative votes to approve a variance regardless of the number of Board members in attendance. If denied, a petitioner cannot reapply for a whole year. So, seeing that we do have six present, so you will need four affirmative votes to get your variance or variances approved.

From an order of operations perspective, we'll have a Staff presentation for each variance. As part of that variance, the petitioner is going to need to explain four elements which are necessary for us, the Board, to establish in order to be able to grant that variance. Those four elements are:

1. That the proposed use will not alter the essential character of the locality and be compatible with existing uses and zoning of nearby property;
2. That the plight of the owner is due to unique circumstances which may include the length of time the subject property has been vacant as zoned;
3. That the proposed variation is in harmony with the spirit and intent of this chapter; and
4. That the variance requested is the minimum variance necessary to allow reasonable use of the property.

A variation is shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

So, this evening, we have, as you saw in the sign-in sheets, we have an applicant, the applicant is the individual who will be submitting the petition for approval. We also have Objectors. An Objector is anyone present who, one, must testify and be sworn under oath, and want to present any evidence that they have negating the reasons why the applicant is entitled to zoning relief. We have a third category of just general members of the public who wish to make comments. So, again, those are members of the public who don't have evidence but do want to comment on any of the four petitions this evening.

MS. GANDURSKI: Thank you, Mr. Chair. I am Kelley Gandurski. I am serving at the Board's Attorney tonight.

As from a procedural perspective, we have a court reporter present, so it's really important that when you step up to the podium, you state and spell your name clearly for the record. Each individual testifying tonight, not public commenters, but individuals who are presenting testimony, will be sworn under oath by the Chair or by Staff. That includes Staff members as well who will be presenting any testimony for the record today.

These are formal hearings, formal proceedings. It's a little different than a normal Board, you know, Village Board agenda where we have items and the Board presents the items and they discuss it. Each item has its own category of hearing where people are entitled to speak on each item. Then at the very end of the agenda will

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be time for just general public comment as well, so to make a distinction between those of you who wish to actually testify as an Objector and present evidence in opposition to the applicant versus those of you who just generally want to speak to the item. There will be opportunity to do both, presuming that you signed up.

ACTING CHAIRPERSON JAFFE: So, for each of the petitions tonight, we're going to have to have an official motion, second, and vote for each petition. So, is there a motion to open Agenda Item A, 515 North Chestnut Avenue, ZBA Case No. 23-044?

COMMISSIONER PORTERA: Motion.

COMMISSIONER O'CONNOR: Second.

MS. GANDURSKI: Roll call.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chairman Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

So, would the Applicant for 515 North Chestnut Avenue please approach the podium?

So, I'll need anybody who's going to be speaking to state your name, to spell it and to state your address, and then I'll need to swear each of the three of you in. Spell your last name.

MR. VENAMORE: Andrew Venamore, V-e-n-a-m-o-r-e, 602 Academy Drive, Northbrook, Illinois.

MR. LEAHY: John Leahy, L-e-a-h-y, 515 North Chestnut Avenue, Arlington Heights.

MRS. LEAHY: Kelly Leahy, L-e-a-h-y, 515 North Chestnut Avenue in Arlington Heights.

ACTING CHAIRPERSON JAFFE: I can swear you all in together.

(Witnesses sworn.)

MS. GANDURSKI: Let the record reflect that each of the Applicant and the witness have been sworn.

ACTING CHAIRPERSON JAFFE: Please proceed.

MR. VENAMORE: Proceed?

ACTING CHAIRPERSON JAFFE: Yes, please. Thank you.

MR. VENAMORE: Thank you, Acting Chair. Good evening, ladies and gentlemen. This evening, we are presenting a case that will be replacing an existing garage and updating a crumbling driveway at 515 North Chestnut.

The plans that were presented as part of the application package

shows a garage 22-foot wide by 27-foot deep that has a ridge height of 18 feet. The size of the garage is being driven essentially by the very limited amount of storage in this very historic home. I think the age of the home is 1898, very limited footprint as it exists currently. So, as part of replacing a pretty old and decrepit garage, roughly in the 40 to 50-year range likely, the idea is to give a practical space for vehicles in addition to creating some storage both on the ground level of the garage in addition to some attic storage accessed by a set of pull-down stairs.

The big driver here aside from the, you know, individual square footage of each floor, it's around about 1,000 square feet, the basement is quite low as well and there's really not a lot of space down on that level or in fact even on the remaining two levels. While historic and very attractive from the outside, there are some rather unique layouts on the inside of the house, and so it's pretty challenging to be able to get any sort of real storage for this young family. Four boys under the age of seven, so a growing family, lots of needs that the house just simply isn't providing.

So, as part of this design process, the idea was to replace the current garage which is in, as I mentioned, a pretty decrepit state, and then come up with a garage that would attempt to mirror the existing historic nature of the house. The details over the door, the details over the windows, all of those are intended to match the house as well. So, thoughts loosely were given to perhaps providing some of the needed storage as part of the house, but with the way the floor plan lays out, putting an addition on the house would potentially impact the historic nature of the look of the house.

Now, certainly that is not my forte. That's not what I'm here for. My driver was tied to building a replacement garage. But as the homeowners, as we sort of talked about it and looked at options, it was a bit of a challenge to try and come up with a way to design that storage space as part of the house. So, the idea was to give it a roof pitch similar to what exists on the home currently, and then provide some additional storage at that second floor, again, simply accessed through a set of pull-down stairs.

So, the variations, as you've seen in your package, are for the building height. So, the ridge for the garage is a fraction over 18 feet. That's what the pitch of the house mirrored. Requirement is for a 15-foot ridge height for an accessory building, so we're roughly three-foot in excess of that.

The second item of the relief that's being requested for is on the width of the driveway. So, as you can see by the site plan, Derek, if you could just jump back a couple of pages, we've noted on the plan the location of three existing trees. Two of them are pretty significant, the third one which is a little closer to Chestnut Avenue is less so, but the two trees that are currently on the property at the moment are adding to the dilemma of how to deal with the driveway.

The driveway is in pretty ordinary shape and certainly does need to be replaced. So, the goal here was to give those trees more opportunity to survive by pulling the asphalt that's currently around there at the moment.

Derek, could you just jump back a page to existing? I didn't put the trees on here, but they are jammed up against where that existing driveway is now.

So, the proposed driveway is now attempting to give some breathing room per se around the base of those trees. In doing that, we've limited the ability to park vehicles and get vehicles to pass. So, the idea behind that 30-foot width of driveway there

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whereas 22-foot is permitted is essentially to try and give some additional parking space on the property. Big driver for that, as anybody who's been up and down Euclid knows, there's obviously no parking on Euclid. Chestnut, you can't park on the east side, so there's now only parking on the west side, and there are some concerns with the current project to the south, that that's going to attract some overflow parking. So, both homeowners' elderly parents like to come and visit, and part of the driveway there is to be able to get them to park on the side.

So, we have the width of driveway request, we have the height request, and the height is just simply tied to the ridge height of the garage. It doesn't have anything to do with the dormers that I've shown on there. Again, the idea behind those is to provide some additional storage on that second floor.

So, the hardship we feel is tied to the existing historic nature of the house and the limited size of the floor plan which also has a limited amount of storage. That's the big driver for getting us the additional height, so we can have some storage on the second floor. The interest in designing the pitch of the roof to match the pitch of the house was where the 18 feet came from, and the dormers were sort of a subsequent design element to that.

The driver request, as I've just mentioned, is tied to limited parking opportunities on adjacent streets in addition to try to give the rather significant trees that are in that backyard. If anybody had the chance to stop by the house, they will notice that those form a really integral part of how that backyard lays out. The idea is to maintain those and give them a good chance for some longevity.

So, we hope that kind of goes through the central nature of the variation request. We'd be happy to answer any questions if the Board has any.

COMMISSIONER PORTERA: I have a few questions.

MR. VENAMORE: Please.

COMMISSIONER PORTERA: How long have the residents lived in this house?

MR. LEAHY: Eight years.

MRS. LEAHY: 2015, yes, eight years.

MR. VENAMORE: Well, going on nine now, yes.

MRS. LEAHY: Nine, yes, nine.

COMMISSIONER PORTERA: Okay, any neighbor comment at all? Any opposition? Have you spoken to your neighbors?

MRS. LEAHY: Yes, we spoke to all of them that's around our property, and there was one, she's here tonight, who did not totally agree. The rest, we got their signatures and everything.

COMMISSIONER PORTERA: Okay.

MR. VENAMORE: To that point, if I could present to the Acting Chair, the signature sheets for five adjacent homeowners, one to the south, two on the west side of Chestnut, two on the north side of Euclid.

MRS. LEAHY: Three on the west side.

MR. LEAHY: Two west, one north, one east, one south.

COMMISSIONER DRAKE: For the neighbor that you said had an objection, what was the objection?

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MRS. LEAHY: You tell me if I'm wrong. She said that she didn't like the look of the dormer, that she didn't think that was consistent with the older homes. Is that it? I don't want to mis-quote you.

MS. MENZIES: Yes. Is it okay for me to answer?

COMMISSIONER PORTERA: We'll give her an opportunity to comment after.

COMMISSIONER DRAKE: Yes, I'd just like to hear their interpretation of what in fact you heard.

MRS. LEAHY: Yes, I asked if the height was an issue. She said she didn't have an issue with the height. She had a problem with the dormer, that in her opinion it didn't really match the aesthetic of older homes.

COMMISSIONER DRAKE: Okay, thank you.

COMMISSIONER O'CONNOR: The dormer, does it give you, how much more storage space does a dormer give you?

MR. VENAMORE: So, the width of the dormer is 20 feet. So, we offset to the structure itself, from end to end is 27 feet, the dormer is inset 3.5 feet on both sides, so it's down to 20 feet. So, 20 feet on both sides.

COMMISSIONER O'CONNOR: And by having a dormer, it opens up more storage space than you had.

MRS. LEAHY: Right.

MR. VENAMORE: Of course, yes.

COMMISSIONER O'CONNOR: So, it's going to double or drive the size of your storage up.

MR. VENAMORE: Correct, yes.

COMMISSIONER O'CONNOR: And your basement, it's not finished today, is it?

MRS. LEAHY: No, it's unfinished. It's very old, it's original, a lot of it, to the house. So, it's three different sections that the ceilings are, what, six feet, six-two?

MR. LEAHY: At its lowest, between six and seven, but six at its lowest. So, it's not super usable in its current state.

MRS. LEAHY: We would like to make it usable for our kids, but that's where all our storage currently is. So, like, you know, I don't know, four kids, a lot of, and they're little, so I'm like that might become bigger stuff down the line.

COMMISSIONER O'CONNOR: Understood, okay.

COMMISSIONER LANAGHAN: And the 18-foot is at the peak, it's not at the mid-point?

MR. VENAMORE: That is correct, yes.

MS. GANDURSKI: We have an opportunity for an Objector, Vivian Menzies, to step up to the podium. Should you want to present your objection under oath, we're going to swear you in. Please state your name and spell your last name for the record.

MS. MENZIES: Vivian Menzies, M-e-n-z-i-e-s, and I'm at 212 West Fremont.

(Witness sworn.)

MS. MENZIES: Okay, I'm not strongly opposed to this. I have a couple of concerns. As far as the 30-foot wide driveway, I think it's fine. It makes sense to me to go

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around those trees, and we all have parking issues in this neighborhood so I think that's a smart thing to do. I think it will look attractive as well.

It's the height variation, it's not the height so much, it's the mass with the shed dormers. Their house has gable dormers, so I just feel like the shed dormers are not the right thing to blend with the style of the house, but more so just that it makes it look like a big box with those shed dormers.

My other concern is that I know that the Leahys want to use it for storage, but if the house is sold with that much window space, it's a perfect room for somebody to finish off and make living space. That's just, I have some concern about that.

So, I'd just like the Board, the Commissioners to consider, you know, if this is the best design for it. I think the 18-foot does not bother me at all. I think it makes it blend well with the house. If the dormers were either made a little bit smaller or made of a gable type dormer, I think it would look fine.

ACTING CHAIRPERSON JAFFE: Thank you, Ms. Menzies. We did have somebody indicate general public comment, Andrew Venamore.

MS. GANDURSKI: You can, Mr. Venamore, you can step back up to respond to her. You can respond to what was just said.

MS. MENZIES: Oh, okay.

MS. GANDURSKI: And you're still under oath.

MS. MENZIES: Okay.

MR. VENAMORE: I think as we've mentioned it originally, the design here was driven by a lack of space on the house. The farm style nature of what we're trying to achieve, the house is, as the Objector mentioned, Ms. Menzies mentioned, the house is basically intersecting the gables. As we've looked at the design for how we're intending to lay this out and endeavor to get as much space up on the second floor, there was a driver to create something that was similar but didn't follow that exact gable style. It's really hard to, in a way, that 18 feet in order to get something that was reasonably practical and do perhaps an intersecting gable as what has been suggested, it essentially sort of squashed the design and made it relatively impractical to, you know, to actually have storage on both sides.

We had initially talked about sort of, you know, maybe limiting the dormers from one side to the other, but when you looked at it from the front which is the principal spot that it will be visible from, you know, as people cross up and down Chestnut, it felt, we actually, we had a drawing of it actually. It felt off, really off balance. So, we ended up deciding to keep that shed dormer along that side just because it felt, on both sides because it felt more in concert with the house because the gable ends that were, you know, on to the sides just didn't have a very good aesthetic to it from our perspective at least.

MS. GANDURSKI: Do you have a response?

MR. LEAHY: No, the only other thing I would say is I was under the impression that it was not possible to finish off without coming back before this Board at a separate later time. So, we have no intent, but I understood the law already accounted for that, so it wasn't really on our minds.

COMMISSIONER LANAGHAN: If I heard correctly, previously you said it's pull-down stair to access this?

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MRS. LEAHY: Yes, it's not like stairs because --

COMMISSIONER LANAGHAN: So, adding a stair in the future would be difficult and would require a building permit, to your point.

MR. LEAHY: Yes.

MRS. LEAHY: And just to speak to like Vivian's point, too, I understand what she's saying about the gables, we thought about that. That was in a picture I sent to Andrew. But it didn't allow for a lot of storage. It was pretty, but our point, again, was to try to get storage.

I'm also a little bit nervous that that's a little bit of a slippery slope, if someone just doesn't like your choice. There's as if the rules may be, I don't know.

ACTING CHAIRPERSON JAFFE: Any other questions from our Board?

(No response.)

ACTING CHAIRPERSON JAFFE: Do either the Applicant or the Objector wish to make a closing statement?

MR. VENAMORE: No, thank you.

MR. LEAHY: No, thank you.

MS. MENZIES: You know, I will say something. I'll be fine whatever your decision is and, you know, I want to have a good neighbor relationship, so the most important thing is that that's okay. So, just keep that in mind. I don't want to have any hardship in the neighborhood with our neighbors.

ACTING CHAIRPERSON JAFFE: Thank you.

MS. GANDURSKI: Mr. Chair, I don't believe anyone else has signed up for public comment. I have Kelly Leahy, John Leahy and Andrew Venamore who are the only signatories on the sign-in sheet.

ACTING CHAIRPERSON JAFFE: So, at this point, we need the Board to make a motion to close this section of the public hearing.

COMMISSIONER LANAGHAN: I move to close the public hearing. Do I need a case number or just are we good with that? I move to close the public hearing.

COMMISSIONER PORTERA: Second.

