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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: 130 SOUTH KENNICOTT AVENUE - ZBA #25-006
(CONTINUATION FROM 4/14/25)

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 9th day of June, 2025 at the hour of
7:00 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Chairperson
FRANK PORTERA
JEFFREY SELBKA
THOMAS DRAKE

ALSO PRESENT:

DEREK MACH, Development Planner
DAN OSOBA, Planner
DARKO BOJIN, Assistant Planner
HANNAH SAED, Village Legal Representative

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CHAIRPERSON JAFFE: Okay, we're going to call tonight's meeting to order for the Zoning Board of Appeals. We will next move to our roll call.

MR. OSOBA: Commissioner Portera.

COMMISSIONER PORTERA: Here.

MR. OSOBA: Commissioner Selbka.

COMMISSIONER SELBKA: Here.

MR. OSOBA: Commissioner O'Connor.

(No response.)

MR. OSOBA: Commissioner Lanaghan.

(No response.)

MR. OSOBA: Commissioner Drake.

COMMISSIONER DRAKE: Here.

MR. OSOBA: Commissioner Siavelis.

(No response.)

MR. OSOBA: Chair Jaffe.

CHAIRPERSON JAFFE: Here.

Okay, next will be the Pledge of Allegiance.

If everyone could stand and rise, face the back corner of the room?

(Pledge of Allegiance recited.)

CHAIRPERSON JAFFE: Okay, next we need to approve the minutes from the May 12th meeting.

Has everyone had an opportunity to review those? If so, did they find any errors?

(No response.)

CHAIRPERSON JAFFE: Is there a motion?

COMMISSIONER DRAKE: Move to approve.

COMMISSIONER PORTERA: Second.

CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

CHAIRPERSON JAFFE: All opposed?

(No response.)

CHAIRPERSON JAFFE: Okay, we're going to go over the hearing procedures, so just give us a minute. We're going to walk through kind of again the order of operations for how these meetings run.

So, first, as I mentioned a couple of moments ago, a quorum. So, if there's less than six members present, there is an option to the petitioner to continue the meeting, because 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, there are four of us, which means you must go four of four in approving votes.

Second, the variation hardship. So, when you completed your packets, you were asked to explain the four elements necessary to establish in order for the Board to be able to grant a variation. Those are:

1. That the proposed use will not alter the essential character of the locality and will be

- compatible with the 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 finally,
 4. That the variation requested is the minimum variation necessary to allow reasonable use of the property.

A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated. So, we say this with each meeting and it's worth repeating, the onus and responsibility is on the petitioner to explain all four of those. They need to be concise; they need to be to the points that were outlined in the packet and what I just covered. So, please keep that in mind as we do have a very full agenda this evening.

Order of operations. So, the Chairperson will open the agenda item and provide any introductory remarks if necessary. We'll receive a presentation from the Staff which is a brief overview of the project and the variance request. At that point, the applicant will present its case in favor of zoning relief by way of documents or testimony. The applicants and any witnesses testifying must be sworn under oath and must state and spell their respective names for the record.

Public comment. Members of the public may speak on the application. Speakers must be sworn under oath and state and spell their name clearly. Anyone who has formally registered in advance of the hearing as an objector should be permitted to speak first. Objectors must complete a form to be provided by the Department of Community Development and submitted to the Director of Community Development no later than 4:30 p.m., five days before the scheduled date of the hearing.

A registered objector may cross examine the applicant or their witnesses. Registered objectors are also not restricted to the time limit for public comment. Any person who is not formally registered as an objector may speak at the hearing but must limit their comments to three minutes. The Chair may, in his or her discretion, alter the maximum time provided the public commenters provided that the maximum time is applied to all speakers.

The applicant may make a closing statement and may present any follow-up testimony or evidence. The applicant will then rest their case. The Board will then move to deliberation and make a motion to close public testimony by voice vote. The Board will deliberate and vote on the matter.

All ZBA final decisions must be in writing. If the agenda packet does not include a draft final order that is acceptable to the ZBA, then a substantive motion should be to direct Staff to prepare an appropriate final order for approval at a subsequent meeting.

There is an agenda item for public comments. If anybody has commentary that is not related to the petitions on the agenda, they may speak at that time. At that point, we will adjourn.

Anything else?

(No response.)

CHAIRPERSON JAFFE: Okay, we have a continuation from a previous meeting, so we're going to start with Old Business. That is 130 South Kennicott Avenue,

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4

ZBA Case #25-006, continuation from April 14th, 2025.

Are the Petitioners present?

MR. HIMELMAN: We are.

CHAIRPERSON JAFFE: Will you both state your names and address for the record?

MS. ALBARELLO: Margherita M. Albarello, 130 South Kennicott Avenue, Arlington Heights 60005.

MR. HIMELMAN: Harold Himelman, 130 South Kennicott Avenue, Arlington Heights, Illinois 60005.

(Witnesses sworn.)

CHAIRPERSON JAFFE: Staff report.

MR. MACH: Thank you.

At the April 14th, 2025 Zoning Board meeting, a motion was made to continue the hearing for 130 South Kennicott until the June 9th of 2025 meeting. Since the April hearing, the Petitioner has provided an amended petition which is part of the Zoning Board's packet.

The Petitioner is requesting a 554 square-foot variance from Chapter 28, Section 6.5-7 to allow an accessory structure with a size of 854 square feet instead of the maximum of 300 square feet.

Thank you.

MR. HIMELMAN: Gentlemen, good evening. Harold Himelman here. So, our petition seeks a variance that's very, very minimal in relation to the entire structure that we built in the backyard. Now, I see that you gentlemen have the packages, but I don't see the Pdf photographs that were attached to our petition?

MR. OSOBA: Everything has been uploaded.

MR. HIMELMAN: Okay, good.

CHAIRPERSON JAFFE: These are my personal notes. You can refer to the screen.

MR. HIMELMAN: Sure, and we have colored photos as well.

So, first, let me go through the four requirements. One is that, and some background information first. We've lived in the home since 1992. We've done significant work on the home. More specifically, in 2007, we renovated the entire house, and then did some other work along the lines. Then, last year, we began work on the outside, the backyard of the house, to create a pavilion and a pergola.

All along, it was our intent, and we did comply with any issues, any questions that were raised by the Village. We of course had various discussions, electrical, engineering, plumbing. We had run gas lines. We've passed all the inspections. There was a stop work order, it's in the petition, a temporary stop work order, but that related only, only to the shed. It had nothing to do with the variance that we are seeking tonight.

The variance that we are seeking relates to the slats that we want to run from the pergola, the slats will be the pergola. It is the pavilions, we have two structures, two pavilion structures, the slats will run across the two pavilions. The need for these slats is so we can run electricity from one pavilion on the south to the pavilion on the north.

Prior to constructing the pavilions, there was underground digging so

that we can connect electricity to the pavilion on the south end, which was done. So, we have lighting in that south end pavilion. We anticipated having lighting on the north end. The lines that were created and that were dug underground on the south end we hoped would be extended through these slats, through the pergola, to the north end just to give us more lighting, to have nicer aesthetics.

That would require, from what I understand, the variance that we are seeking. What we did not know is that had we just created this structure, the pavilions, and attached it to the house, we wouldn't even be here. We wouldn't have the need to be here because it's now come to, we've come to understand that that structure, the pavilion would be one part of the house, it would be an extension of the house. We didn't do that because we were concerned that if there were any issues with regard to the roof of the house, it's now 17 years old, then we would have to not only replace the roof but replace a portion of the pavilion structure that we've created.

So, right now, all we are asking for is to just build the slats in between the pavilions, the north and the south end, so we could have lighting, electricity and lighting in the north end, which will be aesthetically more pleasing as well. It would pose no hardship to anyone who lives in the area. They wouldn't even be able to tell the change that we are seeking, that we've done, if the members allow us to make that change.

So, the hardship that was created or would be created if we are not granted the variance is that we would have to then dig underneath the north end to run the electricity to that north end portion, the north end pavilion part. We've already, I just want to emphasize that when we sought a permit for the property, the Village passed us initially.

We then began work on the property, creating the pavilions that we are discussing and everything else that we've done there, including the shed, including the fireplace, et cetera, after considerable sums were expended. At no time were we told that we would need to seek a variance petition. Had we known that, things might have been different. So, in any event, that's the basis for our seeking the variance.

Now, I have to add that while there are Objectors here tonight, there are people here also, and people who are not here who contacted the Village to express their pleasure with what they saw that we were doing. All along, it was my understanding that what we are doing, improving our house, improving the property would be very pleasing to everyone. Apparently not. What we did was I thought, you know, something that would be appreciated by all.

I have to add that since it was not appreciated by all, at no time were we personally, either Margherita or I, contacted with any complaints, any comments even, no questions, nothing. The first time that we understood there was an issue with regard to the work that we were doing was when the Village received notice that there was an objection or complaint, and we were of course given that notice of the complaint. That was the first we knew of it. So, we've never actually spoken directly with the primary Objector on this issue.

I have to add something important, that before we started this project, we did speak with some of our neighbors, and in particular, the neighbor to the north, the Silvados. We spoke with them because the work that was being done and that was done, it's by the way about 95 percent or more completed, the work that was being done over the past year or so was done on that north end which is adjacent to the Silvados' property.

CHAIRPERSON JAFFE: Excuse me. This is mic'ed up, so please, no discussion in the back.

MR. HIMELMAN: So, all of the workers, wheelbarrows, workers, traffic, all the work traffic was on the north end, which of course would disturb the Silvados' property to some degree. They told us they were fine. Whatever issues arose as a result for the damage to landscaping, we would resolve with them. So, no problems and no issues with them.

So, let me just add, and Margherita can make her comments, it was always our intent to comply with any issues that the Village raised, and we have. So, frankly, I'm surprised that we're even here over what I think is a relatively small matter, but that's my perspective.

MS. ALBARELLO: Yes, let me just go through the four elements of our burden currently. So, we do state that the proposed use will not alter the essential character. We've got a beautiful ranch home. It was built in 1957 in the Grant Subdivision. It remains a beautiful land, a beautiful home. I must say that our house is probably one of the most well-kept pieces of property on the entire block if not the best kept piece of property.

CHAIRPERSON JAFFE: How large is the house?

MS. ALBARELLO: How large is the house?

MR. HIMELMAN: Just under 2,000 square feet.

MS. ALBARELLO: It's a three-bedroom house. The backyard is a large backyard. The photographs that we provided to Derek reflect that the backyard remains a very large, spacious backyard. So, that was the home.

There is the house right there.

If we could go back one, please, Derek?

That's the house. That's it with everything we've done thus far. You don't see, there are no elevations. Nothing juts up above the original roofline, et cetera.

So, as Harry pointed out, the Village, we submitted our original plans for the permit. The Village asked for some additional information, and you see that at Exhibit 3 of our packet. On June 13 of 2024, the Village asked for a resubmit, and in item 4 which is on page one of that exhibit, the Village said indicate on the plan the location of the proposed pavilion with dimensions, provide proposed pavilion structures' farming, it says farming, they meant framing, framing plan, elevations, height, and importantly, distance from the existing house, depth of the 12-inch sono-tube below grade and spacing.

So, Verdi Designs, our contractor, submitted another drawing, and that's Exhibit 1 of our packet. On page one of that exhibit, you'll see Pavilion 1 which is the pavilion to the south, you'll see Pavilion 2 which is the pavilion to the north, and then you'll see the wood beam slatting. The slatting, if you go back there, thank you, you can see the pavilion. The one on the right is the pavilion to the north, that's the Silvados' home going to the left, and then you've got the pavilion to the south which is to the right. Those double doors are the doors into the back of our house. The dining room is immediately to the left; the kitchen is immediately to the right.

So, the drawings show that the slatting, we call it slatting, Derek is using the term pergola, we'll use the term pergola, is not a solid structure. It will, if the variance is granted and as was shown on the drawings that we submitted, it's slatting

reaching from pavilion to the south to pavilion to the north. The electrical that runs to the pavilion to the south will be supported by those slats and also hidden by the slatting.

But in any event, Verdi Designs submitted the re-drawing of the plans, indicating that that slatting will not be structurally attached to the house. After Verdi submitted that drawing, the permit was granted. As a result of the permit being granted, Verdi moved forward with all of the hardscaping, the trenching, the laying of the electrical work, et cetera. It was thereafter that the stop work order was issued.

So, now here we are, as Harry said, asking for a variance. If we were to attach the pergola to our roof, we believe that creates a hardship, and that's because of storms in the area. We're all familiar with the microbursts that we get in Arlington Heights. If we structurally attach the slatting to the roof of our house, we reasonably believe that it will cause damage to the roof of the house eventually. It will also cause damage to the pergola.

We've taken very good care of our house. We will need a new roof probably within the next handful of years. If we have to attach the slatting to the roof of the house, we're going to have structural issues that are going to be created both with the roof of the house as well as with the pergola.

CHAIRPERSON JAFFE: So, you've mentioned, or I'm sorry, you, sir, mentioned another or a different hardship about an alternative about running power to the north structure. I forget --

MR. HIMELMAN: That's what we're seeking to do is to run the power to the north, correct, which would be where the covered --

CHAIRPERSON JAFFE: I thought you mentioned about running something underground as an alternative.

MS. ALBARELLO: Yes, we'll have to do, we're going to have to do trenching. The trenching that we did to run the power to the south pergola, we will have to also do to run power to the north pergola.

CHAIRPERSON JAFFE: If the variance is not granted?

MR. HIMELMAN: Correct, exactly.

CHAIRPERSON JAFFE: How much is that?

MS. ALBARELLO: It will cost, the estimate we've gotten from Verdi Designs is approximately between another \$8,000 to \$10,000. The hardscape that you see as well will have to be dug up. So, it's damage to the hardscape that's been laid, it's the cost of new trenching, it's the cost of additional electrical being run.

CHAIRPERSON JAFFE: So, you say that's between \$8,000 and \$10,000?

MS. ALBARELLO: He has given us an estimate between \$8,000 and \$10,000.

CHAIRPERSON JAFFE: Because that's what this Board is trying to assess, if you're saying there is a hardship if this were not granted.

MS. ALBARELLO: Understood.

CHAIRPERSON JAFFE: That's estimated monetary outlay to you.

MS. ALBARELLO: That is expensive, right.

CHAIRPERSON JAFFE: Okay.

MS. ALBARELLO: Yes, and I will say we as individuals, my husband is retired, I'm close to retirement; we consider that to be a hardship.

CHAIRPERSON JAFFE: Okay.

MS. ALBARELLO: Moving through the four elements, we just finished talking about the plight of the owner and due to unique circumstances. We next move to the proposed variation being in harmony with the spirit and intent of the chapter. Yes, we agree it is, because the variation stays in harmony with the spirit and intent of the chapter as it maintains the character of the home, it maintains the character of the neighborhood.

As we say in the written petition, the slatting does not extend out beyond the perimeter of either Pavilion 1 or Pavilion 2. It doesn't extend beyond the height of either. It frankly won't be visible to anyone. Again, it's also not a solid piece, it's just slatting. So, you've got a nice, you've got the elements that continue to come in, you've got the light that continues to come in.

Then, lastly --

CHAIRPERSON JAFFE: So, tell us a little more about what your vision is for the electrification. How is this going to be lighted? How bright is it going to be? Where are all the lighting fixtures going to be located?

MS. ALBARELLO: Well, they are going to be located where the lighting presently is, it would be identical to where the lighting is in Pavilion 1 which is the southern pavilion. What we have there is we have four recessed canned that, and the lighting just comes down directly. It's not, you know, spread out or anything like that.

CHAIRPERSON JAFFE: Is it switched or is it dimmed?

MS. ALBARELLO: It is switched.

CHAIRPERSON JAFFE: So, it's either all on or all off?

MS. ALBARELLO: No, no. It is, there would be one switch for the south pavilion and one switch for the north pavilion.

CHAIRPERSON JAFFE: But the bulbs themselves are not dimmable, so if you are out there and you turn the lights on, they're on whatever lumens you've selected for your lighting?

MS. ALBARELLO: My understanding is that they are presently non-dimmable, yes.

CHAIRPERSON JAFFE: Okay.

MR. HIMELMAN: If I may, I'd like to show you, I know you've got the package, if I can show you the colored photographs?

CHAIRPERSON JAFFE: Sure. You have to submit it into evidence afterwards. If that's your only copy --

MR. HIMELMAN: Afterwards? No, it's not my only copy so that's fine. So, this will show you line one where we have the electric running. You can see right, you can see --

CHAIRPERSON JAFFE: The four dots?

MR. HIMELMAN: That's right.

CHAIRPERSON JAFFE: I see it, okay.

MR. HIMELMAN: So, that's what we'd like to do on the north end.

CHAIRPERSON JAFFE: Okay, do you guys have any other questions?

COMMISSIONER DRAKE: No.

COMMISSIONER SELBKA: No.

Hand that to Frank.

MR. HIMELMAN: I just want to emphasize, too, that with regard to the stop work order, I think I mentioned it, and I'll emphasize that that was as to the shed. I think

APPROVED

9

the Village said that the shed needed to be, the shed roof needed to be smaller than it was. We complied, we did what the Village asked and we were allowed and permitted to continue with our work except for the issues that we are addressing here tonight. That was the only issue that arose. So, the shed, bottom line, has nothing to do with why we are here.

CHAIRPERSON JAFFE: And, Derek, you can confirm that?

MR. MACH: I'm sorry, can you repeat that? I was --

MR. HIMELMAN: Well, my last comment was, Derek, that the shed has nothing to do with the issues for which we are here tonight, the variance that we are seeking.

MR. MACH: That's my understanding.

CHAIRPERSON JAFFE: Okay. All right, you guys don't have any other questions?

All right, I think there are some Objectors, so if you can take a seat?

MR. HIMELMAN: Yes.

CHAIRPERSON JAFFE: I think what the sequence of events is the Objector will make their case, and then the Petitioner will have an opportunity to respond?

MS. SAED: Yes.

CHAIRPERSON JAFFE: Okay.

MS. ALBARELLO: And may I ask a point of -- may I ask a question?

CHAIRPERSON JAFFE: Yes.

MS. ALBARELLO: So, we have people who are here, neighbors who are here who would like to comment, who are not objectors who would like to comment on the work that we've done.

Can you please tell us when will they have an opportunity?

CHAIRPERSON JAFFE: They will be able to speak after the Objector makes their case and after you have the opportunity to respond to the Objector's case. I will, given where we're at, they will definitely be limited to three minutes.

MS. ALBARELLO: Thank you.

CHAIRPERSON JAFFE: Okay, thank you.

So, we have one Objector or two?

MR. MACH: Two Objectors.

CHAIRPERSON JAFFE: Okay, so which one is going first? Does it matter?

MR. ROHDE: I think it would be me.

CHAIRPERSON JAFFE: Okay, and we'll both swear the Objectors in, too, correct?

MS. SAED: Yes.

CHAIRPERSON JAFFE: Okay, can you state your name?

MR. ROHDE: My name is Joe Rohde.

CHAIRPERSON JAFFE: And your address?

MR. ROHDE: I'm at 138 South Kennicott.

(Witness sworn.)

CHAIRPERSON JAFFE: Okay.

MR. ROHDE: Okay, well, thank you for letting me get a chance to speak tonight. I will tell you that when I heard about the project that Harry and Margherita were going to do, I was initially excited about the fact that they were doing it. I did have two

concerns; one was drainage, and the other, would there be any negative impact on my property value. I think those are pretty standard things that would happen, okay?

I am the person that they're talking about has not talked to them, and I will tell you why. We have had continuing problems with drainage with the neighbors to the north of us. I'm on the west side of Kennicott, they're just north. They are slightly higher than me and I am slightly higher than my neighbors. There have been times in the past where my neighbors, at the front of their house, have angled their downspouts right at my house, not toward the street like most neighborly people do, angled right at my house.

I have tried to speak to the man of the house over there about would you please angle that toward the street. He got, to me, defensive, huffy, lawyerly, and he said the street goes down that way, I have every legal right to aim this at your house. I'm like, okay, I guess we won't be having too many discussions about drainage.

When this project started and --

CHAIRPERSON JAFFE: And to confirm, that neighbor is located where?

MR. ROHDE: 130.

CHAIRPERSON JAFFE: 130 South Kennicott? Okay.

MR. ROHDE: Right, so we're having like, okay, I'm trying to have an adult conversation, that didn't end well. Then this project started, okay, and I would like to point some things out on the Board here because I think they're important.

CHAIRPERSON JAFFE: And you know we have to take a picture of this because this is unusual, right? To enter this into evidence, typically we have, things are part of the packet or we have copies, something like this.

MS. SAED: We could take a photo. I think the last time we said we'll keep a physical copy and so we can record it somehow. I guess that would be a photo, but as long as we have some evidence of this image of what's going on.

CHAIRPERSON JAFFE: Yes, I think that would be my concern.

MS. SAED: Yes.

CHAIRPERSON JAFFE: That depending on how this goes, I just want to make sure that everything is properly documented --

MS. SAED: Right.

CHAIRPERSON JAFFE: -- and there's some sort of physical evidence.

MS. SAED: Correct.

CHAIRPERSON JAFFE: Okay.

MR. ROHDE: So, I have several comments about things. This is obviously their site plan from their architect. There's a couple, you know, obviously, there is the pavilion, this is the house right there. You can probably see that I have a couple of points of interest on this matter.

So, their project started on August 1st, 2024. The project starts on the morning of Wednesday, August 7th. I awake to having my neighbors dig a 65-foot-long trench from the corner of their house behind the shed over to here and over to here. My thing broke, but it kind of goes like this, okay?

They're digging the trench. I called Village Hall, and I said I thought you guys said there is no change to the drainage on this project. I talked to a guy, Richard in the Engineering Department, he said you're right, I'm looking at the plans now, there is no change to the drainage.

Really? I go, well, they've got workers next door that are digging a

long trench.

In fact, Derek, can I ask you to put up a picture? This would have been, Derek, this is going to be from the first set.

MR. MACH: Okay.

MR. ROHDE: 051. Thank you.

So, I'm talking on the phone with Richard, he says, Mr. Rohde, you are mistaken. There is no change to the drainage on this project. I'm looking at the plans, no change to drainage.

I go, well, they got workers over here and they're digging a trench. I got other pictures that I could show you, but this is a pretty clean one. I said, well, I'm out here taking pictures, you might want to come in and join me.

Richard came out with somebody else. He goes into the neighbor's yard. Just so you know, this picture was taken, right here, and I'm sorry, I don't want to be poking you in the eye at all but, okay. This is me standing in my yard facing east, there is a trench right there and that guy is at the end of the trench, okay?

That is 65 feet long. The intention of that trench was to take the water from his house, send it all the way around here and dump it out there. I think most of you know there is a downspout ordinance in this town that you can have an underground downspout and there is a limit. There is a limit on how far you can put your downspouts. That answer is 10.

I had that confirmed by Patrick and Richard who both came out to my house, okay. They see this, they go over to the neighbor's house, they see that trench. Not only that, right by that guy's foot, I don't know if you can see it, there's another emitter right there. That's what this is, right there. You see where the dirt is kind of cut out there? It's right there.

CHAIRPERSON JAFFE: I guess, I'm sorry, I've got to ask. How is this related to the specific petition about connecting the two code-compliant structures?

MR. ROHDE: Okay --

CHAIRPERSON JAFFE: Because, I'm sorry, this is what this Board is assembled to do, to rule on petitions that are being submitted.

MR. ROHDE: Right.

CHAIRPERSON JAFFE: Now, if there is something going on here that ties to that, I would ask that you get to that quickly.

MR. ROHDE: It does, and it's coming, it's coming.

COMMISSIONER SELBKA: I sort of have another question here.

MR. ROHDE: Yes.

COMMISSIONER SELBKA: They said they were doing entrenchment for, to lay electrical cable.

MR. ROHDE: No. No, that's why I'm trying to go fast, okay, guys? But this is a 65-foot-long trench that they dug. Why did they dig that? Because for the last decade or so, and by the way, they had no permit to do this, none. The two engineers told them that you have to fill that in, and they did.

The reason they were doing this is, for the last decade, they have been taking the downspout water from the same area, running it straight 40 feet underground. Again, the rule is 10, but the rules, somehow they don't use permits.

COMMISSIONER SELBKA: So, the engineers stopped that?

MR. ROHDE: The engineer talked to them and said you have to bring that back into compliance.

COMMISSIONER SELBKA: Okay, how is that relevant?

MR. ROHDE: Let me do the next one.

So, now this is August 7th, they've had to fill that trench in. This was unpermitted. This they did years ago, no permit. Okay, so they now unofficially know that the limit is 10 and they can go about this far out.

Okay, let's go over to the north side of the house. This is there, go over to their yard, it's still there 27 feet away. So, they've been told that you can't do this, they know the rule, and they're still doing this. In fact, one of their pictures that they had up on that thing, I could take that thing and show it to you. They're still doing this.

They don't pay attention to permits. They don't ask for permission, they just do it. That was my experience at the very beginning of this project, okay?

So, after having the discussion five years ago where Mr. Himelman got huffy with me, I find out what do you mean they've been doing this for a decade? They've been doing this for a decade. Where do you think that water goes that gets sent there? It goes to the people to the west of them and it comes to me. This is not natural drainage.

COMMISSIONER SELBKA: So, why is this important to this variance? Because all of this, if they, honestly, and I'm not making any judgments on this, if they are improperly directing water, the remedy is to go to the Building Department and make a complaint. So, the only issue we've got is whether these two pergolas, whether a variance should be granted. Certainly, if there is some damage to your property --

MR. ROHDE: And there has been, my shed is destroyed. My shed has rotted out. My shed is right here.

COMMISSIONER SELBKA: No, no, no. Some by the construction of the pergolas, if there would be some damage arising from the construction. So, all this sort of improper drainage that you're alleging that I have no ability to make a determination on, you have to, if you really think there's a problem, you have to go to the Building Department and make a complaint there about the drainage. The thing is how are these two pergolas affecting your property?

MR. ROHDE: Okay, you may note that this one here, this used to be legal, it used to be 10. My neighbors, instead of building something to the allowed 300, they decided to build something that's 854 feet.

COMMISSIONER SELBKA: Right.

MR. ROHDE: Which is why they said we've got to get the water past it. They didn't get a permit, they didn't ask for permission.

COMMISSIONER SELBKA: For the drainage ditch?

MR. ROHDE: It's an underground, if you say this thing is legal, the downspout was down on the ground, under, and it's supposed to be limited to 10 feet up out of the ground.

COMMISSIONER SELBKA: Okay.

MR. ROHDE: They don't do that.

COMMISSIONER SELBKA: You can make that complaint somewhere else.

MR. ROHDE: They're just like we need to get this out over there.