ACTING CHAIRPERSON JAFFE: Thank you.

MS. GANDURSKI: Roll call.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chairman Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Okay, so now we're in the Board deliberation phase. So, would anybody want to take lead to talk about the variances?

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COMMISSIONER PORTERA: For the variance on the height, correct me if I'm wrong, Derek, but the variance is for the height only, the dormers and the design are not in our jurisdiction, so our jurisdiction is only on the height variance sought?

MR. MACH: That is correct. The variance is for the height of the accessory structure. Design Commission typically doesn't review accessory structures, so it's strictly for the height.

COMMISSIONER PORTERA: I'm in favor of both of these variances as presented. I think they've made a good case. Euclid Avenue is very busy, so the driveway is a very reasonable ask. With the trees as well, it's great to see that we're leaving the trees alone. As far as the garage goes, again, I'm in favor of this variance, only looking at the height variance. I don't think it's in our jurisdiction to rule on the dormers or allowing them, but I'm in favor of the height variance as presented.

COMMISSIONER O'CONNOR: Yes, I would say, similar to you, I'd say I'm in favor of the height variance and the driveway variance. I also, when you look at the dormer in terms of buying the property and looking at the pictures, the dormers would be hidden fairly well by the trees that is from the front, and I get the need for storage especially with a large family in an old house. So, I know it's not our jurisdiction, but I felt it was a reasonable ask as well.

COMMISSIONER SELBKA: I think that a key distinction here is that the variances, the requested variances are in accordance with the character of the neighborhood. So, the height, the other requirements of, I think there's no real dispute, for the variances, they're in accordance with the character of the neighborhood. So, regardless of whether the dormers are aesthetically not in accordance with the neighborhood, that's really not within our purview. The variances are in accordance with the character of the neighborhood and that's why I would be in favor of this.

COMMISSIONER LANAGHAN: Yes, I have nothing really to add. I think you guys have covered it correctly and sufficiently.

COMMISSIONER DRAKE: I'm in favor as well. I'll just add that there are five neighbors who had given the thumbs up to the project. Kudos to you for being a good neighbor. You can move in my neighborhood at any time. I'm in favor of it.

ACTING CHAIRPERSON JAFFE: Is there a motion? I'm sorry, is there a motion to approve as it speaks to the variances?

COMMISSIONER PORTERA: I move to approve both variances as presented.

COMMISSIONER O'CONNOR: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

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MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Congratulations, your variances have been approved. You're welcome to stay, but you're free to leave.

MR. LEAHY: Thank you.

MR. VENAMORE: Thanks very much for your time, folks. Appreciate it.
(Whereupon, the public hearing on the above-mentioned petition was adjourned at 7:27 p.m.)

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ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING BEFORE THE VILLAGE OF ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

OF APPEALS

RE: 302 SOUTH PATTON AVENUE - ZBA #23-045 PUBLIC HEARING

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 8th day of January, 2024 at the hour of
7:27 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA
MICHAEL O'CONNOR
FRANK PORTERA

ALSO PRESENT:

DEREK MACH, Development Planner
KELLEY A. GANDURSKI, Attorney for the Board
NANCI JULIUS, Village Engineer
GREG SMITH, Village Attorney
STEVE HAUTZINGER, Design Planner

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ACTING CHAIRPERSON JAFFE: All right, we're going to take a moment just to swear in Village Staff members who are present, starting with?

MS. JULIUS: Nanci Julius, last name is J-u-l-i-u-s.

ACTING CHAIRPERSON JAFFE: And you're with?

MS. JULIUS: With the Engineering Division.

(Witness sworn.)

MR. HAUTZINGER: Steve Hautzinger, H-a-u-t-z-i-n-g-e-r, with the Planning Department.

(Witness sworn.)

MR. SMITH: I'm Greg Smith with the Village Attorney's office.

(Witness sworn.)

MR. MACH: Derek M-a-c-h, I'm with the Planning Department.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

Okay, is there a motion to open up Agenda Item B, which is 302 South Patton Avenue, Zoning Board of Appeals Case No. 23-045 public hearing.

COMMISSIONER LANAGHAN: I move to open the public hearing for the stated case.

COMMISSIONER O'CONNOR: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Is the Applicant for 302 South Patton Avenue present? Please come on up. Could all three of you state and spell your names, and then we'll swear all three of you in?

MR. KRITIKOS: Good evening. Mike Kritikos, K-r-i-t-i-k-o-s.

MRS. KRITIKOS: I'm Laura Kritikos, K-r-i-t-i-k-o-s.

MR. FLUBACKER: Bob Flubacker, F-l-u-b-a-c-k-e-r.

(Witnesses sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. GANDURSKI: Let the record reflect that the Applicant and witnesses have been sworn.

MR. KRITIKOS: Good evening. Thank you all for the time and the opportunity to speak to you today. As I said, my name is Mike, this is my wife Laura. We moved in to 302 South Patton in June of 2016. At the time, our first daughter was about

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eight months old, and then, since then we have had a second daughter so I'm a girl dad, and she's four. Mila goes to Westgate, she's a second grader.

The reason why we are here tonight is because, you know, we originally bought this house thinking it will be our starter home. It's a three-bedroom, one-bathroom ranch. If you are a father of daughters, I think you might find out that one bathroom definitely isn't in my favor, but realistically though, we fell in love with the block and our neighbors, our walk to the school, our proximity to downtown. Everything that we have planned in this house is not just for the next three to five but more like 30 to 50.

Our goal is to age in the house. We don't want to leave the house. That is why we're asking for a little extra space to build a two-car garage so that one day when the girls are old enough to drive, that they have a place to park in the driveway or in the garage itself.

We are also asking for a front porch. On our block, we have a lot of families with kids under the age of eight, and being towards the middle of the block, families tend to congregate on our driveway. So, we would love to have that patio to help promote more community. We do block parties on the block, we do mixers on the block, and we want to continue to promote that community amongst Patton Avenue.

That's really why we're here tonight is to give us that opportunity to go and live in the house.

MRS. KRITIKOS: Our Architect, Bob Flubacker, is going to give you all the presentation.

MR. FLUBACKER: Good evening. What we are presenting is a second floor addition, first floor expansion to an existing house. The two variations we're requesting, one is for the expansion of the existing one-car attached garage to a substandard two-car garage. It's wide enough to park two cars but it's not within the width of a two-car garage with the Village, but that garage addition is going to the three-foot setback line.

There's a very interesting historical aspect to this request. The house was built in 1958. At that time, the Zoning Ordinance for the Village of Arlington Heights was the 1927 Zoning Ordinance. That ordinance classified residential property in the Village in two different classes; Residential A and Residential B. Residential B was very specifically spelled out by which blocks it was, from center line of this street to center line of that street and so on. Residential A was all the other properties in town.

This particular subdivision did not exist in Arlington Heights in 1927, so they subdivided and annexed it in the 50's. The Zoning Ordinance was not updated until 1960. In the 1927 Zoning Ordinance, the side setbacks on Residential A, which this would be, was three feet. In 1960, they adopted the first kind of formal Zoning Ordinance in the community. That setback was changed to 10 percent of the lot width, but also the lot width minimum was increased to 70 feet. So, typically, any of the subdivisions that have lots of 50, 60 or 66 feet were subdivided prior to that 1960 Zoning Ordinance.

There must have been a lot of contention that happened because in 1965 they amended the Zoning Ordinance and added an exception that any house that was permitted prior to December of 1959 could expand the garage to a three-foot setback line. That exception in the code stayed in the code until 2002 and then was taken out. I'm unaware of any of the circumstances as to why that exception was taken out, but the

character of the neighborhood obviously was constructed with that assumption, and there are a number of houses on the block where the setbacks are anywhere from three-foot to five-foot off their particular lot lines.

This is not an area of detached garages. So, if you look at the aerial, virtually all of the homes with maybe one or two exceptions on the block have attached garages. So, the option of doing a detached garage in the rear of the property would be inconsistent with the development of the neighborhood as well as, in my opinion, more of a nuisance to the neighbor than the attached two-car garage would be.

We have designed the project to try to fit in as much as we can into the neighborhood of predominantly ranch and split-level homes. We have followed a lot of the particulars that are spelled out in the Village of Arlington design guidelines of how to fit houses into existing neighborhoods, using a lot of roof lines that start at the first floor and go up. We intentionally broke up the facade into smaller pieces, so they'd be more in proportion of the various structures that are in the neighborhood.

There is a unique circumstance on this particular lot, and that is the distance between the lot line and the neighbor to the north. Currently, that house is roughly 10-foot off of the common lot line. So, when the garage is constructed to a three-foot setback, the distance between the two structures will be 13 feet which is roughly equivalent of what could be expected in a modern day subdivision with a 66-foot wide lot using a 10-foot setback on each property would be two 6.6 setbacks or 13.2 so that the distance between the two houses will be roughly the same as what the Zoning Ordinance on a current construction would be.

So, in going through the four points that we need to present to you, the essential character of the neighborhood, in my opinion, is the code standards that the subdivision was developed under. In that particular case, the setbacks were either three-foot or, there was actually a building code that was adopted in 1947 that allowed a five-foot setback to habitable spaces but allowed garages to be less than that. So, again, this is in character with what the codes were at the time that the structure was built. Obviously, we're a single-family. We are not asking for a height variation. The code all the way back to 1927 allowed a two-and-a-half-story structure to be built in this zoning district.

The plight of the owner being of unique circumstances, I think we've kind of talked about that particular lot. The opportunity that this particular house location has to be able to expand the garage to that three-foot and realize that usable two-car garage is an unusual circumstance.

The variation being in harmony and intent of the chapter, I think part of that is the testimony I've gone through with the Zoning Ordinance and the development of the Zoning Ordinance. Clearly, what I'm asking for was allowed under the original Zoning Ordinance and the Zoning Ordinance all the way up to 2002. So, I think that it's definitely within the intent of the Zoning Ordinance as it's been developed that this project would fit. One of the intents of the Zoning Ordinance I think is to maintain the standards that a particular community would have. I think following these various steps in the Zoning Ordinance, we are maintaining that spirit of the Zoning Ordinance.

Then, that this is a reasonable, or the minimum variation we need for reasonable use of the property, as you can imagine, the project we're proposing is a significant investment in this house. It is impractical, it doesn't support doing that much

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work to the house to have a one-car attached garage to the house. So, to be able to get a two-car garage as part of the project is critical. Quite honestly, if that can't happen, I think my owners' only choice is to move and try to find another location that they can provide that.

So, with that, I'll be happy to answer any questions you may have.

COMMISSIONER LANAGHAN: I have a few for you, Bob.

MR. FLUBACKER: Sure.

COMMISSIONER LANAGHAN: First of all, can you, you spent a fair amount of time talking about the garage. Can you talk about the porch and some of the thoughts --

MR. FLUBACKER: Oh, yes, sorry. Again, as I've mentioned, they would like to spend a lot of time out in the front porch. The Zoning Ordinance allows a, I believe it's five by 10, is that it, the portico basically addition to the front. It's a little too small in proportion to the facade of the house, and also for the uses they'd like to have, sitting out there and kind of enjoying the block.

So, we proposed a larger front porch. We had studied porches that went the entire facade of the house and have actually scaled it back to the front portico and the section adjacent to it.

COMMISSIONER LANAGHAN: Okay, the owners have already addressed some of my standard questions, so thank you for that. You did a nice presentation.

Have you seen the comments back from Life Safety regarding the eave setback where the eave projects, it's not allowed to be on the two-foot mark?

MR. FLUBACKER: Absolutely.

COMMISSIONER LANAGHAN: Which I think you're proposing --

MR. FLUBACKER: That's standard building code language, so obviously any construction at a less than five-foot setback, we need to provide fire protection construction on those elements, and we will obviously follow the building code.

COMMISSIONER LANAGHAN: Got you. I have to admit, I think the design is a nice design. I think in general it looks, you know, you've done a lot to pull this together. I do have some heartburn over, you know, a larger than 50 percent reduction in the side yard setback. You've made a nice case as to why historically that's there. Again, the code changed 20 some odd years ago, so I'm not sure I'm completely buying on that one, but those are my questions. I'd love to hear anybody else on the Board.

ACTING CHAIRPERSON JAFFE: Okay, if there aren't any other questions from the Board, we don't have any Objectors. We do have several -- I'm sorry? Are you an Objector?

MR. DOUHALOV: Yes, I am.

ACTING CHAIRPERSON JAFFE: Did you sign in on the sheets?

MR. DOUHALOV: Yes, I did.

MS. GANDURSKI: He must have signed up online.

ACTING CHAIRPERSON JAFFE: Okay, he signed up online.

Okay, so sir, you can come up as an Objector and then we'll get to the public comments. Can you state and spell your name please?

MR. DOUHALOV: My name is Hristo Douhalov. My last name is spelled D-o-u-h-a-l-o-v. I am the owner of the adjacent property to the north of 302 South Patton.

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ACTING CHAIRPERSON JAFFE: Sir, I just need to swear you in as well.

MR. DOUHALOV: Yes, sir.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you. Please.

MR. DOUHALOV: So, good evening, everyone. I basically sent an e-mail with an attachment, with a letter of objection to this addition. The part that I'm most opposed to is where 302 South Patton would encroach towards my house which would be on the north side. The current building code is for a six-foot-six side set back. This is today, this is not 25 years ago. Although the history of all this is very interesting, it is not applicable, and I would say, as actually a former architect, the reason for this, you know, and the updated codes is actually fire separation. I don't think I am saying anything that you guys do not already know.

If we have to go historically, it's good enough to go back to the Great Chicago Fire, and the reason why, you know, it was so devastating, because there was basically no fire separation between buildings. With that said, I have some copies here of the letter that I have already composed.

MS. GANDURSKI: Sir, please give a copy of that to Counsel, and to the Applicant.

MR. DOUHALOV: So, with all of that said, I mean, my formal objection is actually just stated within the letter, but as I said, six-foot-six is, what, is mandated by the current building code. If this variance were to be granted, this would move the existing garage wall within three feet of the property line. So, in addition to this addition becoming, you know, making basically the physical size of the house more than twice its current height, if you go back to, I believe in the set of the drawings, there is an elevation of the house as it currently exists, and then if you would compare this to the newly proposed addition, you will see that the elevation of the house more than doubles.

This is what it looks like currently. If you will kindly go back to the newly proposed addition, you'll be able to actually discern the difference. This is located to the south of my property, and my living quarters being the bedrooms and also the den actually look towards 302 South Patton which would basically mean that effectively when I look through my windows, I am faced with the southern wall which would not only be taller, but it would move significantly closer to my property. Taller houses also have a larger radius of fire debris, so once fire breaks out, and I'm not saying it will but potentially it would, a taller house would have a much larger radius of fire debris and potentially become a much bigger fire hazard than the original house as it is currently.

Added to this is the fact that if you reference the picture which shows a side view of the property from the street, you will see that if you look at the front, the garbage cans to that property are kept on the north side which basically faces my house. My house is the one on the right. So, these garbage cans are also, you know, they are first of all a fire hazard, second of all they are a source of unsanitary conditions and of noise. Moving the garage closer to my bedroom windows would generate additional noise, additional commotion.

Turning a one-car garage into a two-car garage makes again, you know, takes that fire risk and makes it bigger. The additional, the second floor is actually by all residential standards usually a wood frame construction. A wood frame construction

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by architectural standards is deemed combustible and it does not have any fire resistance because there are no fire sprinklers which is not typical for residential construction.