COMMISSIONER SELBKA: But what I'm saying is you have to make that

complaint somewhere else because an improper downspout is not in front of us. We just don't have jurisdiction to consider that.

MR. ROHDE: Okay, let me tell you where the, okay, let me just say where I think the connection is for this Zoning Board.

COMMISSIONER SELBKA: All right.

MR. ROHDE: They are here in front of you tonight. I got the letter from Harry, you know, so the sign goes up. I thought this project was done and I long forgot about it. The sign goes up in late March, I get this letter, okay? It says we're requesting the following variations.

I'll summarize it. This basically says we acknowledge the rule is 300, so there's no doubt.

COMMISSIONER SELBKA: Right.

MR. ROHDE: These buildings that are separate in the backyard need to be 300. They want not 310, not 320, 854, and I go something like you have got to be kidding me. I've been calling last year about this entire project. This is massive. This shed, they call this a shed, make sure you're clear about thing, 10 feet high, 14 feet wide, and what I see is a billboard. They erected it three feet from my lot line, not in the corner of the yard. They put another patio around it that is well over 300 square feet at the base, okay? So, they have paved over their yard.

So, they are talking about ambience and it's all in character with the neighborhood. Could we put up --

CHAIRPERSON JAFFE: Excuse me.

Derek, two questions. One, to the best of your knowledge, is the shed code compliant?

MR. MACH: They did bring the shed into compliance, yes.

CHAIRPERSON JAFFE: Okay, so again, sir, I know you're an Objector, but we really need to understand, what is your specific reasoning and logic behind why. The petition that is being brought before this Board, which to Mr. Selbka's comment, is very narrow in scope, I don't mean to sound like a bureaucrat but we are Arlington Heights citizens just like you, we are volunteers. So, these other issues that you are raising need to be addressed directly with the Village. We are only here tonight, all of us are only here tonight to talk about the petitions that are being brought forth by all of these property owners.

So, I'm going to give you one more go at this. If you can bring your logic as to why these two petitions should be denied, we'd like to hear it. You were going to say?

COMMISSIONER SELBKA: No, Derek, I just wanted to know, the Petitioner had said that if they connected the pergola to their main structure, it would be code compliant, correct?

MR. MACH: If the, yes, if it's structurally attached to the home, then it's reviewed with respect to the setbacks for the home and it would be considered part of the home.

COMMISSIONER SELBKA: So, this is not a permeable area case at all. This is a case about the fact that it's disconnected essentially, correct?

MR. MACH: Correct.

COMMISSIONER SELBKA: Thank you.

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14

MR. MACH: The impervious surface coverage is in compliance.

COMMISSIONER SELBKA: The impervious is in compliance, okay, thank you. I'm sorry, go ahead. I apologize, gentlemen.

MR. ROHDE: I'm sorry if I got off track, but I had been asked earlier about why I can't be talking to my neighbor because they don't talk about drainage with me. That's why I took those points up.

This, let me make sure we're clear what this is. My neighbors have wanted to build a pavilion like this. This is a side shot with three group sections, flat, flat and a pergola in the middle, with eight beams and a 35-foot-long base, 22 feet in depth, 10 feet high. They've always wanted this. If they had gone to the Village, if there had been a meeting of the minds with the Building Department, I am 100 percent sure they would have said you cannot build that. That is 854, we have a rule in this town and it's 300.

What I have found out in the last week, and this just came to light and I'm shocked that why is this only getting to me now that this thing has been going on for 10 months, there was evidently some major confusion when this was approved on 8/1/24. The Village evidently saw the plans that were delivered, assumed that it was going to be attached to the house and applied those rules. After they started building for 10 days, it's always been the intent of my neighbors to have this be a separate thing in the yard which has a completely different set of rules. It's now a separate building subject to this, and it's not even close, it's 854. So, that would have never been allowed. Only after they started building, they get from August 2 to August 10, something happened and all hell breaks loose because the Village is saying, whoa, you didn't attach it to the house like you said.

COMMISSIONER SELBKA: Well, wait a minute. Was it the fault of the Petitioners that the Village assumed that? Did the Petitioners, do you have evidence the Petitioners misled the Village?

MR. ROHDE: That's a great question.

COMMISSIONER SELBKA: Or is it that the Village assumed something that maybe wasn't exactly, correct?

MR. ROHDE: That's a great question. Let's look at what their architect put together, okay? And you almost have to look carefully at this. South pavilion, north pavilion, and the proposed pergola. That proposed pergola in there, I challenge you to tell me that doesn't touch the house. In the Petitioner's thing that they put forth, the 26 pages, there's two more exhibits. Both show that those touch the house.

So, they're trying to say that they relied on the Village, that the Village approved this. Well, the Village relies on the Petitioner and their architects to deliver accurate drawings that make it sure that there is no confusion. The concept of a major project like this starting, and one side thinks it's attached and one side thinks it's out in the yard, I find this shocking. I mean, someone is building a bridge and someone else is building a tunnel? Come on!

This is all going on next to me. They don't even know what they're building. I'm convinced, and you can ask anyone from Engineering, that if they had perfect knowledge that this was going to be separate in the yard, they would have never had one shovel in the ground.

So, they got the thing started, and something happened between August 1 and September 4th because there's a new set of drawings on your own website. It showed this original thing that they think got approved had this pergola roof going almost

all the way to the house, right, the next one is blank. I have a handout to that; I can show it to you. So, something happened where the Village said you can't do this because we've now discovered that you intend it to be out in the yard. So, to me, the Village is doing their job.

The Village, boom, stop work, time out, we have to figure out what you're doing here. This is supposed to be, you know, this is supposed to be attached to the house and you've got it out in the yard, okay? So, in theory, the Village could have just told them take that out, we didn't approve that, okay, but they reached some kind of new reconciliation where they got something similar to this built without this new roof.

The next item that's right here, this is what they built, two of these without the middle roof. So, this is twice now the Village has said you can't do this. You can't come in here and say you get 854 for outbuilding in your backyard. The limit is 300. So, there's a mess here. People would, you can get on the same page on something that simple.

The fix again reiterates you can't have this middle roof, and they currently don't have it. So, what are they doing now? The Village, each one of these roofs for the two pavilions they got are 289 square feet, just under. So, the fix was to try to get this one, the fix was to try to get what they did. Even though this is on, this platform is still 854, but they're calling it two. If you want to overlook this thing, you'd be hard pressed to say that that's two buildings. It's massive, okay?

Derek, can you put up that 151 picture?

CHAIRPERSON JAFFE: Okay, so I guess how many more points would you like to make? Because we're talking about a lot of different things here. We have other Objectors. I'd like to understand, what is your final point that you'd like to make?

MR. ROHDE: Okay, it would probably be this.

CHAIRPERSON JAFFE: And what is that?

MR. ROHDE: That is a pavilion.

CHAIRPERSON JAFFE: From where?

MR. ROHDE: On Campbell Street, two miles west of here, okay? That pavilion is 30 feet by 28 feet. It's 840 square feet, okay. The ones my neighbors will have, if you approve it, will be 854. That's in a public park and it has 19 benches under it. Theirs would be 854 in the backyard of a three-bedroom house.

You could take a typical Cape Cod house in Arlington Heights, drop it inside of that, and have room over on all sides. The thing that they're building, which would have never been allowed if there was perfect information between the parties, would never allow someone to build something the size of a three-bedroom ranch house in the back of a three-bedroom ranch house. These are single-family homes, and that complete structure that they will have if you say yes will be the size bigger than a three-bedroom home, and then you also have the giant shed on my lot line.

COMMISSIONER SELBKA: Well, if they connected it to the roof, the Village would allow it.

MR. ROHDE: Yes, and I know that's right, exactly, but they've been very adamant and you saw that in their response, they don't want to do that. So, but that's not a hardship, that's a choice, okay?

On their hardship matter, I find that to be just a very lame excuse. I was here at the last meeting. I saw what they delivered to you guys. When they asked do

you have a hardship, I remember exactly what they said. They had three months to do it. They said, do you have a special situation, no. No special situation, and they don't.

They are using this electrical issue as a complete red herring to try to apply pressure on you guys to give them the only large pavilion like that in town. Everybody else gets stuck to the 300. Is that what Arlington Heights is about? We let one couple, them, get this massive pavilion? It doesn't look like that and it looks nicer, I get it, but that's the size.

CHAIRPERSON JAFFE: But this Board wouldn't exist --

MR. ROHDE: What?

CHAIRPERSON JAFFE: This Board would not exist if our citizens did not present requests for variances for a number of different reasons. It is our responsibility to assess all those on a case-by-case basis.

MR. ROHDE: Right.

CHAIRPERSON JAFFE: Right. So, sometimes it's 300, sometimes it's not.

MR. ROHDE: Okay.

CHAIRPERSON JAFFE: So, would you like to make, I'm sorry, but you've taken up a lot of time; I know there's other Objectors. The Petitioner has a right to respond. We have people that want to make a public comment, and we have four variances behind this one.

MR. ROHDE: Okay, I'll pack up and I think there's another Objector. Thank you for your time.

CHAIRPERSON JAFFE: Anything from the Board that would preclude this?

COMMISSIONER DRAKE: No comment.

CHAIRPERSON JAFFE: Okay.

MR. BRAND: I'll get started while Joe cleans up. Do I need to --

CHAIRPERSON JAFFE: State your name, yes.

MR. BRAND: Eric Brand.

CHAIRPERSON JAFFE: And what's your address?

MR. BRAND: 139 South Kennicott.

(Witness sworn.)

MR. BRAND: I'm a life-long resident of Arlington Heights. I've lived in my present address for 34 years, and within a few blocks on Kennicott Avenue for all of my 59 years. I'm familiar with the neighborhood.

Over those years, I've had countless friends and neighbors build sheds, backyard patios, and do a variety of landscape projects and expansions. I myself did a massive renovation and expansion of my home 25 years ago, and a subsequent large patio project. All code compliant with no variance.

I've never seen a project quite like the Himelman's backyard endeavor. Let me share an example. Out my back window, I have three neighbors with adjoining lots and sheds on those lots. Those sheds are all set at the back of the yard, they have gabled roofs, they're complementary to the home on the lot.

When I step out my front door, I see a 10-foot-tall gray box with an essentially flat roof set three-foot off the side lot line, on a lot where if the shed was 20-foot forward, it would need to be set back 10-foot.

CHAIRPERSON JAFFE: And, sir, you know that the shed is currently code compliant?

MR. BRAND: I do, and I'll say it right here shortly. Give me five minutes and I'll be done.

Here's a black and white picture of the shed in the current petition, but I don't think it does the view justice, so I got some colored photos here if anybody wants to see a colored photo.

CHAIRPERSON JAFFE: And you're okay to submit them as they are?

MR. BRAND: Yes, absolutely.

CHAIRPERSON JAFFE: Okay, can we pass these around?

MR. BRAND: Yes.

CHAIRPERSON JAFFE: Thank you.

MR. BRAND: I took this picture yesterday morning from my front porch.

Needless to say, as I observed the project evolve over the second half of last year, I had concerns and spoke with the Building Department. I subsequently browsed through the plans and read the Building Department feedback and inspection results, et cetera. That documented history reinforced my general impression that this project has pushed the boundaries of the code for accessory structures, impervious surface, drainage, et cetera, and operated on the fringes of the rules and the process.

But to be clear, it's my understanding the project, as built, is compliant with Village Code and it's completed its inspections. I also thought it was done, but here we are again, getting asked by the Himelmans to go beyond the code to connect two pavilions resulting in an 800 square-foot accessory structure, give or take, clearly beyond the 300 square-foot limit.

Two months ago, we had a virtually blank petition, N/A for one of the four required criteria for this Board. Now we have a 20-page petition, certainly more consistent with what I'd expect from two experienced lawyers. This petition has new math for square footage, 720 versus 856, the contrived hardship around connecting electric from one pavilion to the other, predictions of redesign, demolition and reconstruction if the pergola connection is not allowed, and some snapshots of other ranch homes on the street.

This feels like a game.

COMMISSIONER SELBKA: I've got a quick question. I'm looking at this picture. Is that the picture of the shed that is the --

MR. BRAND: That is the shed.

COMMISSIONER SELBKA: Okay, and that's not in front of us. You cannot see the pergola from your --

MR. BRAND: I cannot see the pergola from my house.

COMMISSIONER SELBKA: Okay.

MR. BRAND: It feels like a game, and I think it's indicative of the spirit of this project from the start. We're continuing while stop work orders are posted, drainage outlets moving around the yard, repeated inspections to get things correct, no communication.

As to communications, Harry brought it up. On the day the shed walls were joined up, I was staying in Joe's yard. Harry walked right past me; I called out to him by name and he kept going. I haven't talked to him since with one exception. The day he found out, I think it was probably the day after he found out I was an Objector on this, he flagged me down, came across the street. I told him what I thought of his shed, I

told him I planned to be here and say my piece.

I also didn't get the letter, maybe the post office lost it. I'm staggered we're here considering reinforcing if not rewarding this behavior. This is a want, not a need. As I explained before, the project is not consistent with the character of the neighborhood. I think that train may have already left the station.

There's no unique circumstance or preexisting condition here. It's not a corner lot, it's not a pie lot, it's just a backyard project. As near as I can tell, and I haven't done the forensic analysis of all the documents in the history on this project, the Himelmans were aware of this code compliance issue at some point last summer, into August. There's been ample time to adjust. The work went on for months. They chose to carry on.

I don't agree that this is a hardship. I'm sure it will cost something to complete the missing connection, but in the grand scheme of a six-figure project, I just don't believe that there aren't lots of options to make this connection.

The petition presents a binary choice between a non-code compliant accessory structure and redesign, demolish and reconstruct. It's not a valid choice. I suspect their contractors, if asked, could come up with a way to connect the electricity to that pavilion and come up with a number of options, all code compliant and reasonably priced.

This is a want, not a need. The code is the code. So, I ask this Board to deny this request, restore my faith in the people and process that make the Village I love a great place to live. Thanks.

CHAIRPERSON JAFFE: Thank you.

For more of operations, does the Petitioner respond to the Objectors or do we go on to other people who want to speak as non-objectors?

MS. SAED: The Petitioners should respond to the Objectors now before the rest of the public comment.

CHAIRPERSON JAFFE: Okay, and again, I know a lot was said, but let's try and be targeted in our remarks.

MR. HIMELMAN: Concise, all right. So, number one, most importantly is the shed is not an issue, drainage is not an issue. We've passed inspection. We've done everything the Village wanted us to do.

One of your toughest and best inspectors, I think it's Patrick Smith the Engineer if I'm not mistaken; he was the one who inspected the drainage that we were building. He was the one who talked to us about what we needed to do, and he also talked to me personally about what I might consider doing. We did every single thing that the Village wanted us to do and by way of suggestions that, if I'm remembering the name correctly, Patrick Smith, that the engineer had suggested. We also, in addition to everything else and all the moneys we expended, we also built a dry well in the back near the shed just so it would drain even better and look even better, because aesthetics are important.

With regard to the other issues that were raised regarding which direction the drain lines are going, we did everything in accordance with what Engineering wanted. We did everything in accordance with what the electrician wanted. By the way, I think that the photograph that you saw of the trench, I don't remember that particular trench but we did have trenching for gas lines, trenching for electric lines, and so that

might have been part of it as well. But the bottom line is that whatever needed to be done was done and more than needed to be done and we passed.

So, I have to just add a couple of other little things. At some point after we received a pass from the Village, this issue regarding the slats or the pergola arose, and whether the Village made a mistake, I don't know. It may have been the case but it was addressed, and we did whatever the Village wanted us to do to address that issue. There was no stop work order on the pavilions themselves. The only stop work order that was issued was related to the shed, and that, as I mentioned in my initial remarks, was because the shed roof line was too large and the Village wanted us to reduce the size of the shed, which is what we did.

Now, each and every time we needed a permit, we got a permit. You have photos now by both my wife and I as well as now from Mr. Brand, and it shows the structure that was completed, the two pavilions as well as the slats that we needed, the pergola that we want to create, which will have absolutely no effect on drainage, absolutely really no effect on the square footage, because they'll be just slats and it won't be a solid roof line.

I just have to add a couple of other things. With regard to what Mr. Rohde said, at no time, for whatever it's worth, at no time did I get huffy with him about anything with regard to drainage. He has his own issues with his own yard and drainage. I won't address that because again that's not relevant to why we are here, but it's not our issues because we've passed, in accordance with the tough and strict Village rules, all of the requirements.

With regard to what Mr. Brand said, he mentioned to you when he made his comments about the project that he had done, he and his wife had done some years ago in creating what he himself termed a massive structure. That massive structure, his house, when they renovated some years back, it's in our photographs, is not really, does not comport with the look of the entire area where we live, the ranch homes where we live. So, for him to complain about, you know, structures not looking, you know, in accordance with what the Village Code requires is to an extent somewhat hypocritical.

The accessory structure that he talks about are just the slats, let's be clear about that, and that's all we wanted to do. So, the slats, that's the pergola that would attach the pavilion and that's all we're here for. It doesn't change anything for anyone. It doesn't change anything as it relates to drainage.

We've done everything the Village wanted us to do. For that, I ask that the Board grant us our variance.

CHAIRPERSON JAFFE: A comment was made by one of the Objectors; I don't remember which one --

MR. HIMELMAN: I'm sorry?

CHAIRPERSON JAFFE: I said a comment was made by one of the Objectors; I don't remember which one.

MR. HIMELMAN: Yes. Yes, yes.

CHAIRPERSON JAFFE: Did you send letters out to the neighbors?

MR. HIMELMAN: Everybody, sure. Like, I think about 45 or so.

CHAIRPERSON JAFFE: Okay.

MR. HIMELMAN: And they're here, so I assume that everybody received them.

CHAIRPERSON JAFFE: Okay. All right, so now if there's anybody who just wants to make a public comment, they can make it at this time?

MS. SAED: Three minutes, yes.

CHAIRPERSON JAFFE: And then the Petitioner also has the opportunity to respond to that as well, right?

MR. MACH: That's my understanding, yes.

CHAIRPERSON JAFFE: Okay. All right, so is there anybody in the audience who would like to speak?

And it's just their name, we don't need them to swear in, address or anything like that?

MS. SAED: They don't need to swear in.

MS. THOMPSON: I'm Judith Thompson; I live at 127 South Patton. Our backyard is directly, you know, we face each other. Their land is higher than ours. Ever since August and before, there has not been a problem with any drainage that we have noticed, so that is a non-issue as far as I'm concerned.

We see the entire backyard. We don't look between the houses and we don't look to the side. It is aesthetically very attractive. I'm thrilled that people are starting to develop Arlington Heights' older neighborhoods and bringing them a little bit more upscale. It's increasing the value of our homes. It's making it more desirable.

We have a split-level, theirs is a ranch. I look at that property from my lower-level family room and all three bedrooms, and I do not find it an eyesore at all. I would hope that you vote for approval.

CHAIRPERSON JAFFE: So, to confirm, you are in support, correct?

MS. THOMPSON: Definitely in support.

CHAIRPERSON JAFFE: Okay, thank you.

Is there anybody else present who would like to comment?

MR. MACH: Chairman, I do have one e-mail. I can read it to the record or distribute it.

CHAIRPERSON JAFFE: It was in the packet, right?

MR. MACH: It was not.

CHAIRPERSON JAFFE: Oh, okay. At this point, why don't you go ahead and read it?

MR. MACH: We received the hearing notice for the home at 130 South Kennicott. We live across the street at 107 South Kennicott. We've seen the improvements in their backyard and find them attractive and a nice addition to the neighborhood. The style is in keeping with the surrounding neighborhood.

We understand the pergola was designed in two parts to respect the building regulations and we don't have any issue with connecting the two pergolas with decorative timbers. As residents of Arlington Heights since 1971, we hope to see the neighborhood improvements like the one at 130 South Kennicott. We hope you'll approve it and look forward to seeing it finished.

Best regards. Tim McCarthy and Monica Arena, 107 South Kennicott.

CHAIRPERSON JAFFE: And then there was also the letter of support in the packet, correct?

MR. MACH: Correct.

CHAIRPERSON JAFFE: So, we have two Objectors and we have three neighbors who wrote their support for the petition, correct? One second.

MR. MACH: I believe it's two neighbors. One, I believe, provided e-mail and spoke if I understand correctly.

CHAIRPERSON JAFFE: I thought there was one in the packet that was online.

COMMISSIONER SELBKA: That was her.

MS. SAED: It's the same neighbor.

CHAIRPERSON JAFFE: Got it, okay, right. All right, after --

MS. ALBARELLO: May I make a --

CHAIRPERSON JAFFE: -- the public comments are done, you can have an opportunity to respond.

MS. ALBARELLO: Thank you.

CHAIRPERSON JAFFE: Hi.

MS. KRCMAR: I'm Heidi Krcmar; 131 South Kennicott, directly across the street from the Himelmans. Their yard is lovely. They have done everything right. The pergolas, yes, they are large, but they complement the yard, they complement the house. The slatting that they want to do is nothing more than just putting some lights up. So, I don't think that this is an issue that should have, all of this should have been raised on.

So, if you could just allow them, the petition to do this, grant them, that would be great.

CHAIRPERSON JAFFE: So, to confirm, you are in support?

MS. KRCMAR: Total support.

CHAIRPERSON JAFFE: Okay, thank you.

Is there anybody else present who would like to speak?

MRS. BRAND: Yes.

CHAIRPERSON JAFFE: Come on up.

MRS. BRAND: Sherry Brand; I'm at 139 South Kennicott. I have a question about the electrical hardship that would be created. To me, it kind of drips with irony that we have two standalone buildings that anticipated having electrical in both of them, and then now all of a sudden that's gone off the beaten path that that would be a hardship to put that there. So, can somebody help me understand how the electrical is now an issue to be created because it was originally there to be in both of the pavilions, right?

CHAIRPERSON JAFFE: I'm not sure I understand the specific question.

COMMISSIONER SELBKA: I think the plan was to connect the pergolas through the initial --

MRS. BRAND: Right, but --

COMMISSIONER SELBKA: -- through the ceiling, or the middle roof ceiling.

MRS. BRAND: But if it was approved, right? Where it was the two standalones and it had the electrical in both of them, how does it create a hardship to get it to the north pavilion? Maybe the Petitioner can answer that. Maybe I'm not quite as up on the plans --

CHAIRPERSON JAFFE: Yes, I'll let the Petitioner, I mean, it's their plan. So, the Petitioner has the right to respond to all the comments and questions that were raised in the public comment section.

MS. SAED: Correct.

CHAIRPERSON JAFFE: Okay, come on up.

COMMISSIONER DRAKE: Chairman, the last resident, do you object to the project?

MRS. BRAND: Yes, I object.

COMMISSIONER DRAKE: Okay, just wanted to be clear. Thank you.

CHAIRPERSON JAFFE: Thank you, Tom.

MRS. BRAND: I think there was, I don't see why they have to be connected to make a massive structure.

MR. HIMELMAN: So, the electrical lines were dug underground, and we have, as you saw in the photos that have been presented to you and presented in the package. We have electrical lines and electric power in the pavilion on the south end. So, all the electricity is coming from the south end. It would be run through those slats that we're discussing to the north end. For it to run underground to the north end, whether initially or otherwise, would have cost a lot more money than --

CHAIRPERSON JAFFE: That's the \$10,000 money that you gave earlier?

MR. HIMELMAN: Than we're talking about now, correct. That's right. So, all it is just running the electrical lines through a conduit or, you know, through the slats to the north end because they originate in that south pavilion.

COMMISSIONER SELBKA: We understand, we understand.

Any other comments?

MR. HIMELMAN: That is all.

COMMISSIONER SELBKA: Ms. Albarello, did you have any other input?

MS. ALBARELLO: Yes, thank you very much. I just wanted to make the record clear.

Mr. Jaffe, you asked about what was already in the petition prior to, or the copy that you got. So, Judith, she and her husband submitted what is Exhibit 4, and that was Judith's e-mail to Derek Mach. Then, the additional letter from neighbors in support that Mr. Mach read, that letter was from Tim and Monica McCarthy who are at Kennicott across the street from us and a little bit to the north. That was submitted just today and that's what Mr. Mach read into the record. So, just for clarification --

CHAIRPERSON JAFFE: Okay.

MS. ALBARELLO: -- and I would just ask that we be able to mark that as Exhibit 5 to our petition. Thank you.

CHAIRPERSON JAFFE: Thank you.

Is there anybody else present who would like to make public comment?

(No response.)

CHAIRPERSON JAFFE: Do we have to make a motion to go to deliberation given the circumstances, or can we just --

MS. SAED: Close the public hearing.

CHAIRPERSON JAFFE: Do we have to make a motion to do it?

MS. SAED: To close the public hearing and then go to deliberation.

CHAIRPERSON JAFFE: Okay, is there a motion to close the public hearing and go over to deliberation?

COMMISSIONER SELBKA: Motion to close and move to deliberation.

COMMISSIONER DRAKE: Second.

MS. SAED: Voice vote.

CHAIRPERSON JAFFE: So, now we're in deliberation?

COMMISSIONER SELBKA: No, we've got to say aye to close it.

CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

CHAIRPERSON JAFFE: All opposed?

(No response.)

MS. SAED: Good.

CHAIRPERSON JAFFE: Okay, would anybody like to go first?

COMMISSIONER SELBKA: I'm going to vote in favor of the petition. First off, I do think there's a hardship here in light of the variance that's being requested, which I consider relatively minor because this is, there was a lot of talk about drainage, this is not an impervious area issue. If they attached the slatting in these pergolas to their house, they would be fully compliant with code.

For aesthetic reasons and for some substantive reasons, they don't want to attach the pergola to their house because it would damage their roof and it would make their roof harder to repair.

There's also the issue that the Village issued a permit for these two pergolas with the slatting. There's a lot of talk about how the Village was misled here. There is no real evidence the Village was misled here. You know, permitting in all these construction jobs is often a process where the engineers and the various architects and developers come to an understanding as time goes on, and sometimes that requires a variance.

That's where we're at here, where there may have been a misunderstanding, but regardless, there was a permit and the owners had the right to rely on that permit until the work stopped. There clearly was other issues that the Objectors bring up, but again, none of those are before us, and the Village has either corrected them or the Objectors can go to make a further complaint, if they feel there's an issue, with the Building Department.

I do believe that this is in the nature and will conform to the aesthetic of the neighborhood. The one person, the Objector who stood up and said that he looks out and this is very unattractive to him, he gave this photo but the photo only shows the shed which again is compliant. So, the fact that he can see a compliant shed means nothing to the variance that we have to consider which is the slatting between these two pergolas. The Objector can't see the pergolas from his house. The people who can see the pergolas from his house, or from their houses, think that the pergolas are great. So, I think that the various provisions of the code have been met to qualify for a variance.