So, you know, if this variance were to be granted, you know, moving the wall of the garage within three feet of the property line, when you add the garbage cans and the eave, because actually going the face of the garbage cans will be sitting on the property line right underneath my bedroom windows. Before, you know, anyone considers the possibility of moving these garbage cans toward an alternate location such as the other side of the house, first of all, there is no walkway under the eave on that side of the house, and the driveway is obviously on the north side. So, when you go out usually in the morning, you throw out the garbage and you go to work. You will not go in the opposite direction, it will not be convenient.

I think it is pretty obvious to me whether this proposed addition is in character with the rest of the neighborhood, being predominantly ranch houses and split levels. There are a couple of houses that actually do have separate second-story levels which are further along to the south, you know, at the end of the block on the opposite side. But none of the houses on our block or in the vicinity of our block have such a tall and gable roof as is shown on the new drawings.

So, with all of that being said, that basically concludes the nature of my objections, you know, fire hazard and sanitary conditions being my predominant concerns for this objection.

ACTING CHAIRPERSON JAFFE: Thank you.

The Applicant, if they so choose, can respond to those comments.

MR. FLUBACKER: So, I think I heard three or four objections there. The dominant, of the fire separation, again, as I mentioned earlier in the presentation, the distance between the two structures is the distance roughly that the current code would require between two new constructed residences of 6.6 feet, side setback at each lot. So, I think the impact that fire would have is minimal.

In addition to the standard situation, because we have construction that's within five feet of the setback, we will have to provide fire protective construction on those elements that are below five feet. So, we are actually building a greater, an enhanced fire protection on that side of the structure because of that, which diminishes the risk for an adjacent neighbor.

As far as the garbage cans, one of the benefits of having the large garage is we can now keep the garbage cans inside the garage, so they will no longer be on the outside of the house.

Perhaps one of the points that didn't come through in what I was talking about before is this is an existing nonconforming lot size. In the R-3 Zoning District today, the minimum lot size is 70 feet. So, this is smaller than the lot that would be required under the current zoning, so I think there's a mitigating circumstance there to reduce what the setback is due to that circumstance, in addition to all of the history of the zoning that I've presented to you.

Also, there is a number of precedents for granting this variation through this Board, a number of which I've been the petitioner on. So, this is not an unusual request that's gone through, and I think the circumstances of this particular situation are better than a number of the other cases that we've had that the variation has

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been granted.

I think the argument of whether or not a two-story house is appropriate in the neighborhood, I think it's an argument that's been had. In 2008, there was a lot of consternation in the Village relative to tearing down a new construction in the Village. The Zoning Ordinance was reviewed and the applicability of various things such as height and bulk and those kind of zoning requirements were reviewed, and some changes were made; in particular, the FAR was reduced. We are well below what the FAR requirement is on the house. Lot coverage, all of the other zoning requirements were substantially under what the limits are, and we are not, again, we're not asking for a height variation.

I believe it's an undue burden on the homeowner to limit them or to not provide them an opportunity to add a second floor on their house. The zoning allows it. Historically, the area was developed for less expensive homes. Arlington Heights has obviously changed over generations and the demands on the property, the value of the property has increased to the point where it can support the type of construction that we're proposing.

With that, I guess I'll ask if there's any questions. If not, I'll shut up and sit down.

MR. KRITIKOS: Well, I think, can I say something?

COMMISSIONER LANAGHAN: Sure, go ahead.

MR. KRITIKOS: Before we really got into the weeds of the project, Chris and I did have a conversation on the corner spot right there, and casually we talked about like, hey, you know, would you be opposed if we built up to this current sidewalk that's already there. At the time, we didn't have plans or anything, it was more conceptual, and he gave me, you know, I don't care as long as you don't go past the sidewalk. In this variation ask, it's six more inches.

Had I known at that time that this would have been a big objection, I would have saved the time and the money. Since 2021, we have been looking for a home. We've gone to 20 open houses, put offers on houses, only to get outbid. Going places with, seeing people there with their parents prepared to provide cash offers, it kind of sucked.

So, you know, we explored a lot of other options and, you know, unfortunately or fortunately, Arlington Heights is a desirable place for all the reasons we talked about the schools, the park districts, the neighbors. It sucks to think that if we can't get 3.5 more feet, we're back to where we started and we have to leave.

We're willing to spend and invest in as much fire protection as possible, right. The garbage cans, I'll throw them in the back. I'll put them inside the kitchen, but we just hope that you guys can see a future that we see for our block with the enhancements of the house hopefully inspiring neighbors to improve their homes, increase property values for the block as well, and again, continue to promote the community for which why the families on that block all move in.

COMMISSIONER LANAGHAN: Let me ask one more question, if I could. I should have asked this earlier.

MR. KRITIKOS: Sure.

COMMISSIONER LANAGHAN: Have you talked to the rest of the

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neighbors?

MR. KRITIKOS: We have. We have five --

COMMISSIONER LANAGHAN: What kind of feedback did you get?

MR. KRITIKOS: We have five neighbors here, all of them support it. You know, we've spoken to the neighbor behind us, texted him, he's got no concerns with that. You know, we have our next-door neighbor to the south who doesn't have any concerns with the house.

MRS. KRITIKOS: Our neighbor right across the street from us who's going to be looking at our house every single day is here in support of this project as well. So, we've spoken to a lot of different people on our block and obviously none of them want us to leave which is why we're doing this and why they're coming to support us.

MR. KRITIKOS: Yes.

ACTING CHAIRPERSON JAFFE: I'm sorry if I missed this earlier, how long have you lived in the Village?

MR. KRITIKOS: Since June of 2016.

MRS. KRITIKOS: So, almost eight years.

ACTING CHAIRPERSON JAFFE: Okay, thank you.

Does the Objector wish to make a closing statement?

MR. DOUHALOV: Yes, please.

ACTING CHAIRPERSON JAFFE: Please. Please be brief.

MR. DOUHALOV: Yes.

ACTING CHAIRPERSON JAFFE: Thank you.

MR. DOUHALOV: Just a couple of things. Mr. Flubacker has said that fire safety in the first floor has definitely been taken care of. My concern is not so much the first floor as it is the second floor which is like I say again, a wood frame construction which is combustible. That's, when Mike mentioned that we had spoken about this issue, yes, we have, you know, and this is all, everything is as he said up until the point that he showed me the plans and I saw, you know, the requested variance.

I understand the difficulty of their situation. I most certainly do, and I have no objection if he wanted to expand further into his backyard. I don't have a problem with this, but the building code and the Zoning Ordinance are there for a reason and, yes, the lot may be smaller than other lots, but should this be remedied at the expense of the other adjacent lots?

That's all I wish to say. Thank you for your consideration.

ACTING CHAIRPERSON JAFFE: Thank you. So, we have a number of people who have indicated they want to issue a general public comment. I'll call them forward, but I am going to institute a three-minute time rule on comments. So, if you do want to speak, just please be concise and direct with your comments.

Bob Holland for 302 South Patton. Are you present? You wish to speak?

MR. HOLLAND: Yes. Bob Holland, H-o-l-l-a-n-d, 511 West Wing Street, Arlington Heights. I'll be brief.

I'm here as two capacities. One is attorney for the owners, I'm going to skip that. I also live in the neighborhood, the Westgate community.

I walk down Patton Street everyday when it's nice out. I have an

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eight and a six-year-old, I walk them to school. Everything that the owners have mentioned as far as that block, the community, sitting on the front porch and active, it's the definite truth. It's one of the best parts about the area.

You walk to and from the schools. You're out playing with the kids, the neighbors are socializing, all of that. It's a big piece of this, for what that's worth. I wanted to get that in the record. I'll be brief, thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

Gracjan Kolodziej for public comments today? Could you just get to the microphone? We just need to capture it on the record. Thank you. Was I even close to your name?

MR. KOLODZIEJ: Yes, Gracjan is fine. No comments today. I just wanted to kind of get familiar with the ideas and concerns since I live on the block, as far as what the, like limitations and objections might be, because I'm all for growing communities and raising families. That's what I'm doing myself on the same block. So, just supporting this idea.

ACTING CHAIRPERSON JAFFE: Thank you very much.

Cathy Lauria, 308 South Patton.

MS. LAURIA: Good evening, everyone. I just wanted to provide some comments that I am in full support of the proposed variance to our next-door neighbor's property. We are to the south of them.

We've been in this home for 34 years. We raised four children in that home. It was a three-bedroom and we ended up having four children, so we were able to expand the kitchen a little bit. Fortunately, we had a sub-basement which was a fourth level. So, that little bit of room had allowed us to raise our family, now entertain our grandchildren and our children when they're in town to see us.

We would like to stay there long-term like Mike and Laura had mentioned as well. I don't want to move from the area. We have great neighbors, great schools, great park districts, great village, which we're always willing to support. We're really hoping that we can see them get their house to come to fruition with the improvements.

I will say my daughter and a number of her friends have all moved back to the community, excuse me, and have homes in the surrounding areas. Now, I am happy to say my grandchild, my granddaughter is also going to Westgate which is where my daughter and my other children went. It is a lovely community. I believe that people should have the option to improve the appearance of their house and the functionality. If it's a well-planned improvement, I really hope that it does get approved. So, thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

Mike Irmen, 302 South Patton. Come on up.

MR. IRMEN: My name is Mike Irmen, I live at 145 South Patton, so I'm just up the street.

I am born and raised in Arlington Heights. I've been here since the 80's. I have generations that go way back here as well, but I fully support the plan that's there, again, supporting the community.

My son and my daughter, they walk past the house everyday going down to Westgate. So, you know, I think I understand the objections that are there, but I

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think the gentleman, the architect, you know, represented them correctly on just what the mitigations are from that perspective.

So, I support the allowance that's there to expand the house. So, I think it's good for the property, it fits the values of the neighborhood and would be good from that perspective. So, thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

Finally, Bozena Fiedor?

MS. FIEDOR: That's me.

ACTING CHAIRPERSON JAFFE: Hi.

MS. FIEDOR: Hi. I live directly across the street from them, so I'm at 301 South Patton. I have no objections. I'm fully in support for what they're doing. I don't want them to move. I enjoy having them as my neighbors.

Two things I want to point out. I'm directly like on east of them, and right next to me, if I wanted to expand my garage, I wouldn't be able to because we have very tight lines between my neighbors on both sides. They actually have the ability to be able to move, like expand out. If you look on the Google aerial maps, you'll see the lines are a little bit different. So, they're able to go out, I wouldn't be able to do that. Also, both of their neighbors are two levels. So, to me, for them to build up, it would just be consistent with both of their neighbors.

So, I'm in favor for what they're doing, and if you just take a look on their block and go, you'll see with your own eyes just what they're trying to do. So, thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

There is not anybody else listed for public comment, but before I shut it down, is there anybody else in the audience who wishes to comment on this?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, do I have a motion from the Board to close this public hearing down?

COMMISSIONER LANAGHAN: I move to close the public hearing.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER DRAKE: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Does someone want to take the lead in the deliberations?

COMMISSIONER LANAGHAN: I'd love to, Ben, thanks.

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Let me get the eaves one out of the way. I think that the porch ties in nicely with the house. I think it's a nice addition and having heard absolutely nothing on the porch, I think that's an easy one and one I could fully support.

The side yard variance, as I mentioned earlier, I have a little bit of issue with, giving up 50 percent. Mr. Flubacker did a nice job of giving us the historical reason for where he went. I understand where the neighbor is at with the fire hazard potential. I do think that Engineering and Building Department, you know, would be watching that and they have actually stated that that whole side of the house, not just the first floor, but the second floor and anything on that fire line would need to be fire retardant.

COMMISSIONER DRAKE: The only thing I would have to add, all three of the departments that provide counsel to us have either signed off or no objections or the requirements would need to be met with the permitting process.

ACTING CHAIRPERSON JAFFE: I want to acknowledge the five neighbors who came out in support. I also want to acknowledge the neighbor to the north for providing his testimony on both of these variances.

So, with that being said, is there a motion to approve these variances?

COMMISSIONER LANAGHAN: I move to approve the variances as presented.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER DRAKE: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Congratulations, your variances have been approved. You're welcome to stay and you're free to leave.

MR. FLUBACKER: Thank you very much.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 8:07 p.m.)

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ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING BEFORE THE VILLAGE OF ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

OF APPEALS

RE: 523 SOUTH CHESTNUT AVENUE - ZBA #23-046 PUBLIC HEARING

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 8th day of January, 2024 at the hour of
8:07 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA
MICHAEL O'CONNOR
FRANK PORTERA

ALSO PRESENT:

DEREK MACH, Development Planner
KELLEY A. GANDURSKI, Attorney for the Board
NANCI JULIUS, Village Engineer
GREG SMITH, Village Attorney
STEVE HAUTZINGER, Design Planner

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ACTING CHAIRPERSON JAFFE: Before we go on to the next agenda item, we have two names on the opposition list, but I think they've listed their home address.

Ms. Devine and Ms. Soderholm?

MS. GANDURSKI: Which one are you objecting to?

MS. SODERHOLM: 720 North Dunton.

MS. DEVINE: Oh, I'm sorry. I'm Eileen Devine, but I'm --

ACTING CHAIRPERSON JAFFE: Okay, we got it from here.

MS. DEVINE: Thank you.

ACTING CHAIRPERSON JAFFE: Okay, is there a motion to open up Agenda Item C, 523 South Chestnut Avenue, Zoning Board of Appeals Case #23-046 public hearing?

COMMISSIONER DRAKE: I move that we conduct the hearing on 523 South Chestnut.

COMMISSIONER LANAGHAN: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Is the Applicant for 523 South Chestnut Avenue present?

MR. MCGUIRE: Yes, present. Hello, thanks for having, excuse me, thank you very much for having me. I appreciate the time.

ACTING CHAIRPERSON JAFFE: Name and spell it for the record please.

MR. MCGUIRE: Thomas McGuire, M-c-G-u-i-r-e.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MR. MCGUIRE: Thank you. I have some additional photos.

ACTING CHAIRPERSON JAFFE: They have to be kept into the record now.

MR. MCGUIRE: That's all right. So, I think my story is similar to Mr. Kritikos, if that's how it's pronounced. We moved into the area in 2018. My daughter goes to Westgate. We love the area like everybody else, and that's a story you obviously probably hear at every one of these meetings. We would prefer not to move.

There's only three of us. It's a small ranch. We had a thought, we know this will work, you watch Tiny Houses on HGTV and you think you can do it. My wife and I miss a master bedroom. We miss a little bit more entertaining space. You know, we don't need a lot, but we could use a little bit more space.

We have explored quite a bit over the years, honestly. We actually explored a second floor and it was fairly extravagant and probably more than we needed, and it didn't really fit with the character of the neighborhood. We explored doing something on the south side, but that's kind of behind the garage and the kitchen, and the kind of connection just wasn't really a great flow and we'd end up with kind of separated bedrooms which wouldn't be necessarily ideal.

So, we decided on trying to make something work on the north side of the property but there's a pretty, you know, spectacular tree. That's kind of the centerpiece of our block if you will. You'll see on the photos, in the fall it turns a beautiful orange, the neighbors all, you know, comment on it. It's a beautiful tree and it'd be kind of a sin to cut it down.

In trying to work around that, you know, and getting I think about 32-33 more inches on that variance so we'd just come off even with the existing property would allow us to kind of have usable rooms and yet nothing extravagant. But that space does make some difference in terms of how usable and how comfortable the rooms would feel.