There was one other statement that the original petition was deficient, which I agree with, it was. But that's been corrected, so I don't see why we should concern ourselves with that.

So, with all that being said, I'm in favor of the variance.

COMMISSIONER DRAKE: I agree with all of that. I'm in support of the petition, and I'll add to the last point that was made, we have continuances, I've been on the Board 10 years, we've had plenty of continuances over the years, the petition was deficient in terms of hardship. They corrected that. I think the correction is in order considering cost in their options that they could have done.

So, I always appreciate it when residents come in and they have an issue and they object. We want to hear what people think. We weigh all of it carefully, but I think in this case, I'm on board with approval.

COMMISSIONER PORTERA: I'm going to vote in favor of the petition. The only issue before our Board tonight is this accessory structure and whether the pergola can be attached to both pavilions. There's no drainage before us. There's no impervious surface before us. There is no shed before us. The only issue is this pergola and the slatting that's going to be connecting them.

So, I'm in favor, and I think all four elements have been met for this petition that is being presented to us.

CHAIRPERSON JAFFE: I want to thank those who came out tonight with formal Objector status and the time and energy and work that went into providing these examples and some of their commentary and testimony that they have been saying.

For the Petitioners, it's not lost on me that they have been residents of the Village for 33 years, but I will say that the communications here, in my opinion, appear to have been pretty clumsy. There are some relationship issues on the street that were clearly evident in some of the messages that were coming through on both sides, both those in support and those against.

That said, I do believe the four criteria have been met, and I would support the petition as presented.

Is there a motion?

COMMISSIONER SELBKA: Motion to approve.

COMMISSIONER PORTERA: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. MACH: Chairman Jaffe.

CHAIRPERSON JAFFE: Yes.

Okay, petition has been granted. You're free to stay, but you're also free to leave.

I'm going to give it a couple of minutes, Derek, for everybody to kind of shuffle out before we go on.

MS. ALBARELLO: Thank you, everyone. Thank you.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 8:22 p.m.)

APPROVED

25

ZONING BOARD

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

OF APPEALS

RE: 1106 WEST RAND ROAD & 60 WEST REVERE DRIVE -
SHALOM MEMORIAL CEMETERY - ZBA #24-049

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 9th day of June, 2025 at the hour of
8:22 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Chairperson
FRANK PORTERA
JEFFREY SELBKA
THOMAS DRAKE

ALSO PRESENT:

DEREK MACH, Development Planner
DAN OSOBA, Planner
DARKO BOJIN, Assistant Planner
HANNAH SAED, Village Legal Representative

APPROVED

26

CHAIRPERSON JAFFE: All right, let's move to new business, starting with Agenda Item A, 1106 West Rand Road and 60 West Revere Drive, Shalom Memorial Cemetery, ZBA Case #24-049.

Are the Petitioners present?

MS. SHAMASS: Yes.

CHAIRPERSON JAFFE: Are you both going to speak?

MR. SINGERMAN: If needed.

CHAIRPERSON JAFFE: It would probably be easier. All right, did you sign in?

MS. SHAMASS: We did.

MR. SINGERMAN: Yes.

CHAIRPERSON JAFFE: All right, one at a time, can you both state your name and address for the record?

MS. SHAMASS: Absolutely. My name is Monica Shamass, and I am the attorney that represents the property owners, in this case Shalom Memorial. This is Micah Singerman.

MR. SINGERMAN: Micah Singerman, I'm the Executive Director of the cemetery, of Shalom Memorial Park and Randhill Park Cemeteries.

CHAIRPERSON JAFFE: Your address?

MR. SINGERMAN: Home or work? I represent Shalom at 1700 West Rand Road.

MS. SHAMASS: So, my work address is 300 South Wacker, Suite 1500 in Chicago, Illinois.

CHAIRPERSON JAFFE: Will you both raise your right hands?

(Witnesses sworn.)

MS. SHAMASS: All right.

CHAIRPERSON JAFFE: We have to do Staff report first.

MR. OSOBA: So, the property is located at 1106 West Rand Road and 60 West Revere Drive. The portions of the property within the Village of Arlington Heights are zoned R-1 One Family Dwelling District and M-1 Research, Development & Light Manufacturing District. The majority of the property is located within unincorporated Cook County and does not fall within the jurisdiction of the Zoning Board of Appeals of the Village of Arlington Heights.

The Petitioner is proposing an eight-foot-high brown vinyl fence around the property for added security where code limits the maximum height of fences in the front yard to 36 inches, and such fences must be open in style. Cook County has already reviewed and approved the variance for this type of fence within their jurisdiction.

Therefore, from the Village of Arlington Heights, the Petitioner is requesting the following variations:

- A fence variation from Chapter 28, Section 6.13-3(a) to allow an eight-foot-tall solid fence to be constructed in the front yard, where fencing in the front yard shall not exceed a height of 36 inches and must be open in style; and
- A variation from Chapter 28, Section 6.13-3(b) to allow an eight-foot-high fence to be constructed along the rear property line, where fencing in the rear yard shall not exceed a height of six feet.

MS. SHAMASS: All right, as I stated earlier, my name is Monica Shamass.

Apologies as my voice cracks a little bit, I was at a wedding this weekend, still working it off.

This property in itself operates as an active cemetery, and it serves really a sacred purpose here. It's a final resting place. I think with that comes a very strong responsibility.

So, for many years, it's held a deep cultural and spiritual significance to the families and communities that it serves. Given the nature of the site, maintaining a respectful, dignified and, more importantly, a secure environment is really paramount here. Historically, the cemetery's security infrastructure has fallen behind and really has lapsed from where it should be. Specifically for similar facilities, in light of recent attacks at Jewish functions, this has become an even larger concern for this particular community.

Now, over the past year, the cemetery has tried to rectify this. How? What they've done is they have poured into, at least \$100,000, into, you know, increasing security functions, whether that is surveillance cameras, panic buttons, controlled building access. Right now, this fence is really the largest and most important part of that movement.

Now, we hired security consultants who conducted a physical and technical security assessment of the property to properly identify what the risks were. They took note of staff, visitors, guest routines, compared them with on-site assessments of the property. So, going out there, seeing where the problems or potential issues were physically, and then also reviewing local crime statistics, data, and security practices, and then adding that in conjunction with the security practices of Jewish funeral homes and cemeteries in particular, and they have formulated their recommendation to us.

So, there's a lot of basis for this. It's not just, you know, we had a guy go out there and say, hey, look, you need a fence right here and eight feet sounds nice. So, these recommendations, we used that information, and then took into consideration what measures have proven successful in similar environments. Further, when you want to wonder what's going on at the cemetery that's prompting this besides for generally what's going on around the world, the cemetery has had multiple incidents that underscore the need for these enhancements, particularly unauthorized entry from individuals to the north.

So, if you recall, there's the Amazon facility that sits to the north. A lot of people are just cutting through that, I want to say it's a berm or that area, and treating it kind of like a lunch lounge space. So, they come in, they do strolls, meanwhile there's like grieving families here and people kind of just treating it like a lunch break hangout.

Other situations that have happened are thefts of bronze faces from the gravesites. Obviously, this starts escalating, it's not just a place for joy riding, but now we're stealing from gravesites. There's a bar I believe on the southeastern kind of corner where people are entering and, you know, in the middle of the night you have drunken trespassers coming in, doing whatever it is that they want to do, and then littering. So, people are coming to visit the grave the next day and find out that there's beer cans all over their loved ones' burial plot.

The other issue that we've been running into is that staff members have been receiving threatening phone calls. So, there are active threats that are being put into cemetery staff and people who are on site. So, that's, you know, kind of in a small caption what the problem is and what's been happening.

Now, those security consultants that I, you know, referred to a bit earlier have given us the advice that, you know, not only do we need a fence, we need an eight-foot fence and, more importantly, it needs to be fully enclosed. So, I know sometimes there is the question of why can't we put, you know, like beautiful wrought iron fences, right? The problem is that's not going to do what we need it to do which is really to act as a deterrent, both physically and psychologically. In the same way that you can put a sign and that will deter some people, a fence deters some people. But if there's holes in it, it has the ability of being bent, it has the ability of, you know, young teenage kids kind of cutting through and all of that good stuff.

So, what we've done is we've found a fence that is not only, you know, great for safety, but it's also aesthetically pleasing. It's beautiful on both sides, so, yes, thank you. If you pull it up, so it looks exactly like that on both sides. It is made out of vinyl material, but it actually has a print that looks like wood. So, it will look like a wood fence.

We also have a landscaping plan that we are putting kind of everywhere. So, to speak a little bit more about what is currently there and what we plan on putting, at present, the cemetery's perimeter is enclosed by a mix of chainlink fence. So, along the neighboring streets, it's chainlink fence and whatever is going on with the neighbors, but then natural shrubbery in other areas, and then there's a very small portion by the gate of wrought iron fencing that's really more decorative if anything for the gate to all be enclosed.

Now, as was previously mentioned, much of the fence that we are putting in lies in unincorporated Cook. They've already given us the green light, thankfully, and so we're here for, I think it's about 550 feet in one portion on Rand, and then 500 feet on the north side that sits in Arlington Heights that we need approval for.

Now, where do we plan on putting it in those areas? So, in the areas that are inside the Village, the proposed new fence will sit on the property boundary on Rand which is roughly, if you want to do a rough measurement, about 25 feet in from the street, and then roughly the same distance from the Amazon parking lot to where the current plantings are. So, the distance does vary around the property, but we're open to any suggestion from the Village as to setback lines and to set it back for the fence in those areas.

Right now, where we have the shrubbery acting as an informal barrier, that vegetation is going to be removed and we are going to go ahead and put the fence there. So, for example, if we have trees or brushes or whatever in that area, what we're going to do is try to transplant that if it's viable. Obviously, myself personally, terrible at plants, they all die no matter what I do, right? So, imagine uprooting one, sometimes it's not, you know, feasible. In that case, what we do is we would compost those plants. Where we can transplant them, they will, and then obviously the intention is to have this fence that is going to have beautiful landscaping around it nonetheless.

Now, you had referenced some things earlier where you wanted people to kind of discuss. What is the hardship here? Really what the hardship is, besides for security, you can look at the map, the subject property is massive, you know. It's a large open cemetery encompassing thousands of feet of perimeter frontage and it's highly visible, highly accessible in a million different ways, right? So, what we need to do is increase our ability to go ahead and combat that, and so we do need the fencing.

Then, on top of that, I think it's really important to, you know, put gravity towards the fact that it serves a unique function. It is a place of rest, of reflection, cultural significance, and it requires a heightened protection against trespassing. You know, vandalism and security concerns have become greater in the recent years, and a standard six-foot fence is insufficient to ensure the safety and dignity of the grounds, which is a hardship not based on convenience but in the core operation and ethical obligations of running a cemetery.

Now, the question also becomes, okay, does this comply with surrounding areas, right? Who knows Arlington Heights better than you? You go to the north and that's commercial. Amazon has slapped whatever blue they can slap on up there. So, a fence that has beautiful flowers growing over it and beautiful shrubbery and brush on the front will actually act to beautify. Then where we are keeping plants, there are still going to be beautiful trees.

One thing that the cemetery is proud of is that park-like serene, you know, beautiful open ground feel, and that's something that we don't want to do anything to harm, right? So, when you go on Rand, we're putting that fence up, that's a very busy thoroughfare. So, really what you're hitting there is traffic. Across the street, you're going to have townhomes. They have their own shrubbery and foliage and whatever to block the view of the cemetery generally speaking, but on top of that, again, it's, you're looking at God knows how many lanes of cars in between there. So, it's, you know, in terms of view, it's already a little bit compromised, and again, what we're going to do, and if you look at the landscape plan, we're going to have clematis which will be plants on the interior that will grow and hang over the fence. So, when you're looking externally, there will be flowers going over the top, and then there's going to be the shrubbery and tall grass near the front kind of everywhere on top of the existing fence.

Now, I know it's been a rough day. So, I'm going to keep this short. With that, I yield, so if you guys have any questions, please let me know.

CHAIRPERSON JAFFE: I've got two questions. I don't know if you guys have anything?

COMMISSIONER SELBKA: I have none.

CHAIRPERSON JAFFE: Did you, I know it's in a unique geographic area, but did you send out communications to anybody?

MS. SHAMASS: Yes. So, I not only sent, we hired a company to go and do 250 feet from all around the area, but I was also given a list I believe of names, and then I cross referenced it. So, then I sent probably more. I got so many of them back because they were just not even, you know, it's just multiple PINs.

CHAIRPERSON JAFFE: Right.

MS. SHAMASS: So, if anything, I've sent in over and abundance, and because we have gone through this with Cook County, I've arguably sent notice twice. So, I believe at least 180 people have received notice at least once if not twice.

CHAIRPERSON JAFFE: Okay, and my other question is given the circumstances, it's the minimum variance but is it enough to keep it secure and safe enough? I mean, you're making me ask, right?

MS. SHAMASS: Right. No, a 100 percent.

CHAIRPERSON JAFFE: So, I'm assuming it's going to be enough to keep it secure?

MS. SHAMASS: That is the hope, right? So, I can't speak in absolutes. People are crafty. Some people are better at climbing a fence than others, right? But really what it is, six feet is, I mean, there's people who are six feet tall, right? Eight feet really adds that level of you have to really be determined and really trying to break in. Then, again, like I said, it's part of this broader effort. So, what we're doing is we're trying to bolster this on all fronts and this is really the biggest one that we need.

CHAIRPERSON JAFFE: Okay, are there any questions from you guys?

(No response.)

CHAIRPERSON JAFFE: Okay, thank you.

Is there anybody in the audience who would like to comment on this petition?

MR. SINGERMAN: Can I add one thing?

CHAIRPERSON JAFFE: Sure.

MR. SINGERMAN: So, the area in Arlington Heights that we're looking to do the fence, the neighbors and the residents around us, they're not the concern. It's just the Amazon parking lot area. So, the beautification that we'll still do, it is on the area of the Amazon parking lot. It was actually raised when they came in, so it used to be kind of depressed and kind of came up to almost the same level as the cemetery which took away most of the visual buffer of the berm. So, the impact, we'll still beautify it but it's beautifying actually the parking lot. Happy to do it, but the impact may be minimal in terms of impact on the neighbors.

CHAIRPERSON JAFFE: Thank you for that clarification.

Last call for comments on this petition.

(No response.)

CHAIRPERSON JAFFE: Okay, none being heard, we'll close it down for deliberation.

I think this is a very straight-forward and reasonable request given the circumstances, and I don't have any concerns about supporting this personally.

COMMISSIONER SELBKA: Yes, I think they have made the four prongs that they have to make for a variance. The one thing which, you know, Counsel didn't bring up, but I think constitutionally we'd be required to grant this variance because this is a place of religious significance, and under the First Amendment, if someone comes to us with a religious hardship, we really should grant it given the, unless there's a really, really good reason not to. So, I'm in favor of this.

COMMISSIONER DRAKE: Yes, likewise. Well done on presenting the petition.

MS. SHAMASS: Thank you.

COMMISSIONER PORTERA: Yes, I agree. I'm in favor.

CHAIRPERSON JAFFE: Is there a motion?

COMMISSIONER SELBKA: Motion to approve.

COMMISSIONER DRAKE: Second.

MR. OSOBA: Commissioner Selbka.

COMMISSIONER SELBKA: Yes.

MR. OSOBA: Commissioner Portera.

COMMISSIONER PORTERA: Yes.

MR. OSOBA: Commissioner Drake.

COMMISSIONER DRAKE: Yes.

MR. OSOBA: Chair Jaffe.

CHAIRPERSON JAFFE: Yes.

Congratulations, your petition has been approved.

MS. SHAMASS: Thank you.

CHAIRPERSON JAFFE: Have a good night.

MS. SHAMASS: You, too.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 8:38 p.m.)

ZONING BOARD

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

OF APPEALS

RE: 109 NORTH STRATFORD ROAD - ZBA #25-010

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 9th day of June, 2025 at the hour of
8:38 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Chairperson
FRANK PORTERA
JEFFREY SELBKA
THOMAS DRAKE

ALSO PRESENT:

DEREK MACH, Development Planner
DAN OSOBA, Planner
DARKO BOJIN, Assistant Planner
HANNAH SAED, Village Legal Representative

CHAIRPERSON JAFFE: Next agenda item, B, which is 109 North Stratford Road, ZBA Case #25-010.

MR. WARDEN: Hello.

CHAIRPERSON JAFFE: Hi. Could you all --

MR. WARDEN: We're signed in to speak.

CHAIRPERSON JAFFE: Okay, so why don't we start. It doesn't matter which way. What's your name?

MS. MURPHY: Gail Murphy.

CHAIRPERSON JAFFE: And what's your address?

MS. MURPHY: 109 North Stratford Road.

CHAIRPERSON JAFFE: And what's your name?

MR. WARDEN: I'm Jeff Warden; I was their contractor. My address is in Trout Valley, Illinois.

CHAIRPERSON JAFFE: Okay, are you going to speak?

AUDIENCE MEMBER: No.

CHAIRPERSON JAFFE: Okay, can you both raise your right hands?
(Witnesses sworn.)

MR. OSOBA: The property is zoned R-3 One Family Dwelling District. The Petitioner has constructed an eight-foot tall, 72 square-foot utility shed without a Village permit and is located 3.25 feet from the south property line, or excuse me, from the north property line, and 1.75 feet from the rear property line, where a shed requires a setback of three feet from the side property line and five feet from the rear property line. The shed is also located within the five-foot utility easement and adjacent to the rear property line. The Petitioner has obtained encroachment approval letters from those utility companies that are within the easement.

Therefore, the Petitioner is requesting the following variation:

- A 3.25-foot variation from Chapter 28, Section 6.5-2 to permit a tool shed to be set back 1.75 feet from the rear property line where accessory structures are required to be set back five feet from the rear property line.

MR. WARDEN: Yes, well, we're going to address the four things, right? Okay, so it says the stated proposed use will not alter the essential character of the locality and is compatible with the existing ones. There are other sheds that are similar to this up and down the block and other places. In fact, just two yards to the north, there is a shed that's set in almost the identical position and that's the rear yard setback. It's approximately 19 inches off the rear yard line.

The plight of the owner here is, it makes it sound like a personal problem but we've spent a lot of time, when the Murphys approached me as a contractor shortly after Covid; they were concerned about the isolation. They said they'd really like to create a place where they could have a stay-cation. They have a lot of family in the area. You've been in the house since 1967, I believe?

MS. MURPHY: I grew up there.

MR. WARDEN: Yes, and so to that end, we sought the permits and we created a three-season room, a deck on the back, a patio and a pool.

COMMISSIONER SELBKA: You said you obtained the permits?

MR. WARDEN: Yes, this was earlier construction, but not for this, and I'll get to that, but --

COMMISSIONER SELBKA: Okay.

MR. WARDEN: -- their desire was to create a place where friends and family and neighbors can join and do this. So, in the process, I think we underestimated the amount of tools that would be required for pool maintenance and the storage of patio furniture and such. So, we came to the conclusion we really need to put some kind of a little shed up there. This was about, what, six months-eight months after the rest of it was completed.

We looked around and most of the property now had been designed where the hardship was really where to put it. Back in the corner where we did place it ultimately, there is pool equipment, the heater and the filters and those sort of things. It was kind of a dead area, about the only place that wasn't designed to be used for enjoyment, either sitting out in the yard or sitting on the patio or using the pool.

So, when we went to do it, I looked for information on sheds. Now, as the contractor, the other thing, of the other work that had been done, I knew that we had available access to the impervious coverage. We had some room to give there. I also knew that they had said that we had one more accessory structure that could be built.

So, I went looking for information on the sheds and how to get that, and I couldn't find it. Over and over it would refer to the portal, this mysterious portal that exists now. We went to it and I looked all the way through and I couldn't find it. So, we said let's just build it, you know, so shame on us, but we said, I did tell them that this is in the utility easement. I also knew that there was nothing in the ground there because I had been the contractor of the other stuff that had been so marked, so I said, but they could require you to move this thing.

Ultimately, when a neighbor called and didn't like the shed built, we said okay, we'll do whatever needs to be done. An inspector came out and said no, you've got to get a permit for this even though it's only 72 feet. I said I've been looking for this information, because he referenced a few things, where is it? I was referred to the portal.

So, the next week, I went back to the portal and spent another two hours digging through week, and ultimately, I couldn't find the information on this thing that he had referenced. So, I finally called the Building Department and I said you guys got to help me. I said I've been looking for this thing, I've probably got four hours invested, where is the information specific to the sheds and how to apply for a permit? I said I can't find it anywhere.

I was told, oh, that's because we haven't published it yet to the portal. Well, that's kind of, you can kind of imagine our frustration when you're trying to do the right thing but it's, we're trying to look for information that doesn't exist there. But at any rate, we insisted, you know, we will do the right thing now, we'll get the permissions if that's what's required. We'll do our best to be compliant here.

COMMISSIONER SELBKA: Did you make the request to the Village before you built the shed?

MR. WARDEN: No, we did not, and that we only --

COMMISSIONER SELBKA: So, it was after you built it?

MR. WARDEN: We did, true, yes.

COMMISSIONER DRAKE: And did the Village have the written information that you --

MR. WARDEN: Yes, they did. At that time, I was told, well, we never

published it to the portal but if you send me your e-mail, we'll be happy to send it out to you in a Pdf. So, then we got that and we filled it out and said, well, here, can we submit it? They said, well, no, you've got to go scan it back in and go through the portal again.

So, it's a bit frustrating for us as contractors if we're continually referred to this thing and it doesn't hold the information they insist is there, but at any rate, shame on us, we built this thing.

CHAIRPERSON JAFFE: One quick question.

MR. WARDEN: Go ahead.

CHAIRPERSON JAFFE: You said you've been doing contractor work since the pandemic?

MR. WARDEN: Yes, well, longer, for four years.

CHAIRPERSON JAFFE: On this property?

MR. WARDEN: On this, yes.

CHAIRPERSON JAFFE: What else have you done between the construction of this shed and the pandemic? Any other projects in the backyard?

MR. WARDEN: No, no, no. Well, yes, the three season-room addition and the deck, and I oversaw the sub that built the pool.

CHAIRPERSON JAFFE: And were all those projects permitted?

MR. WARDEN: Oh, absolutely. Everything is totally.

CHAIRPERSON JAFFE: And did you obtain the permits for those three projects before you initiated work?

MR. WARDEN: Absolutely.

CHAIRPERSON JAFFE: So, why did you initiate construction of the shed before getting a permit?

MR. WARDEN: I couldn't find the information about what to submit for --

CHAIRPERSON JAFFE: Why didn't you wait? I mean, you did it right the first three times. Why did you --

MR. WARDEN: I couldn't find the information that showed where to submit and even to get a permit.

COMMISSIONER DRAKE: Did it not occur to you right from the get go to just call the Village versus fooling around with the portal?

MR. WARDEN: That's what they did, they told me to go to the portal; it's on the portal.

COMMISSIONER DRAKE: Right, but when you couldn't find it, didn't it occur to you maybe I should call somebody or go over there and see if they have it in another format?

MR. WARDEN: It did not at that time. It did not at that time and shame on me. That, I know that.

COMMISSIONER SELBKA: So, I haven't had that much experience, but my understanding is typically a contractor will scope out the construction for a project, make some basic designs, and then go to the Village Hall if necessary and get permitting information and submit an application for a project whether it's on the portal or not, right, or is that just totally changed?

MR. WARDEN: It's all changed now. That's how it used to be when we built the rest of the project. After the portal came in, they said everything must go through that. We can't even hand in paperwork there, or we've been told, and have them accepted

there. If we do something, we can go talk to somebody and mark it up. They ask us to go home and scan it in and then send the packet through the portal. It's challenging.

COMMISSIONER SELBKA: So, when they said they didn't publish it and sent this, sent you the scanned information, were you then able to submit it through the portal?

MR. WARDEN: Oh, yes. Yes, then I was able to fill it out, scan it in, and I sent all that stuff to the Building Department, and then that's when they --

COMMISSIONER SELBKA: Through the portal?

MR. WARDEN: Yes, and then that's when they said, but you're also going to need a zoning variance. We understood and I had spoken with the Zoning Board or the Zoning Office at one time, and I have an e-mail to this effect, that I said, well, my understanding is the five-foot setback now is the same as the easement. So, if --

COMMISSIONER SELBKA: Let me step back for a second.

MR. WARDEN: Okay, sorry.

COMMISSIONER SELBKA: Okay, so let's get the timeline straight. You searched the portal.

MR. WARDEN: Yes.

COMMISSIONER SELBKA: Did not find anything about a shed.

MR. WARDEN: Right.

COMMISSIONER SELBKA: Built the shed.

MR. WARDEN: Yes.

COMMISSIONER SELBKA: Then you call the Village and said --

MR. WARDEN: I searched the portal again and then finally gave up and said if you could help me.

COMMISSIONER SELBKA: You searched the portal again after you built the shed?

MR. WARDEN: Yes.

COMMISSIONER SELBKA: And then you decided to call the Village and say where is the information for --

MR. WARDEN: I couldn't find it because I wasn't even sure really, it was a 72 square-foot shed, I wasn't even really sure we had to have one.

COMMISSIONER SELBKA: Okay, and you decided, but you did not call the Village before that.

MR. WARDEN: No, I did not. No.

COMMISSIONER DRAKE: Are you aware of the -- excuse me, Joe.

COMMISSIONER SELBKA: No, no, I just --

COMMISSIONER DRAKE: Okay.

COMMISSIONER SELBKA: All right, and then you called the Village when you couldn't, what spurred you to call the Village?

MR. WARDEN: Because after talking with the inspector that came out, he had referred and I said, he was speaking in specifics that I would have wanted to know. I said where is this, I couldn't find it. He said it's on the portal. So, I went back to the portal.

COMMISSIONER SELBKA: And it's not on the portal?

MR. WARDEN: No, it wasn't at that time. It may be now, but --

COMMISSIONER SELBKA: Okay.

MR. WARDEN: -- that's what, finally I gave up and said please help me. I

said we screwed up.

COMMISSIONER SELBKA: All right, and the Village then helped you to find it in the portal.

MR. WARDEN: Yes, and we filed for -- sorry.

COMMISSIONER SELBKA: Sorry, go ahead, Tom. I apologize.

COMMISSIONER DRAKE: No, sorry. I was just going to ask if you're aware of the comments that the Engineering Department made on this petition. They're up on the website. They're not in favor. Have you seen those comments?

MR. WARDEN: No, I have not.

COMMISSIONER DRAKE: We can go back.

COMMISSIONER SELBKA: So, you not only built the shed on top of the utility easement, you also built the shed on top of a drainage swale.