In terms of the elements in the neighborhood, that's one we love about that block. I don't think you're familiar with that block, but there is a Knockdown on the corner, but other than that, that block probably looks very similar to what it looked like in 1960 or whenever that last house was built. The houses that have done additions, and a number of them have, they've all kept the facades the same. So, I think there's a lot of value in, you know, I saw that, I heard that from other people, I thought, you know, that would be a good thing for us to do, too. You know, keep the feel, it's a really cool-looking Mid Century modern ranch. I think changing it to go up would again affect the feel of the neighborhood and just, I think, you know, it's too nice of a house to try to make something work on the second floor.

The unique circumstance, I think, you know, you'll see the beauty of the tree. You know, to me, that's pretty unique, and Arlington Heights is a great town with lots of beautiful trees. I think we should value trees as much as possible.

In terms of the harmony of the neighborhood, again, not touching the facade. So, you drive down the block, it's going to look exactly as it always has looked.

In terms of the minimum requested, again, if we were to lose that extra space, the cost to the addition for the size of the rooms we end up with makes it somewhat of a question if we would, you know, proceed or not.

So, one thing I wanted to point out, too, in terms of the neighbors to the north, there's actually a hedge. The architect's photos don't show as well but that bottom left photo I passed out, and the way the addition is built, essentially it ends where their hedge ends. As that hedge matures, they'll get, you know, they put those in for privacy. They actually extended them after we moved in, so we're just kind of following along that hedge line, and where the hedge ends, the addition ends.

So, happy to answer any questions.

COMMISSIONER DRAKE: Yes, I have just a few questions. You mentioned three of you are in the home?

MR. MCGUIRE: Yes.

COMMISSIONER DRAKE: And how long have you lived there?

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MR. MCGUIRE: Moved in 2018.

COMMISSIONER DRAKE: 2018. What about talking to your neighbors?

MR. MCGUIRE: So, we've talked to all of them. We e-mailed everyone.

The neighbors to the north just had some concerns about drainage. The architect, actually the whole thing is designed to obviously help the tree and allow for drainage, so that was their primary concern is drainage. Then they thought we might put like a sidewalk to the north side where there's nothing, it's going to be landscaped, you know, some ground cover or something. So, those were their only two concerns.

We have a fair amount of support e-mailed to Derek from the neighbors. So, the neighbors to the north, we talked about it with them, answered their questions. North of them supported it. Neighbors behind us supported it, the neighbors to the south support it. Then a couple intermixed across the street and whatnot.

ACTING CHAIRPERSON JAFFE: Mr. McGuire, I think there were five correspondence that were all in support. The neighbor you just referenced that had comments about drainage, would you characterize that as neutral or were they --

MR. MCGUIRE: They're friends, yes.

ACTING CHAIRPERSON JAFFE: So, they didn't object.

MR. MCGUIRE: They did not object. Her mom is I think a real estate agent, so my assumption, I know them, they're my friends, that's not a question they probably came up with. My guess is their mom came up with that question. Again, the architect's, you know, that's probably his main concern is making sure there is drainage. In order to save the tree, we obviously need as much water to get to it, you know, as possible.

ACTING CHAIRPERSON JAFFE: Okay, thank you.

COMMISSIONER DRAKE: That's all I have.

ACTING CHAIRPERSON JAFFE: Any other questions from the Board?

COMMISSIONER LANAGHAN: I have one other real quick. So, it looks like your extension here, the expansion is in line with the existing house, is that correct?

MR. MCGUIRE: Yes, sir.

COMMISSIONER LANAGHAN: So, your existing house is basically nonconforming already?

MR. MCGUIRE: Yes, sir.

COMMISSIONER LANAGHAN: Got you, okay, thank you.

ACTING CHAIRPERSON JAFFE: Anything else?

(No response.)

ACTING CHAIRPERSON JAFFE: I do not believe there are any Objectors present; is that correct? I do not believe there is anybody who wishes to make general public comment on this petition; is that correct?

(No response.)

ACTING CHAIRPERSON JAFFE: Good.

COMMISSIONER LANAGHAN: I'd move to close the public hearing.

ACTING CHAIRPERSON JAFFE: Thank you.

COMMISSIONER O'CONNOR: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

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COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

COMMISSIONER DRAKE: I have a few comments. I think that they have met all the requirements that we have. There is no neighbor opposition, and it sounds like you did a good job communicating with everyone around you and that's important. It's existing nonconforming.

As far as comments from the three Staff departments, other than what would be procedural requirements as we approve the variance, there are no objections. So, I'm in favor of the petition.

COMMISSIONER LANAGHAN: No, I would agree. To keep it quick and kind of keep moving, I would agree with what you said there.

ACTING CHAIRPERSON JAFFE: Is there a motion to approve this variance?

COMMISSIONER O'CONNOR: Motion to approve.

COMMISSIONER LANAGHAN: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Congratulations, your variance is approved. You're welcome to stay but you're free to go.

MR. MCGUIRE: Thank you very much. Appreciate it.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 8:16 p.m.)

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ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING BEFORE THE VILLAGE OF ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

OF APPEALS

RE: 720 NORTH DUNTON AVENUE - ZBA #23-047 PUBLIC HEARING

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 8th day of January, 2024 at the hour of
8:16 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA
MICHAEL O'CONNOR
FRANK PORTERA

ALSO PRESENT:

DEREK MACH, Development Planner
KELLEY A. GANDURSKI, Attorney for the Board
NANCI JULIUS, Village Engineer
GREG SMITH, Village Attorney
STEVE HAUTZINGER, Design Planner

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ACTING CHAIRPERSON JAFFE: Is there a motion to open Public Hearing 720 North Dunton Avenue, Zoning Board of Appeals Case #23-047 public hearing?

COMMISSIONER SELBKA: Motion to open.

COMMISSIONER LANAGHAN: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

Is the Applicant present for 720 North Dunton?

MR. PINDERSKI: We are, sir. Mr. Chairman, I do have exhibits and everyone's name and address --

ACTING CHAIRPERSON JAFFE: Thank you.

MR. PINDERSKI: Mr. Chairman, what order would you like us sworn in?

ACTING CHAIRPERSON JAFFE: It doesn't matter. We can just go, usually --

MR. PINDERSKI: Very good. Jerome W. Pinderski, Jr., Counsel for Mastercraft Builders & Carpenter, Inc.

ACTING CHAIRPERSON JAFFE: Can you spell out your name?

MR. PINDERSKI: Sure. P-i-n-d-e-r-s-k-i.

ACTING CHAIRPERSON JAFFE: Thank you.

MR. ANDERSON: Mike Anderson from Haeger Engineering, Civil Engineer, A-n-d-e-r-s-o-n.

ACTING CHAIRPERSON JAFFE: Thank you.

MR. LANDUYT: Mike Landuyt, L-a-n-d-u-y-t, I'm the future homeowner.

ACTING CHAIRPERSON JAFFE: Thank you. I'm sorry, we have another person, okay.

MR. PINDERSKI: We have two more actually.

MR. NELSON: John Nelson, N-e-l-s-o-n.

MR. PINDERSKI: Barbara?

MS. MURRY: Barbara Murry, Murry & Moody Land Surveyors.

ACTING CHAIRPERSON JAFFE: Can you repeat it? Because we just had the sirens go off, I want to make sure -- Barbara, can you repeat your name and spell your last name?

MS. MURRY: I'm sorry. Barbara Murry, Murry & Moody Land Surveyors.

ACTING CHAIRPERSON JAFFE: And spell your last name?

MS. MURRY: Murry, M-u-r-r-y.

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ACTING CHAIRPERSON JAFFE: Thank you.

(Witnesses sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. GANDURSKI: Let the record reflect the Applicant and witnesses have been sworn. I do believe Staff has a comment on this.

MR. HAUTZINGER: Oh, yes, I do want to provide a quick background summary.

Derek, could you go to Exhibit 1 of Staff's supplementary exhibits?

My name is Steve Hautzinger with the Planning Department. I'm here tonight, because of the complexity of this particular case. I'm here to provide some background summary and answer any questions that might come up. I was involved with the project when it went through the Design Commission process. I did the zoning review and reviewed the building permit. That's why I'm here tonight, to just help out, you know, clarify and give the background.

So, first of all, this request did originate with, there were two requests. The first was an appeal of Staff's interpretation and application of the building code in terms of how to measure the building height. The Petitioner earlier today did submit a grading, a formal withdrawal of that portion of tonight's case.

MS. GANDURSKI: Mr. Pinderski, can we confirm that for the record?

MR. PINDERSKI: Sure, we can, yes. We have agreed to withdraw without prejudice the actual appeal. So, tonight we will be concentrating only on the request for a height variance, which hopefully will expedite the proceeding.

COMMISSIONER SELBKA: So, there is no interpretation --

MR. PINDERSKI: No, we are, for purposes of tonight's hearing, we are going to accept their interpretation of their methodology and of the resulting height measure.

COMMISSIONER SELBKA: Okay.

MR. HAUTZINGER: So, as he said, we're going to be focusing on the request for a height variation. It's a 3.2-foot variation from Chapter 28, Section 5.1-3.6, to allow a single-family home with a mid-point roof height of 28.2 feet where 25 feet is the maximum permitted.

If you could refer to Exhibit 1 up on the screen, the design for this home was approved by the Design Commission on April 11th, 2023. The elevation on the screen is a copy of the elevation that was reviewed and approved by the Design Commission at that time. The drawings that were presented to Design Commission showed a house that was on a flat level site with a straight grade line across the front of the house. The dimensioned building height on the architectural drawings was 24 feet and 8.5 inches measured from grade to the mid-point of the roof, which complied with code.

Derek, if you could flip to the next slide, Exhibit 2?

So, Exhibit 2, this is a copy from the approved building permit drawing. When this was submitted for building permit review, this drawing matched exactly the plan or the elevation that was approved Design Commission, again, with the dimensioned building height of 24 feet 8.5 inches.

Then during construction, neighbors observed --

ACTING CHAIRPERSON JAFFE: I'm sorry, Steve, when was that

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approved? Do you have a date?

MR. HAUTZINGER: No, I actually do not.

COMMISSIONER SELBKA: Counsel, I have a clarifying question. Can we ask questions of Village Staff at any time or are we waiting until --

MS. GANDURSKI: Yes, you can ask at any time.

COMMISSIONER SELBKA: Okay, thank you.

MR. HAUTZINGER: Okay, proceed?

ACTING CHAIRPERSON JAFFE: Yes.

MR. HAUTZINGER: All right, so during construction, neighbors observed that the house under construction appeared to be taller than the design that was approved by the Design Commission. Upon receiving the complaint, Village Staff requested a height survey from the builder. It was discovered that the approved architectural building permit drawings were not coordinated with the site engineering grading plan for the project. The site engineering drawings showed that the site was not flat and level, but instead it had a slope of approximately three feet from the high point at the rear alley to the low point at the front public sidewalk.

To make up for this drop in grade, if you could go to Exhibit 4, Derek? One more, there you go.

To make up for this drop in grade, the grading plan included a three-foot tall, for lack of a better term, mound of dirt across the front of the house. You can see that kind of arcing line labeled Raised Grade Per the Grading Plan. This was prepared by Staff to coordinate the architectural drawings with the site engineering plans to understand, you know, what was approved and what's going on here. So, that raised grade is a line that's generated off of the elevations that are provided on their site grading plan, okay.

Also, if you can flip to the next slide, Derek?

This is a site section taken through the middle of the property from the public sidewalk, on the right there we can see two people standing, up to the first floor of the house on the left. So, to make up for the difference in grade, again, it was discovered that this site has dropped off of approximately three feet from the high point of the alley to the low point of the sidewalk. So, they have the sidewalk leading to the front door where they appropriated numerous steps to get up to that raised elevation.

Again, this caught the attention of residents that attended the Design Commission meeting and saw, you know, two steps to go into the house, one step and then you're on the front porch. So, this was, you know, identified by them and it triggered Staff to take a closer look at what was going on.

So, according to the, well, first of all, I just want to state that per code, building height is measured to the mid-point of the roof from the average elevation of the finished lot grade in front of the building. So, again, builder then provided a roof height survey at the request of the Village, and according to that survey the mid-point roof elevation is 739.

Could you go back to Exhibit 4, please?

So, up on the upper right kind of highlighted in yellow there, it says 739 mid-point. That elevation came from the survey provided by the builder. Staff's determination of the average elevation of the finished lot grade at the front of the building

for measuring building height is based on Chapter 23, Section 23-103 which states, "No lot shall be graded in such a manner as to raise the grade of such lot to any point higher than a continuous grade level between the grades of the lots on either side abutting such lot." So, based on that requirement, the correct application of the code for determining building height is to measure from the average grade level between the existing grades of the lots on either side abutting the subject property. The existing grade elevation, we're measuring at the 25.5-foot front setback, so in the site plan from the front sidewalk back to the front of the house, that's where we're looking at grade as it meets the house, because the whole discussion here is where do you measure from, okay.

So, at the 25.5-foot front setback line, on the left side of the drawing, it says existing grade 711, so that's at the property line on the south. Then at the property line on the north, it says existing grade 710.5. So, the average of those two is 710.8, and that's highlighted on the yellow, kind of in the bottom right corner. So, 710.8 is the elevation that Staff is measuring the height from, and again, that's the average between the 711 and the 710.5. You measure from 710.8 up to the 739, that's 28.2 feet in building height where 25 feet is the maximum allowed.

That's really the background. I just, again, wanted to explain how the code works and it's applied in this particular case. As we move forward, I'm happy to answer any questions but Staff is just recommending that the Zoning Board review the hardship criteria and determine whether or not the requested height variance is justified.

COMMISSIONER SELBKA: Mr. Hautzinger, I had a question about Section 28.3.73 which is in their brief. It says that where no sidewalk exists, the grade, excuse me, for buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building. Does that mean that the grade is, the average grade is supposed to be calculated from the finished grade in the walls of the building? Is that, maybe I'm wrong about that.

MR. HAUTZINGER: Are you reading from the building code definitions?

COMMISSIONER SELBKA: I'm reading from the grade definition which is page, looks like it's page one of the petition, paragraph 73, Grade.

MR. HAUTZINGER: Well, the distinguishing factor here is when you look at the definition of building height, that definition is worded to accommodate a building that you might have in the downtown where it's right on the property line. It also applies to a single-family residence where it's most commonly going to have approximately a 25-foot building setback. So, this definition is set out to talk about where do you measure from when you're talking about a wall that is on the property line versus where do you measure from when the building is set back from the sidewalk.

COMMISSIONER SELBKA: And this building is set back.

MR. HAUTZINGER: Correct. So, what code says is when the building is set back, you measure from the average elevation of the finished lot grade at the front of the building. I apologize if I wasn't clear in my explanation, but that diagram showed that 710.8 at that front elevation of the building.

COMMISSIONER SELBKA: And maybe I'm just not quite getting it here, but I thought that it looked like it was measuring from the elevation in the lots, not the elevation of the building, because the building is raised up.

MR. HAUTZINGER: Well, there's two points of measurement: where do

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you measure from and where do you measure to. You're measuring to the mid-point of the roof on the building. You're measuring from the elevation of the average grade. So, it doesn't matter where the first floor of the house is, it matters where is that grade at the front of the house. You know, because they had artificially raised that grade with, you know, kind of berming up against that front wall, that's inconsistent with the way it should be graded which is maintaining those elevations from the adjacent property line. There's no need to come up and back down again.