MR. WARDEN: That was unknown to me. I didn't, there's no swale there that I know where --

COMMISSIONER SELBKA: Because you didn't seek a permit, I guess. They would have told you that if you had actually applied for a permit. but I'm sorry, go ahead.

MR. WARDEN: Yes, well, that's why I wasn't --

COMMISSIONER SELBKA: Which is why Engineering is not in favor of this because, you know, we've got a drainage issue in Arlington Heights. The shed is not only on top of a utility easement, it is also on top of a drainage swale. Did you pour concrete?

MR. WARDEN: No, no.

COMMISSIONER SELBKA: So, there's no foundation.

MR. WARDEN: No.

COMMISSIONER SELBKA: This is just --

MR. WARDEN: There is a gutter that channels the drainage into a planting bed in their yard.

COMMISSIONER SELBKA: All right.

CHAIRPERSON JAFFE: If this variance were denied, do you have a sense of how much it would cost to move the shed to a code-compliant location?

MR. WARDEN: Well, we cannot move it forward because the pool equipment is there and the clearance. It would be several thousand probably to dismantle it and take it away and either destroy it, or I don't know that there's a place where it would not be a huge interference.

We have taken steps, we had spoken with the neighbor and she expressed her concern about the drainage. We said, I said that's a valid concern, I don't believe there's going to be much. I said, we spoke about it and we said, I talked to her and I said if we put a gutter on that and channeled the water to the Murphys' planting beds there in the yard, would that be acceptable? At the time, this was last December, she seemed to indicate, I left with the distinct impression that was an acceptable solution to her. That's what we've done.

COMMISSIONER SELBKA: So, there is no place you can disassemble the shed and reassemble it to be code compliant?

MR. WARDEN: I won't say it can't be assembled to be code compliant someplace else, but it would be in the middle of the area that they use to enjoy their pool. There's really no other place on the property. This is that dead little corner back there.

COMMISSIONER SELBKA: Could you disassemble it and reassemble it so that it's not in the middle of a drainage swale?

MR. WARDEN: It would interfere with the pool and there's really no location.

CHAIRPERSON JAFFE: So, without getting out of order, if you can't sense, we're trying to help you.

MR. WARDEN: I know, I can, I know and I'm --

CHAIRPERSON JAFFE: Because you've got to go four for four.

MR. WARDEN: I know.

CHAIRPERSON JAFFE: And reading the room, it doesn't look like there's a lot of support.

MR. WARDEN: Right. I think if it can't be there, then we would probably have to just remove it.

COMMISSIONER SELBKA: Anything else?

MR. WARDEN: Not at this time.

COMMISSIONER SELBKA: Do we have an Objector?

CHAIRPERSON JAFFE: Do we have an Objector or do we have public comment?

MR. OSOBA: We do not have an Objector.

COMMISSIONER SELBKA: We don't? Okay.

MS. POPP: I have public comment.

CHAIRPERSON JAFFE: We do have public comment. You'll be allowed to come back up and respond.

MR. WARDEN: Right.

MS. POPP: Okay, when they started building the shed --

CHAIRPERSON JAFFE: So, we just need you to identify yourself, that's all.

MS. POPP: Oh, Joan Popp. I'm the backyard neighbor.

CHAIRPERSON JAFFE: Thank you, and --

MS. POPP: Okay --

CHAIRPERSON JAFFE: -- you also submitted this e-mail as part of the packet?

MS. POPP: That's right. Did you guys read my letter and some pictures?

CHAIRPERSON JAFFE: I've got them, yes, and all the pictures, yes.

MS. POPP: All right, so as you can see, that shed is in the upper right corner. Right here, this is the shed, and there's no space.

Okay, when I saw the shed being put up, I approached them around December 15th. I said, you know, is that for the generator, I thought it was a shed for the generator. He said no, it's a shed. I said did you get a permit for that, because I thought you needed a permit for that. He said no, you don't need a permit.

So, that's when I called when I saw that it's a lean-to shed, where the water would be going for my property, and I was afraid of the drainage problem and soil erosion. That's when I called the Village. He did say he would put a gutter up, but he just put the gutter up last week.

So, here's my little spiel then. Putting up a gutter doesn't solve all the issues. I believe the gutter downspout is supposed to be five feet from the property line to prevent soil erosion. Right now, it's about 18 inches from the property line. It's coming off the south end.

My question is how are you going to maintain that 11-inch space that was created from the shed and the fence? Can we have a picture of that space? Nobody can get back there.

MR. WARDEN: How do you think it was built?

CHAIRPERSON JAFFE: We have an order of operations here. She needs to speak first, thank you.

MR. MACH: This one?

MS. POPP: Yes. As you can see, there's a two by four there. No human can get back there. You need access to the area for routine maintenance. As we all know, everything looks wonderful when it's brand new, but it's going to get aged. You need sunlight to allow air circulation so that the area does not remain damp causing weed overgrowth and mold. Also, the 11-inch space will be a dark undisturbed area, making excellent conditions for inviting animals and insects to come.

Can we see the shed of the neighbor who is at 113 North Stratford? That's the neighbor to the north, and he followed the correct, what you put for the --

COMMISSIONER SELBKA: Procedures?

MS. POPP: Yes, which is the five feet and the three feet.

MR. MACH: Is that the photo that you're looking for?

MS. POPP: It's the other one that had the, that. As you can see, he does have some weed growing on the base and he did have to put chicken wire around the perimeter for animals. Then, as the neighbor said, they did recent projects which include the pool and the fence which was in 2023 and then the shed in 2024.

Right now, I'd like to bring up the issue of the privacy fence.

CHAIRPERSON JAFFE: What privacy fence?

MS. POPP: Well, it's the beige, that fence.

COMMISSIONER SELBKA: Why is that important for the variance?

MS. POPP: Because it made an eight-inch space, okay, which now we have an 11-inch space. The eight-inch space which you know is a shared space, because we can't, neither or us could build right out of the property line, right? So, since they have the privacy fence, they are not able to take care of their weeds and so it's all my responsibility.

Can we get, or I don't have a picture of --

COMMISSIONER SELBKA: That's really not part of our variance. I mean, we're really just concentrating on this shed.

MS. POPP: Right, but everybody else was talking so I thought I would just put it out there.

COMMISSIONER SELBKA: No, no, but no, you know, I understand, but let's try and keep it to the shed.

MS. POPP: Yes, okay.

CHAIRPERSON JAFFE: Unfortunately, because you're not an Objector, I've limited public comment to three minutes. So, if you want to make one more point, but I do want to be consistent.

MS. POPP: Okay, I was just trying to bring up the fence right here.

CHAIRPERSON JAFFE: Just make one more point here, you're over three minutes but one more point here.

MS. POPP: At the end though, do I bring up the fence about --

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40

CHAIRPERSON JAFFE: At the end of what?

MS. POPP: Of the meeting?

COMMISSIONER SELBKA: Yes.

MS. POPP: Before you adjourn? Because I have the issue with double fences.

COMMISSIONER SELBKA: Yes. You can make the comment, but you should understand we have no actual jurisdiction to do anything now.

MS. POPP: No, I just want you guys to consider for the future, okay.

CHAIRPERSON JAFFE: So, in the public comment section at the end of this overall meeting?

MS. POPP: Yes, I'll do that.

CHAIRPERSON JAFFE: Okay, yes.

MS. POPP: Okay.

CHAIRPERSON JAFFE: So, if you want to make any other comments on the petition, you've got a minute.

MS. POPP: Yes. Just, so I think that's it.

CHAIRPERSON JAFFE: So, to confirm, you do not support the variance?

MS. POPP: That's correct.

COMMISSIONER DRAKE: Did they talk to you about the shed at any point?

MS. POPP: No. They never approached us about the shed or the fence.

COMMISSIONER SELBKA: And, Derek, I don't know if this matters, but on the website, Ms. Popp's statement says it's an objection, but I guess it's not a formal objection. So, I don't know if that needs to be corrected, but in the agenda it's called a resident objection.

MR. MACH: Is there a file itself called Resident Objection in the agenda or is it on the actual text of her e-mail?

MR. OSOBA: Her e-mail says I do not --

COMMISSIONER SELBKA: Her e-mail says I do not want to object.

MR. OSOBA: Correct.

COMMISSIONER SELBKA: The agenda says it is an objection, so I don't know if that matters in any way.

MR. OSOBA: That shouldn't have been the case, but I don't know.

COMMISSIONER SELBKA: Okay, which part?

MR. OSOBA: That she does not want to be a formal Objector.

COMMISSIONER SELBKA: Okay.

MR. OSOBA: So, the title was for the section of the introduction.

COMMISSIONER DRAKE: That was confusing.

MR. OSOBA: Yes. We'll make sure we get that corrected.

CHAIRPERSON JAFFE: Is there anybody else in the audience who would like to speak to this petition?

Come on up.

MR. SULLIVAN: Good evening. Bill Sullivan; 108 North Stratford. I'm just curious. Are you guys aware of how long from a permit process the Murphys spent on this project?

CHAIRPERSON JAFFE: I didn't catch the first part of your question.

MR. SULLIVAN: How long from a permit process they waited on the Village for this process?

CHAIRPERSON JAFFE: I don't know.

MR. SULLIVAN: Is that relevant and important to you and the fellow citizens?

CHAIRPERSON JAFFE: I wouldn't think so. I mean, we don't, this Board doesn't control the approval and distribution of permits. If there's a concern, I would expect the Petitioner to raise that.

MR. SULLIVAN: I think they waited six months, eight months. As a fellow citizen --

COMMISSIONER SELBKA: They waited eight months before they applied?

MR. SULLIVAN: Excuse me, as a fellow citizen, I can't believe it. We had a contractor do our house, he knew people within the city, got stuff done. In my opinion, you know, it's opinion, certain contractors in this town get their way. That's, it is what it is, I get that. I think unfortunately for the Murphys, this project took a lot longer. To the contractor's point, he probably didn't want to go that route, I can't speak for him. It's also not a permanent structure from my understanding. It doesn't, I don't know if that impacts how this falls.

CHAIRPERSON JAFFE: Derek, is the shed considered a permanent structure?

MR. MACH: It requires a permit, yes.

MR. SULLIVAN: But if it's a permanent structure, some are permanent to concrete because there is a house behind me. I don't know if they did a permit on theirs; it's just as close as the Murphys'. I don't know if they went through that process as well.

MR. MACH: It needs to comply with the zoning regulations which is the three-foot side yard setback, five-foot rear setback. It can't be located in the easement unless approvals are provided from the utilities' releases, and then it can't be more than 300 square feet or taller than 15 feet.

COMMISSIONER SELBKA: Okay, now, so when you say how long they've waited, is that how long they've waited before they applied for the permit or how long they've waited to obtain a permit?

MR. SULLIVAN: That would be a question for them.

COMMISSIONER SELBKA: Okay. All right, thank you.

MR. SULLIVAN: Thank you.

MS. POPP: Can I say something?

CHAIRPERSON JAFFE: No, I'm sorry, I gave you extra time on public comment.

So, is there anybody else who would like to make a comment on this petition?

(No response.)

CHAIRPERSON JAFFE: Okay, you have the opportunity to respond to both of the comments that were made.

MR. WARDEN: Well, just briefly, I have a couple of things. When she talks about the spacing, it is tight. I've been a contractor for over 40 years. We squeeze in a lot of tight spaces. There is obviously a way that that panel got attached to back there and that's me, you know. So, I'm assuming that if a beat up old contractor can get back there

even though it's tight, then so could some young buck 10 or 15 years from now. Most of the materials used on that thing are PVC and the fence is PVC and there's no cellulose them from the old form. It's just, it's a low maintenance issue.

I mean, I can't overcome I guess the Engineering objection other than to channel the water onto that property. As far as the bugs and the animals all around the inside perimeter of that shed, I just spoke about the other neighbor using chicken wire, on the inside perimeter of that below the floor, there is a two-foot strip of hardware cloth all the way around there, galvanized. It's affixed to the inside of the ring joist. It's stapled to the ground. It's got two full swath of, three inches of river stone on top of it to prevent animal incursion. I've been very successful with that in other places.

As far as insects and air flow, it takes very little really to make an airflow along an open path like that, even if it's narrow. It's not like it's three, you know, three walls to it. It flows right through.

So, I really don't believe that the problem is going to exist. If it's insects, well, I mean, my goodness, it's just they can next anywhere. They wouldn't have gone to all this expense and trouble to build this stay-cation spot only to tolerate wasps and hornets chasing around. So, I assume they would take care of that posthaste.

So, again, I guess I can't overcome an Engineering objection, but we believe we had dealt with it sufficiently for such a small shed roof and channeling it on to their property and their planting beds. I guess that's my word on it.

CHAIRPERSON JAFFE: All right, so we'll close it down for Board deliberation.

This was yours, do you want to start?

COMMISSIONER SELBKA: Yes. I'm not in favor of granting the variance. The contractor got it exactly right? Engineering has made an objection. Putting this shed on to a drainage swale I think makes it very difficult if not impossible to grant this variance. You know, the contractor said to that, you know, that you didn't apply for it, you took the risk. You told them when you put it up, well, you know, we may have to take this down, you know. Now those consequences are catching up to you. I mean, you took the risk, you rolled the dice, you lost.

MR. WARDEN: I believed that it was a utility issue.

CHAIRPERSON JAFFE: Sir, we're closed. There's no interaction, we're closed.

COMMISSIONER SELBKA: I understand, but you know, the things is that you had a pretty good idea that this had to be permitted. You didn't apply for the permit first, you built it, and you built it in the wrong place. I'm going to vote against the variance.