The code requires that you basically connect the dots, and again, that's in that Exhibit 4 illustration. The red line at the bottom, can you go to Exhibit, Derek? So, that red line drawing across the bottom, that is the grade at the front of the house.

COMMISSIONER SELBKA: And so, the issue is that the grade of the house was illegally raised which causes this incongruity between the grade lines and the wall which is what this seems to say in 73, which means you start measuring the grade from the wall as opposed to the lot line which is what this looks like it's doing.

MR. SMITH: Yes, so I'm Greg Smith, I'm with the Village Attorney's office. You used the word 'illegally,' I would describe it in that way. I think the Petitioners get a right to present their case about how this occurred in particular, and they're going to get into that, but the Petitioner's application did not mention the grade requirements in Chapter 23 in the Staff cover memorandum which Mr. Hautzinger referred to. I think that that was the one element that helps explain how you set the grade above which the height is measured, and the Petitioner is going to explain I believe how they ended up building what's depicted on the screen, notwithstanding what the code says, but --

COMMISSIONER SELBKA: Okay.

MR. SMITH: -- I wouldn't jump to the, use the word "illegal" in this context at this point until you've heard all --

COMMISSIONER SELBKA: Not in accordance with code.

MR. SMITH: Well, that's to be determined.

MR. HAUTZINGER: I'd also like to add, Derek, if you can go back to Exhibits 1 or 2? Start with 1, please. Just where we started at, you can see that grade line is that dark black horizontal line at the bottom of the house here.

COMMISSIONER SELBKA: Right.

MR. HAUTZINGER: And the dimension on the left-hand side, it says 24 feet and 8.5. This is very typical for every single-family home that we review. We look at the architectural elevation, where is grade, where is the mid-point of the roof, and you know, this was what was expected. This is what was approved by the Design Commission, this was what was expected to be built.

What happened was these architectural plans depict a house on a flat level site where the site is really dropping off three feet from the back to the front. So, it's not that they built it any taller.

COMMISSIONER SELBKA: Right.

MR. HAUTZINGER: Its grade is actually lower.

COMMISSIONER SELBKA: Yes. No, I understand it. It's just that you're measuring the grade from the property line and it looks like paragraph 73 says you measure it from the ground adjacent to the walls of the building. So, that's where my confusion came with.

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MR. HAUTZINGER: Correct, in front of the house.

COMMISSIONER SELBKA: Right.

MR. HAUTZINGER: Yes.

COMMISSIONER SELBKA: So, you're taking it, and I guess it comes from that section of the code that defines how grade will be measured.

MR. HAUTZINGER: Correct.

COMMISSIONER SELBKA: Okay, all right. Sorry.

MR. PINDERSKI: No, no, those are good questions, and it's a great lead into me once that is finished.

MR. HAUTZINGER: I'm finished.

COMMISSIONER SELBKA: Well done, Steve.

MR. PINDERSKI: Good evening. I am Jerry Pinderski, Jr. I represent Mastercraft Builders & Carpentry, Inc. As I said, tonight we're here just to ask for a height variance of up to 3.2 feet. You know, based on Steve's testimony tonight, Staff has calculated that we have a height, as we measured under the code, in their opinion of 28.2 feet when the code should be 25 feet is the limitation itself.

Part of the reason why we're here tonight is because there was a true, honest, and I think good faith disagreement as to just how you measure the actual height of a building.

May I ask, Derek, can I see our Exhibit No. 2? I think Steve's comments lead into an important point that I need to show that was our methodology based on the code.

Take a look at the top, 28.3.21, that is your definition of building height. That tells us how we measure the building height in the Village of Arlington Heights. Section 23 just provides some simple guidance on striking grades and adhering to a final plan. But take a look at the top line, the vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building. Our engineer tonight, Michael Anderson, will provide some testimony as to just how he prepared his vertical height survey based on that specific statement.

Now, take a look at the bottom of that statement, too. It says, it talks about the different roof lines that are measured, but then it says the height of a building, second to last sentence, may be measured from the average elevation of the finished lot grade at the front of the building. Commissioner Selbka, that goes to your point, is that the building envelope from beginning to end, from one corner to the other corner, that is our envelope of measurement. Staff has taken it out beyond that and is measuring at lot lines; they're not measuring at the building itself.

For tonight's purposes, we're going to accept that although I needed to explain to you our disagreement and just how we came up with a measure that shows that this home actually is code compliant. It is important to remember we all agree on how high this house is, right to the tenth of a foot above sea level. We all agree on the roof gables, exactly how high they are. We agree as to the height of the foundation. The Village approved the foundation, it has the height of, I believe it's 714.5 feet which would provide a grade along the front of 714, and we actually have an approved grading plan as something that is legal and it's binding on us by law that we have to honor it.

That grading plan provides for a radius grade along the entire front of

this house. That plan was actually prepared back in January 2023, well before even Design Commission approved our house. That is the official grading plan that we have for this property, and we believe we had a right to rely on that plan when we did our calculations to figure out just how tall is this house.

You know, when I accepted this case, I asked the question, just how difficult could it be to measure the height of a house? You know, you go from the bottom, you go up and, you know, run it whether it's a tape measure or a laser, you ought to be able to figure it out. I have found that it is a much esoteric matter here, and that's why we're here tonight, to seek relief, to provide us with a mathematical exception so that we can have this house comply.

It's important to remember, the house isn't going to change. Its width, its height, its depth, where it sits on its foundation, where it sits on the lot, it meets all the zoning requirements here in Arlington Heights, with this one exception of this mathematical deviation of height as the way Staff has measured that.

Now, besides the definition there, I did put in the definition of a grade because it does tell us that for buildings that have no wall adjacent joining the street, you can see there, it says the average level of the finished surface of the ground adjacent to the exterior walls of the building would be the grade measure. We believe that that is an appropriate measure that offsets and complements the definition within the building height.

That is, we're providing this as this is the rationale for how we came up with our height measure of 24.77 feet.

Obviously, Staff disagreed and Staff provided a different conclusion, and we're going to accept that for tonight, but it is an interesting issue, it's one that we never thought we'd have to face, but because of that, we're looking for relief tonight so that we can continue finishing this home. The exterior dimensions of the home are finished and have been built in accordance with all the plans that exist.

Derek, can I take you to Exhibit No. 1, please?

COMMISSIONER SELBKA: Mr. Pinderski, can I ask one question for you?

MR. PINDERSKI: Yes, sir, please. Absolutely.

COMMISSIONER SELBKA: Was that site improvement plan approved by the Village?

MR. PINDERSKI: Yes, it was. It was, sir. It's actually in your package there. It is Exhibit 5 actually is the approved grading plan that we based all of our calculations off of.

COMMISSIONER SELBKA: Sorry.

MR. PINDERSKI: No, no, no, that's all right. I'm looking to Exhibit 1 before I call up our engineer. I wanted just to show you, these are photographs of the existing construction site. You know, we're temporarily under a stop work order until we resolve this issue here tonight. So, while the home has been framed out, it has its windows, it has a finished roof, and basically the shell is complete, we need some relief before Staff and the Village is going to allow us to move forward.

But I wanted you to take a look at the house itself, and the fact is that it's a handsome house. It's not a castle. It's not towering over any of its neighbors. It fits in the neighborhood. It was specifically designed for this neighborhood. Our architect will touch on that a little bit, but it simply fits and it is not higher than the neighboring properties,

or at least from a purely visual standpoint.

Derek, can I ask you to go to as far as Exhibit 1? Thank you.

This, too, may give you a better idea of just the front of the building itself. We took the technical measure from where the front stoop will be based on our grading plan, that's how we actually measured and calculated the height when we did that based on our reading of the code. We believe that that was an appropriate measure though Staff has suggested otherwise and we have accepted that for tonight's purposes.

But the one thing that's important to take a look at as you're going through our photos here is that this is a construction site. There are no fixed frames yet. It's not a final grade, even the grades that Staff has suggested might not even physically exist anymore by virtue of just the construction work that's going on. But we have no established grade and we have no fixed grades from which we could actually do our calculations, and that's why we used the site improvement plan, our final grading plan as the baseline for the calculations that we actually made and submitted to the Village.

With that, Mr. Chairman, I'd like to call Michael Anderson, our Project Engineer, to the stand for a few minutes to answer any questions and help further enlighten just how we calculated what we did here.

MS. GANDURSKI: Mr. Anderson, you've been sworn and you're still under oath.

MR. ANDERSON: Thank you.

I just want to walk through kind of how we established the grading plan for the property. So, as was mentioned, the alley behind the property sits about three feet above this public sidewalk grade in the front. It's a 50-foot wide lot; it's a, you know, relatively narrow lot.

When we established the building elevation, the driveway here loads off the alley, and so we set the garage floor to be six inches above the alley, so it has positive drainage away from the building. That then sets the foundation, the finished grade elevation about 3.5 feet above the public sidewalk elevation.

MR. PINDERSKI: Michael, can we show them Exhibit No. 5?

Derek, can you show us 5?

And Michael, this is what we're referring to as the final grading plan?

MR. ANDERSON: Yes, exactly. So, as I was saying, the garage here is in the back. The driveway loads off of the alley, and so that established the elevations for the top foundation and the finished grade for the house.

As the lot, as you proceed towards Dunton on the property from the back to the front, the grade drops about three feet. So, as we're going towards the front of the lot, the ground elevations along the property lines are getting lower and lower. So, what we did is we then had the proposed grade come up from that property line at an allowable slope to where it met the house, because then the elevation is about, you know, it's a foot and it's two feet and it's three feet lower, the finished grade up against the building is lower in the front and the sides than it is in the back.

So, the garage floor is set at elevation 714, and that 714 elevation is the finished grade around the back of the house. As you come towards the front, the finished grade along the house has to drop down in order to meet the slope requirement so we don't have a three-foot high slope in these side yards which is not permissible. So,

because of that, we ended up in the front yard area having a slope from the front of the house down to the public sidewalk that's about a three-foot elevation slope. This is what Staff, you know, talked about being the mounded area.

At the front entrance, in the front at the middle of the house, the finished grade is at that same 714 elevation, the same elevation that the garage floor is set at, the same elevation as the back of the house. That from the front door, that 714 elevation, the finished grade at the house lowers in order to meet the elevation drop along the side property lines. So, that's how we established the grading of the house. Again, it was all kind of set by the rear alley, setting the garage six inches above the rear alley.

So, we prepared this plan, submitted it to the Village and it was approved. Then as was mentioned, during construction, there were some concerns raised, and so we were hired to go do an elevation survey which we submitted. As was mentioned, I don't think there was any debate about what the top elevation is. It's where is the bottom elevation, what are we measuring to.

MR. PINDERSKI: Mike, can we bring up Exhibit No. 6, please?

MR. ANDERSON: Yes, and this is the vertical height survey that we prepared. So, the elevations in red are the elevations that we surveyed. There's a calculation box shown in red at the bottom. The question of, you know, what are we surveying to, it was when we prepared this and it was our interpretation that 714 is the finished grade elevation. When the property is finished and graded, the elevation at the center of the house at the front entrance would be 714, the elevation at the back of the house where the garage is at is 714, and that's what we calculated the height to. That's where we ended up with this 24.77-foot height.

So, that's, I wanted to just give you kind of a background on how we established the proposed grading elevations here, and happy to answer any questions you have.

MR. PINDERSKI: Michael, can you go on to Exhibit No. 8? Michael, you prepared this vertical survey?

MR. ANDERSON: Oh, yes.

MR. PINDERSKI: Of the entire western edge of the block, right?

MR. ANDERSON: Yes. Yes, so we prepared this, we prepared surveyed elevations on this exhibit. So, to be clear, we didn't prepare the house elevations that are shown there, but the elevations shown in red, the numbers shown in red with the labels, our surveyors went out and surveyed the ground elevations along the west side of the block with each house having the same calculations that we did for our height survey with the eave elevations, the top of roof elevations, and the finished grade at the house as well.

So, while the rendered house elevations that are shown on there are not necessarily to scale, the elevations shown here are surveyed elevations. That's just for context of the other homes on this side of the block and the center of the proposed house that we are looking at here shown for context.

MR. PINDERSKI: Michael, based upon your review of the homes, would you, is it your opinion that we are not significantly higher than the neighbor homes or the new homes or existing homes?

MR. ANDERSON: Yes, with our calculation with the finished grade elevations as I discussed at the 24.77 feet, we find that it is in character with the other

elevations, the other heights of the homes on the block which are, there's a summary of these calculations for each of the homes shown on each lot there that shows what the building height elevations are which are 24.64 feet, 24.64 feet, there's two others that are 24.25, 23.49. So, in my opinion, it's in keeping with the same general building height that exists in this side of the block.

MR. PINDERSKI: Michael, thank you.

MR. ANDERSON: Okay.

MR. PINDERSKI: Is there any questions or may we move on to our next witness, sir?

ACTING CHAIRPERSON JAFFE: You can keep going.

MR. PINDERSKI: Good, good. I'd like to call John Nelson, our Project Architect, up to the stand.

MS. GANDURSKI: Mr. Nelson, you've also been sworn and you are still under oath.

MR. NELSON: I've been sworn.

MS. GANDURSKI: You've been sworn, yes.

MR. NELSON: Yes.

MR. PINDERSKI: John, would you introduce yourself?

MR. NELSON: My name is John Nelson, I'm the Architect for this job. I'm the individual that put together things for the Design Commission and the architectural plans that you have in front of you. In addition to that, I did the elevations for the Design Commission which are being utilized by our engineer.

MR. PINDERSKI: John, can you give us a quick thumbnail sketch of the house that you designed for this lot?

MR. NELSON: In what sense?

MR. PINDERSKI: Well, size, you know, the dimensions.

MR. NELSON: Okay, what is happening with this, yes, what is happening with this 50-foot wide lot is we placed the basement to be eight-foot-9.5. We've got a first floor that's at nine-foot. We've got a second floor that's nine-foot as well. So, that's basically it.

The elevations or the pitch of the roof was created as a result of trying to accommodate with the 25-foot, so we have a six-12 pitch. That's just pretty much it.

MR. PINDERSKI: John, have you had a chance to review the outside shell of the home as it stands today?

MR. NELSON: Just the front. Just the front and the back. My associate did look at it, but I did not.

MR. PINDERSKI: Could we go to Exhibit No. 1 real quick?

John, based upon you just eyeballing the house, have we pretty much captured your basic plans in building this house to the extent that it is?

MR. NELSON: Yes. Yes.

MR. PINDERSKI: John, let me ask you this. If we're denied the variance that we're asking for tonight, what would we have to do to bring this house into this technical measuring compliance?

MR. NELSON: Roof, first floor, second floor would have to be lowered. I would characterize that as technically infeasible by the building code.

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MR. PINDERSKI: Thank you, I appreciate that.

COMMISSIONER SELBKA: Mr. Nelson, the Village memo talks about the site plan not matching the architectural drawings, the site grading, engineering plan not matching the architectural drawings, which is sort of why we're here I believe. Is that a result of the alleyway having a higher grade? Is that what caused that or what exactly caused this?

MR. NELSON: I would defer to the engineering. I just simply, it's not my --

COMMISSIONER SELBKA: That's fine.

COMMISSIONER LANAGHAN: Let me ask you another question, Mr. Nelson. You said that basically you'd have to redo the first and second floor to get the height done, is that what I heard?

MR. NELSON: Well, the roof and all of that, yes.

COMMISSIONER LANAGHAN: Okay, so you'd redo the roof structure but you wouldn't change the first and second floor?

MR. NELSON: I think what would happen is coming down three-foot, you would no longer have the six-12 pitch if you could do it at all, but rather you'd have something like a three-12. I'm not sure that would pass any Design Commission.

COMMISSIONER LANAGHAN: Okay, thank you.

MR. PINDERSKI: Mr. Selbka, if I can respond to your question, we do not agree with our friends at Staff that there is a mismatch between the engineering plans and the architectural plans. It's our position that our engineers lawfully and carefully designed this lot including the foundation system that's been approved to service this house exactly as approved by the Design Commission as we built it. We believe that there was a synergy there and that what we built meets the plans and that it meets our site development plan and the grading plan. So, there's no mis-match or error.

The issue here is the technical measuring of the height of this building as it sits here today without a finished grade.

COMMISSIONER SELBKA: Okay, thank you.

MR. PINDERSKI: John, thank you.

ACTING CHAIRPERSON JAFFE: Mr. Pinderski, can you just raise your voice just a little?

MR. PINDERSKI: I will do that, I'm sorry.

ACTING CHAIRPERSON JAFFE: We're trying to get the windows open because it's getting hot. We are struggling to hear you.

MR. PINDERSKI: No, no, I appreciate it; thank you for that. Can I call our next witness as Barbara Murry? Barbara.

MS. GANDURSKI: Ms. Murry, you're still under oath.

MR. PINDERSKI: Barbara, please introduce yourself.

MS. MURRY: My name is Barbara Murry; I am a Land Surveyor. I've been in the area for over 65 years.

I have been asked to do a random sample of area houses, of height relationships. So, I have a sampling of five houses that we measured in accordance to the Village of Arlington Heights parameters as we just talked about.

MR. PINDERSKI: Derek, can we show Exhibit No. 10?

MS. MURRY: So, the subject buildings are 711 North Dunton which is

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across the street from the subject property, 628 which is next block south, 608, 630 of the block south, and then 8 East Euclid which is on Euclid Avenue. So, these were the random samplings.

As you've been discussing on how we measured this, this is just a diagram which I'm sure you're all familiar with for the Village parameter is the average grade, the mid of the gable and then to the peak of the roof. So, that is how we come up with the maximum building height.

MR. PINDERSKI: Barbara, this is formula you used to measure the height of all the five homes we're going to take a look at?

MS. MURRY: Correct, they were all done with that conformity. So, the average sampling that I did, if you could move to next slide?

MR. PINDERSKI: Derek, can we go to the next page?

MS. MURRY: So, this is the house across the street. This is 711 North Dunton. We have a building height in this manner that we just talked about of 20.147 or 20.15. It is also maybe pertinent to note the peak of the roof is substantially higher and puts the overall building to 34.8. So, that's something --

COMMISSIONER LANAGHAN: Can I ask you a quick question? Not to interrupt you, but where are you measuring those from? It seems to be kind of across from where --

MS. MURRY: Well, if we go back to that --

COMMISSIONER LANAGHAN: So, where are you measuring that on these

--

MS. MURRY: Sure, I'm sorry, what were you asking?

COMMISSIONER LANAGHAN: So, where are you measuring? Where are you taking these measurements from to determine the height?

MS. MURRY: Physically?

COMMISSIONER LANAGHAN: Physically.

MS. MURRY: We have an instrument out on the street.

COMMISSIONER LANAGHAN: No, are you taking it at the lot line? Are you taking it from the building? Are you talking it at the sidewalk?

MS. MURRY: Side of the building just like the parameters that the Village of Arlington Heights set.

COMMISSIONER LANAGHAN: Okay. All right, thank you.

MS. MURRY: Okay.

MR. PINDERSKI: Can we go on to the next slide, Derek?

MS. MURRY: This is a block south, this is 648 Dunton. Again, we've done the same practices with the building measurements and calculations. This building height is 22.86, and also just noting the peak of the roof, the overall measure is 33.92.

MR. PINDERSKI: Derek, next one, please. Thank you.

MS. MURRY: Next subject is 608 Dunton. We've measured the building height to that of 24.67, and the peak of the roof on that is 33.72.

Another building we measured is 630 North Dunton. That building height is 25.21, a roof peak of 30.57.

Lastly, this is 8 East Euclid, building height of 25.64, the peak height is 32.57.

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MR. PINDERSKI: And, Barbara, you believe all five homes were representative of the neighborhood?

MS. MURRY: Very much so.

MR. PINDERSKI: And of the heights that you found in the neighborhood?

MS. MURRY: Yes.

MR. PINDERSKI: Very good, thank you very much.

Mr. Chairman, that I believe is going to conclude our presentation tonight in terms of the basic facts that we're going to present in support of our argument for a variance of up to 3.2 feet in order to meet the metric that the Village has established and Staff has discussed tonight. I'll have some closing arguments at the appropriate time if you'd like.

ACTING CHAIRPERSON JAFFE: Any other questions from the Board? Before we get to the objections, we're going to hear from the Staff for a moment.

COMMISSIONER SELBKA: I've got a question, but I'm going to hold off for a minute because I'd like to hear the Staff first.

ACTING CHAIRPERSON JAFFE: Great, thank you.

MS. JULIUS: My name is Nanci Julius; I'm the Senior Staff Engineer in the Engineering Division.

MS. GANDURSKI: Ms. Julius, you're still under oath tonight.

MS. JULIUS: I got involved with this particular site shortly after the it was flagged by an inspection which raised questions as to some of the neighbor comments as to isn't like the ground a little higher than what we had anticipated. So, that caused me to go back and take a look at the grading plan.

Can you bring up Exhibit 1?

For transparency, I actually worked with Mike Haeger on multiple projects with the Village. We have a very good working relationship. So, after I kind of noticed what was going on with the build, I did reach out to Mike to start that dialogue. But at Exhibit -- I'm sorry, 5, the site plan, Exhibit 5?

ACTING CHAIRPERSON JAFFE: I think she's looking for the Petitioner's Exhibit 5.

MR. PINDERSKI: Petitioner Exhibit 5, Derek.

MS. JULIUS: Oh, I'm sorry, yes, the Petitioner's Exhibit 5. So, this is currently the approved site plan of record. I think it is the minimum on the north property line. So, to kind of explain to the Board what we look at when we're looking, doing a site plan review, we're looking at the top of foundation on the adjacent homes, and then we determine whether or not it's an appropriate top of foundation for the proposed home based on the adjacent homes. So, going to the north says it's a finished floor of 714.74. With a new single-family home, like the top of foundation is going to be roughly six inches below the finished grade. So, that implies to us that the finished grade around that would be around 714.2, so the proposed top of foundation of 714.5 for this home didn't seem out of character for the neighborhood.

Once we realized that it was sticking out of the ground a few feet, we took a second look at the plans, and the finished grade of the home to the north was actually more around like 710. So, there is a reason, if you go to Exhibit 1 showing the front photo, which is the photo of the construction, they had stepped down the foundation

to account for that change in grade. To the Petitioner's defense, like if he did complete that site plan as approved, it would probably trigger that Chapter 23.

So, that was the dialogue that had been going on between myself and the engineers that we can move forward with construction but we're going to have to probably take a second look at the grading. We can address that at a later date and it has no bearing on this proceeding as far as the height variance. Staff does not have an objection to the height variance. Any concerns that we have with the grading I felt we can work out with the engineer, either with a site visit before we do final grading and see if anything needs to be addressed to make sure that water isn't shedding on to the property to the north or to the south.

So, with that, does anybody, and with the two exhibits, the exhibits that were presented to the Design Commission by the architect and the plans that are on file with the Building Department do not show that the foundation was stepped down or that there was going to be a drop in grade from the back to the front. So, that's where the misunderstanding and the mis-communication started from in the Design Commission process.

ACTING CHAIRPERSON JAFFE: Could you explain that last part, again?

MS. JULIUS: The engineer site plan shows that the foundation was going to be stepped down. As you can see those lines were the brick ledge drops, okay, that's where it's stepped down because the foundation is actually, keep going up to the front door, that's the actual top of foundation. So, it's been stepped down I think roughly two feet or so to the edge to account for that grade, which that part we're agreeable to. We didn't have an issue with that.

We really had just concerns about it being raised three feet by that front and then it's going to be pitched to the side yard, but those are all grading concerns that we can address in the field as part of the construction of the project, and of course with some feedback from the homeowners to what he wants it to look like when it's done.

ACTING CHAIRPERSON JAFFE: Yes, Steve?

MR. HAUTZINGER: So, Ms. Julius, thank you. So, is it your recommendation that if the ZBA were to award or to grant the variation, that it include conditions that the final grading be approved by your department to ensure, to Ms. Julius' point, that it doesn't have any adverse effect on the neighboring property owner?

MS. JULIUS: I would be fine with that, yes.

ACTING CHAIRPERSON JAFFE: Mr. Pinderski, if you would like, you can respond to Staff's comments.

MR. PINDERSKI: Ms. Julius, it's nice to make your acquaintance. We don't really have an objection to what the engineer presented. I think this factually is correct. She has acknowledged that we do have a site development plan today that was approved months and months ago before any construction of any kind was done.

I do have a question of our engineer. The documents I've seen in your files indicate that there was an existing site plan presented to your department. Have you had a chance to see that?

MS. JULIUS: Yes, that's the one that was presented there. There were some alternate plans that we had exchanged e-mails but nothing was ever formally submitted as a revised plan.

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MR. PINDERSKI: Well, let me show you what I'm talking about. If you can take us to Exhibit No. 4? It's one we have not seen yet tonight.

Okay, this document was prepared back in, I believe it was January of 2023, to provide ourselves as well as Staff with the existing conditions and also the demolition plan, and we used this to formulate our final elevation and final grading plans. Have you seen this?

MS. JULIUS: Yes.

MR. PINDERSKI: Okay, good. Would you agree this document was utilized by us to prepare this grading plan?

MS. JULIUS: Yes.

MR. PINDERSKI: Okay, and this document does show the fall in height from the alley to Dunton Avenue, correct?

MS. JULIUS: It appears so, yes.

MR. PINDERSKI: Okay, good. So, Staff knew that we had the significant elevation well before the permits were issued.

MS. JULIUS: Just to be clear, like I don't get involved with the Design Commission and they don't get involved with like the engineering, except to, the Petitioner when they went to the Design Commission, to make sure that those two plans were consistent with each other.

MR. PINDERSKI: Okay.

MS. JULIUS: Am I saying that accurately, Steve? I'm not involved with the Design Commission. I'll defer to Steve for that, but if you go back to the original Design Commission submittal, the architect's plans and the engineering plans did not match.

COMMISSIONER SELBKA: I'm sorry, I had a question, Ms. Julius. Can we go to Exhibit 5 for a minute?

MS. JULIUS: Sure.

COMMISSIONER SELBKA: So, it looks like, now this is what you would approve, correct, the site improvement plan?

MS. JULIUS: After realizing that some of the information about their property line may not be a 100 percent, it could be subject to interpretation, it probably should not have been approved. It should have been called out like if we were to have this to do over again, I would probably have them drop the foundation entirely from the back to the front and not just step the foundation down.

COMMISSIONER SELBKA: It looks like the residents, the elevation where the residents is, it's supposed to be 714.5.

MS. JULIUS: Right.

COMMISSIONER SELBKA: And then the elevation at the street level is 710, that's 710 feet, correct? And 714.5 is where the --

MS. JULIUS: Along the front, it's roughly about 710. So, if you kind of, that property is relatively flat and then it drops off pretty quick from the back, you know, I agree with how they determined the foundation. This neighborhood is a little unique because the garages come from the back, so you've just got to, you have to break with the side. The issue becomes, with that front door, is that 714.5 requiring all those steps and then requiring that to be filled in.

COMMISSIONER SELBKA: And then the alley is at 716, correct? So, are

they on a slope or is, are they building on a natural slope or what's the issue with this piece of property?

MS. JULIUS: If you go back to the original, what was the exhibit that showed the original site survey?

MR. PINDERSKI: Exhibit 4. There you go.

MS. JULIUS: I want to say it's roughly about two percent which is relatively flat from those contour lines. So, that contour line right there is at 712, if you can see to the left just above the garage, that's 712, 711, and then roughly 710 is at the street. So, it drops off fairly quick from the back. Then now they have very pronounced swales where the existing lots are both relatively flat if you were to go drive up that street, like the front yard is relatively flatter as well as the side yards.

So, my communication with Haeger when we kind of noticed this issue when they called in for the plat was to take a separate look at it, discuss it with the homeowners, see what you can come up with it. At that time, we didn't realize it was an issue with the wrong height. I mean, they were moving forward with the construction, it didn't become apparent until September-October or so.

MR. HAUTZINGER: The neighbor complaint was received.

MS. JULIUS: Yes, I mean, because the last I had heard from Haeger was sometime in July.

COMMISSIONER SELBKA: Okay, thank you.

MS. GANDURSKI: I just want to note, there's a number of individuals who have signed up as Objectors tonight, and I just want to clarify Objectors are for presenting testimony and evidence in opposition to the Applicant's case. There is also an opportunity to speak in public comment if you would rather just make your comments known, there'll be an opportunity for you to do that because I know we have Mary Ann Crosby-Anderson, Vivian Menzies, Eileen Devine and --

ACTING CHAIRPERSON JAFFE: Laurie Soderholm.

MS. GANDURSKI: So, do you all wish to present evidence and testify?

MR. LANDUYT: Sorry, I thought we would, as the homeowner, I thought I was going to maybe get a chance to talk or should I be --

ACTING CHAIRPERSON JAFFE: Mr. Pinderski, could you please approach the mic?

MR. LANDUYT: I'm sorry.

ACTING CHAIRPERSON JAFFE: No, no, we can get this straightened out. I thought that your case as the Applicant had concluded when you said thank you, Mr. Chair.

So, is there somebody else?

MR. PINDERSKI: The actual contract purchaser would like to say a word if we could allow him to do that. He has been sworn under oath.

MS. GANDURSKI: That's fine.

MR. PINDERSKI: Thank you.

MR. LANDUYT: Yes, I'm sorry.

ACTING CHAIRPERSON JAFFE: I'd remind you, you are still under oath.

MR. LANDUYT: Okay, we can probably waive. I was just going to give my background, but in the process of time, basically my wife and my son, we have a six-

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month old, they couldn't make it because, you know, bed time and bath time, but we're living in the city in a small condo, we're trying to get out here. This has been, you know, the stop work order kind of happened in October and sort of we're running out of space and we're trying to just get out here.

I was born and raised out here. I love Arlington Heights. You know, as soon as I, you know, from when I was born until I went to college, I lived here and I'm just trying to move back and again raise my son and my future kids kind of in the same environment that I came from. So, I just wanted to introduce myself from the homeowner. Thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

All right, so the first Objector that we will call is Mary Ann Crosby-Anderson.

So, can you please state and spell your name?

MS. CROSBY-ANDERSON: Sure. My name is Mary Ann Crosby-Anderson, C-r-o-s-b-y - A-n-d-e-r-s-o-n.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. CROSBY-ANDERSON: My name is Mary Ann Crosby-Anderson. I live with my husband Mark at 728 North Dunton.

We've lived in Arlington Heights for 36 years and in our current residence at 728 North Dunton for 27 years. So, Derek, if you could put up the map of the vicinity? We are two lots away from the subject property.

I am here tonight to ask you to rule against the variance. Mastercraft Builders has never, you've asked questions of the people up at the podium several times about have you spoken to your neighbors. Mastercraft Builders and the homeowner have never spoken to us. Mastercraft has been working our block, on the 700 North block of Dunton for about four years when they acquired the 710, 716 and 720 lots. 716 is a single-family home that used to have open lots on both sides. They acquired that property, or a relative of theirs acquired that property, and they've also recently acquired 702 North Dunton, and they completed construction on the single-family home at 710 North Dunton which is two lots away from the subject property in spring of 2023.

So, they had a successful go of it building 710 North Dunton which is on the same street two lots away with the same alley behind it. It seemed as though the elevation was not difficult or a challenge in that case because there was no variance asked for it, the home was built, and the new neighbors moved in in the summer of 2023.

The builder doesn't live in Arlington Heights or on the subject property. Like I said, the lot was a vacant lot, part of a larger parcel. I would like to go on record saying we never received the requisite letter that was supposed to be sent to all the residents that are 250 feet away from the subject property. I know a couple of neighbors did, but we did not. We live 100 feet away.

Because this builder owns four out of the eight properties on the west side of the street, we've been paying very close attention to all Village processes involved in these properties. We attended all Design Commission meetings which involved 720 North Dunton. We came very aware of the builder's plans and what was ultimately approved by the Design Commission. I strongly believe the Village Building Department

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and all departments involved in new construction are very well versed in the Village building and zoning codes since they regularly evaluate hundreds of construction applications.

The suggestion, and this may have applied more to request number one, but the suggestion that they misinterpreted the code is clearly incorrect as their interpretation, the Village's interpretation is --

MS. GANDURSKI: Ms. Crosby-Anderson, we're not going to, that's been taken off the table.

MS. CROSBY-ANDERSON: Okay, but the interpretation of the height?

MS. GANDURSKI: The Applicant has removed the request to appeal the interpretation, so the subject area before us is just the variation.

MS. CROSBY-ANDERSON: Okay, so if the measurement of the height is what is spawning the request for a variance, that is based on the fact that they think they have a different interpretation of how to measure. I believe that the Village departments are very well versed at measuring. I think the interpretation of the measurement of this house, of the slope, of the measurement at the house, the grade, where you measure from, is based on drawings made and submitted by the builder.

Here are six examples:

1. The approved Design Commission drawing east elevation shows the home to be constructed with one front step and foundation line about eight inches above grade with a mean height of 24.8. You've seen this. The builder was aware of the maximum 25-foot height, and this was shown on their own drawings that they submitted to the Design Commission.
2. The approved Building Department permit drawings show the same information I just referenced with mean and maximum heights measured from grade, a fixed measurement from the front of the property. Their measurements show that it was measured from the front of the property.
3. If the builder wished to construct a taller structure, they had the opportunity to draw the property as they wished to construct it and obtain a corresponding permit and variance in advance of construction.
4. The builder is not permitted to alter the grade post construction via landscape beds to achieve compliance.
5. The approved permit and Design Commission drawings show all north, south and west elevations consistent with the east elevation which is the front elevation and not in reverse order from the rear of the property.
6. The builder is obliged to construct the building per approved drawings. The increased foundation height was questioned on numerous occasions prior to completion of the walls and the roof, but they chose to continue construction, thereby creating the non-compliant height based solely on their own actions and not based on misinterpretation by Staff.

You have four criteria that you use to grant a variance:

Condition No. 1, the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property. My response is the current height of 720 will damage the quality of our neighborhood. The proposed 3.2-foot variance will make 720 North Dunton much higher

than the other houses on the block. Based on the vertical context survey that the attorney just showed, 720 will be three to four feet higher than all other homes on the block. It's also going to be much higher than what the builder originally proposed to the Design Commission and will not be in accordance with the aesthetic of the neighborhood.

Steve, if you could put up my, from Drive ZBA 2?

Okay, we can skip that one. This is from, that one right there, no, the one before that you went past. This is from the proposal to the Design Commission. You see their own drawings, I know these aren't architectural drawings, proposed that the home look like that in comparison to homes on either side. Now, if you go to the next, the photo, this is what we currently have, which they're not in argument with, but 720 is way higher than the homes on either side. So, I don't understand how they could be building this and not see that it was so much higher.

The excessive height is glaring and unusual appearing compared to the surrounding structures. I walk down that block all the time with my dog, and people walk the other direction. I regularly encounter people walking by who say, wow, that's too big, and they call it some unkind things. They call the structure a monster or a monstrosity, and I don't mean to be rude, but it's not getting a really reception in the neighborhood.

The excessive height of the structure on a 50-foot lot, on a relatively narrow lot makes, a lot of the lots on the block, my lot is 75 feet, this house being that much higher --

MS. GANDURSKI: I would request that the audience refrain from talking. This is all being recorded; the court reporter can't keep up. Thank you.

MS. CROSBY-ANDERSON: The fact that this house is so much higher than the other houses and squished on to this 50-foot lot accentuates the proportions of the house to make it loom over its neighbors.

Condition No. 2, the plight of the owner is due to unique circumstances. My response is this is, they're asking for a variance request after the fact. Any plight the builder is experiencing is due to unique circumstances of their own making. They were obligated to construct the building per approved drawings which, and those drawings were based on what they proposed. The increased foundation height was questioned on multiple occasions prior to completion of the walls.

If you could go to ZBA 4, my ZBA 4?

This is an attachment that my husband sent, an e-mail that showed all the times that we know of and we made contact with the Village to say as of August 2023, that the foundation is sticking out of the ground. It's sticking three feet out of the ground, before the walls were put on, before the roof was put on, before anything was put on. So, it was very obvious from the very beginning for anybody who was looking at this home that it was going to be exceedingly taller than it was proposed.

They intentionally continued with construction, thereby creating a noncompliant height. The hardship associated with any correction to the construction could have been avoided if the builder had adhered to the process. If you don't know what you're supposed to do or you have a question, stop and ask a question. The builder is responsible for managing their own investments to optimize their profits. Development involves risks. It's not the Village's or the neighbors' obligation to guarantee any amount of

profit for the builder.

I will stop there other than to thank Staff and thank the Board for listening, and thank the neighbors who are here tonight. I know that you do a lot of hard work, I know you're all volunteers and you're here to listen to us. I hope I was respectful but I'm asking you to deny the variance.

In the packet, in this 40-page packet, Steve Hautzinger very kindly drew a suggestion of a way to lower the roof to have the house height be in compliant. So, there is a way to do it. This developer has already made a lot of money on our block. The lots that they've bought have doubled what they paid for. They paid \$600,000 for three lots. Those three lots each now are worth about \$400,00, and they sold the house at 710 North Dunton for \$1,450,000. So, they might make a little less money, but they can change this plan if you ask them to. Thank you.

ACTING CHAIRPERSON JAFFE: Thank you, Mrs. Anderson.

Mr. Pinderski, so here is what we're thinking. We have three more Objectors and we have four public comments. I'm going to give you the option, do you want to rebut after each one or would you like to wait and rebut in summary?

MR. PINDERSKI: Why don't I rebut in summary? I think it just, it will be more efficient that way.

ACTING CHAIRPERSON JAFFE: Thank you for saying that.

Mrs. Menzies, you're up next. May I remind you, you are still under oath.

MS. MENZIES: Hi, my name is Vivian Menzies, 212 West Fremont. I'm a long-time resident of Arlington Heights in the Historic Arlington Neighborhood Association area. I live in an older home and my husband and I have come before the Zoning Board of Appeals to ask for a variance when we put our addition on our home, but we asked for the variance before we did our construction, not after the fact.

I would not presume to tell the Village to change their evaluation process or how they measure. I appreciate the level of rigor that exists in our town. One of the reasons that I'm here tonight is because I'm concerned about the increasing number of tear-downs, particularly the recent ones on Dunton Avenue. As the number of tear-downs increases, it's that much more important that the building and zoning codes are carefully followed.

At this home at 720 North Dunton, it has passed through each level of the process, Design Commission, Building Department, and now Zoning Board of Appeals. It has been looked at very thoroughly and thoughtfully. The Staff and the Commission members at each level have done their jobs the best way possible to make sure that the home will not have a negative impact on the neighborhood. But the responsibility now is on the developer/builder to adhere to the parameters of the plan that was approved and meet those clearly stated building requirements.

The builder of this home has had every opportunity to comply with all the current building codes and to make the corrections as needed. That he has not done so should not place the burden of hardship on the surrounding homes and neighbors. It is concerning to me that this builder owns several properties on Dunton and does not seem to be sensitive to the existing character of this special area.

Compliance with building codes is a minimum requirement.

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Awareness and sensitivity to the unique character of the neighborhood should also be expected of a builder who would like to be successful in Arlington Heights. North Dunton Avenue in particular is a special street. It is one of the most visible historic areas with unique and charming homes, and it needs to be protected. Thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

Ms. Eileen Devine?

MS. DEVINE: Hello, my name is Eileen Devine, D-e-v-i-n-e.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. DEVINE: And I apologize for talking. I wasn't sure if this was evidence or what, but I just have a very simple question for the Board. Would the Board have issued a 3.2-foot height variance on this structure if it had been asked for before construction?

ACTING CHAIRPERSON JAFFE: We are not at that stage of the procedure where the Board would answer questions. So, it's on the record.

MS. DEVINE: Okay, it's just on the record. See, this is why I was talking.

ACTING CHAIRPERSON JAFFE: Right.

Ms. Soderholm? Did I pronounce that correctly?

MS. TURPIN-SODERHOLM: Almost.

ACTING CHAIRPERSON JAFFE: So, how is it pronounced?

MS. TURPIN-SODERHOLM: Turpin-Soderholm.

ACTING CHAIRPERSON JAFFE: Turpin-Soderholm, and could you spell that, please?

MS. TURPIN-SODERHOLM: Thank you, yes. T-u-r-p-i-n - S-o-d-e-r-h-o-l-m.

MS. GANDURSKI: Would you raise your right hand?

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. TURPIN-SODERHOLM: Thank you. Good evening. My name again is Laurie Turpin-Soderholm. I live at 717 North Dunton, directly across the street and about 20 feet to the south of the new build in question. My husband bought our home about 30 years ago, and while I have not had the pleasure of living in our house quite that long, Dunton Avenue is a very special place to call home.

I'm very concerned about our street. There have been many changes in the last few years, and not all are for the better. The latest is 720 North Dunton which looms above the block. Every person who comes to visit me comments on this huge house going up across the street, and they are referring to the height.

This house stands out and completely dwarfs the houses on either side up and down the block. The vertical context survey, which you showed previously, incorrectly categorizes this house and actually makes it look shorter than 716. But the photos will show that's not true. Incidentally, the photos that we saw earlier, 711 North Dunton which is right next to me was actually built in the 1880's. The height feels lower because of the pitch of the roof, and that is similar to all the other examples, most of the other examples that were shown, and incidentally all were built before these codes existed. No one looks at those homes as huge because of the pitch of the roof. It's a

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completely different feel.

Now, I'm going to talk about, just for a moment, we know of course of the four requirements to receive this variance, and my good neighbor Mary Ann has already spoken on the first two. I would like to talk about Points 3 and 4, the practical difficulties or hardships required for this variation.

Point 3 says the proposed variation is in harmony with the spirit and intent of Chapter 28. Section 21.1(c) states that the granting of such variation will not merely serve as a convenience to the Applicant but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the Comprehensive Plan as established by this ordinance; at the same time the surrounding property will be protected.

Well, first of all, granting a variance to this builder is very much about creating convenience for them. Their convenience becomes the neighborhood's albatross. This is very much a problem of their own making, and it is not in the spirit and intent of Chapter 28.

Secondly, there is no hardship to the builder. This builder got a bargain when they bought six prime parcels for \$600,000. They've already built, as Mary Ann said, one beautiful home for \$1.4 million which is a pretty great return on their investment if you ask me. There is no demonstrable hardship here to anyone but the neighbors.

Lastly, the surrounding property will be protected. Once more, this is a matter of detrimental effect on the neighborhood. Allowing this to move forward is cause for great concern, so much concern that we're all here tonight. Protecting the surrounding property is something we ask our Village officials as we know the builder has no concern for the surrounding property, the neighborhood, or the community as a whole, let alone the neighbors to the immediate north and south who will undoubtedly deal with drainage issues as stated by the civil engineer's report if not dealt with.

Point 4, the variance requested is the minimum variance necessary to allow reasonable use of the property. Allowing this to go forward as planned without revision is very much allowing the builder maximum use of the space. They are not attempting in any way to minimize their impact on this neighborhood, as is clear on the photos. As has been shown by Staff, this builder has the option to revise and lower the roof line to minimize their impact. We ask this to be the solution and we ask you to deny the request for the variance.

Thank you very much for all you do. We appreciate your hard work.
Thank you.

ACTING CHAIRPERSON JAFFE: So, Board members, do you have any other questions for the Objectors? Otherwise, I'm asking Mr. Pinderski -- just one second, ma'am. I'm going to let Mr. Pinderski respond to all the objections that were raised.

COMMISSIONER SELBKA: Are you going to do the comments now as well?

MS. GANDURSKI: No, not just yet.

ACTING CHAIRPERSON JAFFE: We're going to do closing --

MS. HAMMA: No, this is an additional objection.

ACTING CHAIRPERSON JAFFE: Excuse me, were you an Objector or

a public comment?

MS. HAMMA: Objectitioner.

ACTING CHAIRPERSON JAFFE: Okay, we didn't have you on the list though?

MS. HAMMA: No, I did not sign in.

ACTING CHAIRPERSON JAFFE: So, why don't we get that taken care of right now, please?

MS. HAMMA: Yes. My name is Kathy Hamma. I'm actually representing the Chen family who lives at 722 North Dunton.

MS. GANDURSKI: Can you please, spell your last name, please?

MS. HAMMA: H-a-m-m-a.

ACTING CHAIRPERSON JAFFE: Raise your right hand.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Thank you.

MS. HAMMA: I'm not going to be quite as eloquent as the other speakers because I wasn't planning on doing this, and I have no additional evidence. But from what I've seen in the evidence tonight so far, we have two primary concerns. One obviously is the elevation. You grant a variance that is a convenience to the builder and to the people who are buying that house, but an additional three-foot of sun blockage on my house is a lifetime change and there is no way I can get around that ever. It already seems like the building is encroaching, overloading the property as it is, so that's a major concern. Losing 3.5 feet of sunshine is a big amount.

Secondly, the concern is regarding the grading. You mentioned concerns about it looking at the other property. 722 is a 150-year-old house. The basement is not really a deep basement. Most of the basement is aboveground level, some of it is underground. It was built 150 years ago, there's none of the modern day methods of moving water away from the foundation on this property. There's no sump pump on the property, so we are deeply concerned with water encroachment into the basement.

Anything else?

MS. CHEN: It's because the building --

ACTING CHAIRPERSON JAFFE: If you're speaking, then I've got to swear you in, sorry.

MS. HAMMA: Tell me.

(Ms. Chen talks to Ms. Hamma.)

MS. HAMMA: Got it. That's primarily the majority of our concerns.

ACTING CHAIRPERSON JAFFE: Thank you.

MS. HAMMA: Thank you.

ACTING CHAIRPERSON JAFFE: Joe, under advice of counsel, we're going to ask Mr. Pinderski to respond to the Objectors, and then the Objectors can have their closing statement. Then we're going to hear from, I think there are four people in the audience who wants to speak.

So, before we get there, do you have any questions?

COMMISSIONER SELBKA: No.

ACTING CHAIRPERSON JAFFE: Okay, Mr. Pinderski?

MR. PINDERSKI: Mr. Chairman, just as a point of order, will I have a few moments to make a closing statement?

MS. GANDURSKI: Oh, yes.

MR. PINDERSKI: Okay, I just wanted to make sure.

MS. GANDURSKI: This is just your rebuttal to the --

MR. PINDERSKI: All right, very good. Good, good. Well, we appreciate all the concern and some of the fears and concerns that they bring here, but for the most part, they are simply unfounded.

I mean, we talk about the elevation issue, I think as we have discussed at nauseam here, it's not that this house is higher than the neighbors. It's simply that it measures under a specific code provision higher than what we had originally planned. If the grades are changed on this property, the height actually falls. If we met our final grading plan that has been approved, that hasn't been changed, that grading plan provides that the house isn't any taller than 24.77. The house is not going to get any taller than it is. It may, with the final grade, actually be shorter than the code measurement that we're talking about tonight, but the concept that this house is overloading or blocking sunlight is just an exaggeration that's uncalled for.

As to grading issues, we are legally required to honor our grading plan as it may be amended from Village comments. We have a legal obligation to ensure that any stormwater that runs off our property is done in a controlled fashion, you know, as any good project, when we engineer it, it will be better than it is today. Today, the runoff from this lot is simply generally uncontrolled. We're going to provide the appropriate drainage controls to the neighbors to the north and to our neighbors to the south as well as the rest of the neighborhood. It will actually be in better shape than they are today based on our engineering plans that we plan to execute.

There has been a lot of interesting stories about what other people have said. I'm going to ask you to disregard that as hearsay. I mean, what our neighbors know if they chose not to show up here is something that you shouldn't be considering either. You should only consider the testimony that actually is present here.

There's been much talk about what we paid for some of the properties, what we may have sold them for. There's been speculation about profits. All of this is irrelevant to the matters before you tonight. Some of it is actually not even necessarily true.

There were some questions that were raised that we are trying to ignore some changes to the roof line here. I think as John Nelson succinctly put it, our architect, any changes to this roof line would effectively destroy this house, that it would simply no longer have the design characters that were approved by your Design Commission to fit into this neighborhood. We would create some kind of an albatross that no one would want to live in, and that's something that we do not want to happen to this house.

I think it's also important to note that the foundation system was approved, and the height of this foundation was approved. You know, there was conversation here a few moments ago that this foundation is unlawful, or at least there was a suggestion. That's not true. The foundation meets the code, it was approved before the first brick was ever put to build up the rest of the house, as was the height of the

foundation. We need to clear that; those are matters that are just not open to question here.

The same truths that, I know Ms. Anderson showed something that was shown to Design Commission, talking about heights. That particular exhibit was only meant to show style designs. It had no dimensional aspects of it of any kind, and you should take it for that only in itself.

You know, our clients have actually appeared before two different meetings of the Design Commission for two other homes that they have developed on Dunton Street that the neighborhood has had extraordinary opportunities to participate in the design of the homes that were built, including this home itself that we're talking about tonight. So, no one can say that they haven't had a chance to be a part of the design process.

Mr. Chairman, thank you.

ACTING CHAIRPERSON JAFFE: So, at this point, if any of the Objectors wish to rebut, this is your opportunity to do so.

(No response.)

ACTING CHAIRPERSON JAFFE: Mr. Pinderski, if you have, if you'd like to make a final closing statement, you have that opportunity.

MR. PINDERSKI: Thank you, and I promise not to spend much time with it because I know the hour is growing late. We do appreciate your time in listening to us tonight.

You know, the matter that we bring before you, this request for a variance, is designed to address a technical issue that arose that simply was not considered by Staff, it wasn't considered by us, it wasn't considered by anyone during the course of the construction of this home. We built the house that's under 25 feet, and we believe that we've proved that during the course of the request that Staff provided us. Based on what we've agreed to, there is a different measuring formula. Even though we may not necessarily want to accept it, we have chosen to do that tonight for purposes of this hearing, and that's the reason why we're asking you for a variance so that we can maintain the existing structure as it was built.

This is a technical measure. It's not requesting to expand the size of the height. This home that exists today that you've seen in our photographs meets all of the requirements of the Design Commission, it meets all of your building code requirements. The fact is that we've built a beautiful home in an R-3 neighborhood. This home is specifically designed and sited for this unique lot in order to enhance the lot and to bring a truly handsome home into this neighborhood. You've seen the photographs, and no one can say that this home will in any way alter the essential character of this neighborhood except for the good.

It's a beautiful home and it's going to be the home of a new family that's looking forward to moving in. You know, this neighborhood has 16 houses on this square block itself. We've only had one Objector actually from the block itself come forward. All are single-family homes. There's a mix of new and old on this block. We honestly believe that the house that we're presenting to you tonight that is under construction is very compatible with this neighborhood and doesn't in any way degrade from the charm of the area nor its uses nor the zoning code that it was designed to

enhance.

The home is built as, it's a handsome addition to the neighborhood, and we hope that you allow us to retain it by granting this technical variance. Much of our discussion tonight dealt with the measurements. How do you measure the height of the house? As I mentioned early on, I thought it was a simple question. Obviously, I've learned that it is not so.

But the plight of the owner is due to some unique circumstances as to how do you measure a house under construction that has no fixed grade and it has no final grade yet? We proposed that the grading plan was the measuring document; Staff has suggested otherwise and we have agreed to accept that. It doesn't change the actual height of the house, but it does change how we're going to be measuring that house. That is the unique circumstance that we believe is a result of an honest dispute between ourselves and Staff that we should not be penalized for.

It is unusual, and in fact as the code itself as I showed you here tonight doesn't actually speak to this situation. It doesn't tell us what to do when you don't have an established grade. It doesn't tell us what to do when you don't have a front yard grade against the front. We don't have that. Some day we will, but we don't today.

So, we think that we have made a good faith effort to comply with the code. We believe we did. Staff suggests we haven't and we have accepted that interpretation, but by virtue of granting this variance, you're helping address this unique circumstance that otherwise has not come up.

The last, or I should say the third issue, the proposed variance is in harmony with the spirit and intent of the code, you know, we believe it is. You know, we have discussed the disputes, we have discussed the measuring mechanisms that exist within your code, and we believe that we did proceed in good faith to build this house and build it in accordance with the plans and in accordance with the code itself. The fact that we are requesting this variance is to allow the home to remain as is today, and we believe that the height variance that the Staff does not object to is going to allow us to continue to honor the code with this minor change in how we measure the height itself.

Remember, the measurement doesn't change the physical height of this house. This height is what it is. We all agree that it is. It's built to the plans and to the specs that were approved by the Village. It's just a question of how we measure this house, and we believe that the variation retains the harmony of the code that would come into question here.

The last issue that John Nelson touched on was does this request provide the minimum necessary for us to be able to make use of this house. We believe that it does. If you choose not to grant us this request, then we are going to have to tear this house apart and we would destroy what you've seen as just a gorgeous home, and we think that that would be uncalled for. It's not our fault, we argue that strenuously, but it's a set of unforeseen circumstances that have arisen that have called us to have to come and see you tonight, but we believe that the variance is the most efficient and it's the minimum that we need to be able to maintain this home.

Just in conclusion, I believe that we have met the four requirements. We're presenting to you a very unique circumstance, and yes, as someone said it, it is after the fact, but it's after the fact because of the unique measuring circumstances that

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have come up that we simply don't have a specific code section to refer to. With that, Mr. Chairman and members of the Commission, I appreciate all of your time tonight. I know the hour, but thank you, and I do hope that you will see to it to grant us our variance. Thank you.

MS. GANDURSKI: The public speakers that we have here signed up are those with the Petitioner. I have John Nelson, Mike Landuyt, Mr. Pinderski and Mr. Anderson. So, I presume that you don't want to make any more public comment?

MR. PINDERSKI: Let me just ask if Mike wants to make any more comments.

MR. LANDUYT: No.

ACTING CHAIRPERSON JAFFE: Okay, does the Board have any more questions before we move to the deliberation?

COMMISSIONER LANAGHAN: I move we close the public hearing.

COMMISSIONER SELBKA: Second.

MS. CROSBY-ANDERSON: Are we allowed, I didn't sign up for public comment, but am I allowed to make public comment or no? It's too late?

MS. GANDURSKI: There's been a motion on the table already.

ACTING CHAIRPERSON JAFFE: And, Mrs. Anderson, we gave the Objectors an opportunity to make closing statements.

MS. CROSBY-ANDERSON: Okay.

COMMISSIONER SELBKA: Second.

MR. MACH: I'm sorry, could I get the first and the second?

COMMISSIONER LANAGHAN: Lanaghan, first.

COMMISSIONER SELBKA: Selbka, second.

MR. MACH: Thank you.

Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: Yes.

MS. GANDURSKI: I know we've provided evidence and testimony tonight. You might be getting lost in the weeds a little bit. I just want to again remind the Board that we're here for a variation only. The appeal on the interpretation has been withdrawn. To that end, I would remind the Board to stick to the Zoning Board of Appeal standards for a variation, the four standards, and consider those in light of the evidence in making your decision.

ACTING CHAIRPERSON JAFFE: Thank you.

Would anyone like to begin?

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COMMISSIONER SELBKA: I am in favor of the variance. First off, there was a site plan which was approved by the Village. The Village Engineer made a point of saying that that site plan, there should have been some, this should have been caught earlier and it wasn't. Now, the house is three-quarters built. I know we are not interpreting the Zoning Ordinance, but in looking at those zoning sections that the builder pointed out, I very well would have interpreted it the same way they did, that the site plan and site grading is measured from the wall, and the final grading from the front wall and not from the beginning of the lot the way that the Village is currently interpreting it.

Now, the Village may be correct; ultimately, that's not for us to decide right now, but I think it certainly is a reasonable interpretation. I think that given that the site plan was approved with the 4.5-foot grade at the foundation, it was very reasonable for the builder to build the way they did and believe that they were within the meaning of the code. I think that's a classic hardship.

Therefore, given the situation that the builder was presented with, believing that it was working within code and with a site plan that was approved, I think that there is hardship. I don't think that the house is out of step with what's in that neighborhood; therefore, I'm going to vote for the variance.

COMMISSIONER LANAGHAN: I think I'm going to have to follow you, Joe. Based on what Engineering has already approved, this is the grading plan. The builder did follow the plan.

I can certainly see why the residents would be upset that it is a little taller than, you know, it could be. Looking even at the vertical context survey just for the future, I would recommend you put those to scale. It seems a little disingenuous that your site, that your house is the smallest one on there even though it's the tallest. The numbers are correct. I can't fault the engineer, that the information is there. Just, you know, most of us are visual people and not, you know, not looking at that.

But, you know, as far as the rest of it goes, I think the, and Joe, I think you hit it on the head. I'll just stop there. I think there is a hardship and it's because, you know, the plan was approved and they built it to that.

COMMISSIONER DRAKE: I'm in agreement with all the comments that I just heard. It's really difficult when a lot of neighbors come in with passion, especially when they've lived a long time in the neighborhood and have a lot of skin in their neighborhoods.

But I think that some of the comments that the Objectors made I just didn't agree with. I think I would agree with the Applicant that if someone has bought other houses in the neighborhood and done something with them and made money, that's I think irrelevant to this situation. I think for me that was the lynchpin in your argument, but I do think there's a hardship here and I'm going to vote yes.

ACTING CHAIRPERSON JAFFE: So, I don't disagree with some of the comments made, but I guess what I struggled with when I reviewed the documents and what I'm still struggling with is there was an opportunity to make sure this was done correctly, right? We've talked about measurement all night. The old adage measure twice, cut once, there were clearly some things that, you know, occurred throughout the course of the construction and the observation of construction that additional caution may have been warranted. I guess I'm not entirely comfortable with where we're at now. I'm

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not saying that, you know, maybe this hardship is not as significant as I guess what I'm hearing from my fellow Board members.

I'll also ask the Board, you know, if there was an inclination to approve, would there be any conditions that would need to be expected of the Petitioner?

COMMISSIONER SELBKA: Well, I think the grading is required, and the Building Department is going to require that and ensure that the drainage is appropriate and not affecting the neighbors. So, I don't think we need to condition that in any way, although obviously we could, but the Village is going to do that anyway, I assume, it's their responsibility as they've pointed out.

COMMISSIONER LANAGHAN: Well, the builder or the builder's representative has basically stated that they are going to make it better than, you know, it is currently for sure. So, I would, I think we can probably put a grading, a caveat on there just to make sure that Staff works with them either in the field or beforehand.

COMMISSIONER O'CONNOR: Yes, specifically because of some of the errors that were with the property to the north, thinking it was at a higher elevation than it was. That really would be critical to make sure we have a grading plan there.

I do struggle a little bit with this one as well because the unique circumstances were kind of created in a very unique way, not a typical way like some of the other ones that we hear. So, I don't know that it's the fault necessarily of the builder. I don't think that they intended to do it this way. They've built other homes in the neighborhood and they have been, you know, in that area, you're going through some territory that goes up and down, so I'm sure they've built in this before.

I think with the grading plan being approved, that probably created that sense of confidence to go ahead with this because that's what's kind of pushing it over the edge for me.

ACTING CHAIRPERSON JAFFE: Any other comments? Is there a motion?

COMMISSIONER SELBKA: Motion to approve.

COMMISSIONER LANAGHAN: I'll second.

MR. HAUTZINGER: Chair, is a condition attached to that motion?

ACTING CHAIRPERSON JAFFE: I think that grading is part of the normal approval process. I don't think we need to specify that.

MR. HAUTZINGER: I just wanted to be clear if the motion included a condition or not. It sounds like not.

ACTING CHAIRPERSON JAFFE: No.

MR. MACH: Just to clarify, Mr. Lanaghan seconded the motion?

COMMISSIONER LANAGHAN: Yes.

MS. GANDURSKI: Unless there's discussion, roll call.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. O'Connor.

COMMISSIONER O'CONNOR: Yes.

MR. MACH: Mr. Portera.

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COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe.

ACTING CHAIRPERSON JAFFE: No.

Congratulations, your petition has been approved. You're welcome to stay and you're free to leave.

All right, do we have to do a motion for that one? The last order of business before adjourning is any general public comment?

Folks, excuse me. Folks, we're still going to have a meeting, so either take your seats or please proceed to the exits.

(No response.)

ACTING CHAIRPERSON JAFFE: All right, I don't hear any public comment.

So, is there a motion to adjourn?

COMMISSIONER SELBKA: Motion to adjourn.

COMMISSIONER LANAGHAN: Second.

ACTING CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

ACTING CHAIRPERSON JAFFE: All opposed?

(No response.)

ACTING CHAIRPERSON JAFFE: This meeting is adjourned. Thank you.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 9:58 p.m.)

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STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, RON LeGRAND, SR., depose and say that
I am a digital court reporter doing business in the State of
Illinois; that I reported verbatim the foregoing proceedings and
that the foregoing is a true and correct transcript to the best of
my knowledge and ability.

RON LeGRAND, SR.

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BEFORE ME THIS _____ DAY OF
_____, A.D. 2024.

NOTARY PUBLIC