CHAIRPERSON JAFFE: Tom or Frank?

COMMISSIONER PORTERA: I have nothing.

COMMISSIONER DRAKE: I'm going to vote against as well.

CHAIRPERSON JAFFE: I drove by the house today and I saw the neighbor in the back row on the street, because after reading the description, I was concerned based on the information that it was located. I wanted to see it with my own eyes, and after seeing it first-hand, I understand some of the concerns that the one neighbor has raised. So, I also cannot support this variance.

So, procedurally, we first go with a motion to approve. If that fails, then it's a motion to deny?

MR. MACH: Correct.

CHAIRPERSON JAFFE: Okay, is there a motion?

COMMISSIONER SELBKA: Motion to approve.

COMMISSIONER DRAKE: Second.

CHAIRPERSON JAFFE: So, you're --

COMMISSIONER SELBKA: You said go to a motion, somebody's got to make the motion.

CHAIRPERSON JAFFE: You said motion to approve?

COMMISSIONER SELBKA: But you said we have to do a motion to approve, then a motion to deny.

CHAIRPERSON JAFFE: That's what I was asking.

COMMISSIONER SELBKA: They said yes, that's what we have to do.

COMMISSIONER DRAKE: Could we have a motion to approve and then all vote against it? There's no --

COMMISSIONER SELBKA: Right.

COMMISSIONER DRAKE: Correct.

MR. MACH: Correct.

CHAIRPERSON JAFFE: Okay, so we're going to do a first vote.

COMMISSIONER SELBKA: Right.

CHAIRPERSON JAFFE: All right.

MR. OSOBA: Commissioner Selbka.

COMMISSIONER SELBKA: No.

MR. OSOBA: Commissioner Portera.

COMMISSIONER PORTERA: No.

MR. OSOBA: Commissioner Drake.

COMMISSIONER DRAKE: No.

MR. OSOBA: Chair Jaffe.

CHAIRPERSON JAFFE: No.

So, now is there a motion to deny the variance?

COMMISSIONER SELBKA: Motion to deny.

COMMISSIONER DRAKE: Second.

MR. OSOBA: Commissioner Selbka.

COMMISSIONER SELBKA: Yes.

MR. OSOBA: Commissioner Portera.

COMMISSIONER PORTERA: Yes.

MR. OSOBA: Commissioner Drake.

COMMISSIONER DRAKE: Yes.

MR. OSOBA: Chair Jaffe.

CHAIRPERSON JAFFE: Yes.

So, your request has been denied. You can re-apply in one year.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 9:06 p.m.)

APPROVED

44

ZONING BOARD

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

OF APPEALS

RE: 118 SOUTH MITCHELL AVENUE - ZBA #25-015

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 9th day of June, 2025 at the hour of
9:06 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Chairperson
FRANK PORTERA
JEFFREY SELBKA
THOMAS DRAKE

ALSO PRESENT:

DEREK MACH, Development Planner
DAN OSOBA, Planner
DARKO BOJIN, Assistant Planner
HANNAH SAED, Village Legal Representative

CHAIRPERSON JAFFE: Agenda Item C, 118 South Mitchell, ZBA Case #25-015.

Okay, can you both state your name and address for the record?

MR. CONTRERAS: My name is Dan Contreras and I'm at 118 South Mitchell Avenue.

MRS. CONTRERAS: Katherine Contreras; 118 South Mitchell. Thank you all very much for your volunteer work here. We appreciate your time.

CHAIRPERSON JAFFE: Would you both raise your right hand?
(Witnesses sworn.)

CHAIRPERSON JAFFE: Okay, Staff report?

MR. BOJIN: The property is zoned R-3 and has a total land area of 6,000 square feet. The Petitioner is proposing to construct a new awning extending three feet over the driveway on the north face of the building, expand a portion of the existing driveway by one foot 5.5 inches to a total width of eight feet, construct a set of entryway stairs on the west face of the building, and install pavers in the rear yard. Overhanging projections are not permitted over driveways, and driveways are required to be a minimum of nine feet in width. Furthermore, the proposed work will increase the impervious surface of the lot to 3,617.2 square feet where 3,300 square feet is the maximum permitted by code.

Therefore, the Petitioner is requesting the following variations:

- A 317.2 square-foot variation from Chapter 28, Section 5.1-3.5(b) to allow an impervious surface equal to 3,617.2 square feet instead of the required 3,300 square feet; and
- A variation from Chapter 28, Section 10.2-11.1(d) to allow an eight-foot-wide driveway and an overhanging projection over the driveway where a nine-foot-wide driveway is required and overhanging projections over the driveway are prohibited.

Thank you.

MR. CONTRERAS: So, I wanted to start off by saying we have an existing lot, the impervious surface as is already over. So, the bulk of what we're asking for is an existing non-conforming situation.

CHAIRPERSON JAFFE: Do you know approximately where you're at right now?

MR. CONTRERAS: We are at 3,584.4.

CHAIRPERSON JAFFE: So, code is 3,300, you're at 3,584 right now?

MR. CONTRERAS: Yes. So, the bulk of the variance is kind of covering what's already there.

CHAIRPERSON JAFFE: Okay, thank you.

MR. CONTRERAS: We're adding about 30 square feet to the lot.

So, we have a couple of things. One, the lot depth is relatively shorter than other neighboring lots. Can we go to the site plan? I think that will show that overall site plan, sorry, the one before this one. So, like a neighborhood area.

Okay, I can show that to you. It's the one with the neighboring, basically the entire neighborhood.

MRS. CONTRERAS: The lot line.

MR. CONTRERAS: So, here we go. So, this one and then that one.

MR. BOJIN: I have the aerial with the imagery, this one up here.

MR. CONTRERAS: Yes, I think that will do it because it's a little easier to read. The entire block is a certain width, and then our lot is about 15 feet shorter. So, basically, that difference is given to our rear neighbors, all those properties. So, yes, that's a good one.

So, if you were to calculate our impervious surface for a standard size lot, which is about 133-ish feet deep, we would be in compliance. So, we're kind of like, having a patio, a detached garage, the footprint going on the driveway to get to the back into the detached garage, so there is that part of the variance that kind of explains the hardship on the impervious surface calculation. So, that was a little difficult to do.

Obviously, the existing building is where it is. So, our north setback, the one in front of the building is only eight feet and that's our driveway side. So, there's not real much I can do about that, you know. It's already in non-compliance with the nine-foot setback.

Then I have an exhibit that I wanted to share regarding the awnings. Yes, so just kind of the typical awnings in the neighborhood. We just did a walk-through and snapped some photos. I have a neighborhood map showing the location and a list of all those addresses. There's about 25 of them in the area.

The top two images are just showing, I think the top left one at 126 South Vail is probably the closest thing to what we're trying to propose to ours, clearly going over the driveway aware but just providing some shelter from rain to get in and out of the new doorway that we're proposing off the driveway.

Let's see. So, that was --

MRS. CONTRERAS: You have to like explain the drawing.

MR. CONTRERAS: So, what we're looking at here is the side elevation. This is facing the driveway. That's the awning with the new doorway going in. We're proposing some interior renovation work. So, that's going to be kind of a mudroom door coming into the house off the driveway. Currently, what we have to do is walk all the way around to the opposite corner of the house to get into that door, which is a little cumbersome.

MRS. CONTRERAS: Yes, you have to go through a gate in order to do it. So, when you're carrying all the groceries and then you unlock the gate to go around to the back side, it becomes very difficult. So, we're trying to access the home from the driveway side.

MR. CONTRERAS: Yes. That deck off the rear elevation, that's a doorway off of the existing kitchen that we're just having to get access to the backyard. So, it's kind of a secondary access into our yard.

As you can see, it's very much in character to what are typically seen in the neighborhood. I'm not asking for anything crazy, at least I don't think. It's a very typical, traditional awning with metal roof, some decorative brackets, and then a small deck off the rear.

MRS. CONTRERAS: And then because the deck coming off the rear wouldn't adjoin directly to the path we have, we just wanted to fill in a little bit of the paver to make it more cohesive.

MR. CONTRERAS: Yes. So, ultimately, the pavers in the back, we're reducing it by a square foot, like it's pretty much a wash at that point. We're not modifying

it. So, as you see, kind of the blue area is the existing, those green little areas is what we're adding, and then the pink areas is what we're removing. So, ultimately, the paved surface is reducing by about a square foot.

What we are adding is along the front driveway. Currently, it kind of angles in and it becomes very narrow. So, right now when you park in the front of the drive, you have to step right onto the grass or on the snow piles and things, there's just not enough room, and then also allow for any, we have a shared driveway, I don't know if the Department had mentioned it. We have a shared driveway with the neighbor to the north, so we want to make sure they have enough room to get in and out.

COMMISSIONER DRAKE: Could you go through the four criteria? You don't need to do a deep dive, just highlight how your petition stacks up against those requirements.

MR. CONTRERAS: So, it's essentially in character. I'm not proposing anything that's out of the ordinary. It's very typical of the neighborhood.

MRS. CONTRERAS: In fact, the driveway expansion would actually make it more symmetrical with that neighbor that we share the driveway to the north.

MR. CONTRERAS: Yes. The unique circumstances is the unusual lot depth, making it a little bit difficult to meet the impervious calculation requirements.

MRS. CONTRERAS: Yes, when we looked through the neighborhood, it seems like almost every single block in the neighborhood is split like 50-50. When I look in my backyard, I'm like wow, it seems kind of small. It's because it is smaller than the typical lot.

MR. CONTRERAS: Yes, so we're at 120. A typical lot depth is about 135-ish depending.

The existing condition of the driveway width on the north is eight feet. We're already in non-compliance there. It's kind of back in the 1920's when the house was built, that's kind of where it was built at. What else should we say? I think those are the unique circumstances here.

The proposed variation is in harmony with the spirit and intent of the chapter. I think also showing the awnings that are very typical of the neighborhood, that's keeping in compliance with how other houses in the neighborhood look. So, I believe that's compatible with what we're proposing.

Like I said, the back paving areas, that's pretty much as minimal of an impact that we can make. We're reducing that by a foot, and the driveway expansion is just to make that driveway functional and not create a mud pit in our front yard. So, that's pretty modest and very minimal as far as what we're requesting.

COMMISSIONER DRAKE: Did you have direct contact with any of your neighbors about the project, and specifically the neighbor you share the driveway with?

MR. CONTRERAS: Yes.

MRS. CONTRERAS: Yes, we've spoken with them, and our wonderful neighbors to the south are in the meeting here as well.

MR. CONTRERAS: So, we showed them the drawings, to our neighbors to the north, just kind of went over everything. They seemed to be understanding of what we're trying to do and supportive.

COMMISSIONER DRAKE: How many in the house? How many residents?

MR. CONTRERAS: In the house?

COMMISSIONER DRAKE: Yes.

MRS. CONTRERAS: So, we have five. We have three young children.

MR. CONTRERAS: Yes, our kids.

COMMISSIONER DRAKE: Okay, how many cars?

MR. CONTRERAS: Well, three, but two of them are everyday use.

CHAIRPERSON JAFFE: Do you have any questions, Frank, Joe?

COMMISSIONER PORTERA: No.

CHAIRPERSON JAFFE: All right, thank you.

You may sit down.

MR. CONTRERAS: Thank you.

CHAIRPERSON JAFFE: Is there anybody in the audience who wishes to comment on this petition?

MR. CHAPPEL: We just want to say --

CHAIRPERSON JAFFE: You've got to, sir --

MR. CHAPPEL: I'll make it brief. It's just --

CHAIRPERSON JAFFE: What's your name?

MR. CHAPPEL: James Chappel, their next-door neighbor to the south. Our street kind of is on a hill, so we're downhill. We've never had any flooding issues from them. Just a little bit --

CHAIRPERSON JAFFE: So, you are in support?

MR. CHAPPEL: Absolutely.

CHAIRPERSON JAFFE: Okay, is there anybody else who would like to make a comment?

(No response.)

CHAIRPERSON JAFFE: Mr. Contreras, did you want to respond to that comment? You don't have to.

MR. CONTRERAS: No, thank you.

CHAIRPERSON JAFFE: You're welcome.

I guess we'll close it down for Board deliberation.

Tom, you have the lead on this.

COMMISSIONER DRAKE: I do, yes. I'm in favor of the petition. I think they satisfy all of our requirements. There is no neighbor opposition. I think it's a nice project for you to improve your home. There's no Staff objections, the three Staff Departments that report into us. It's an existing non-conforming lot to begin with. So, I'm going to vote yes.

COMMISSIONER SELBKA: Agreed.

COMMISSIONER PORTERA: I agree.

CHAIRPERSON JAFFE: Concur.

Is there a motion?

COMMISSIONER DRAKE: Move to approve this petition as presented.

COMMISSIONER SELBKA: Second.

MR. BOJIN: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. BOJIN: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. BOJIN: Mr. Drake.

APPROVED

49

COMMISSIONER DRAKE: Yes.

MR. BOJIN: Chair Jaffe.

CHAIRPERSON JAFFE: Yes.

Congratulations.

MR. CONTRERAS: Thank you.

MRS. CONTRERAS: Thank you.

CHAIRPERSON JAFFE: Have a good night.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 9:19 p.m.)

APPROVED

50

ZONING BOARD

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

OF APPEALS

RE: 308 NORTH PATTON AVENUE - ZBA #25-016

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 9th day of June, 2025 at the hour of
9:19 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Chairperson
FRANK PORTERA
JEFFREY SELBKA
THOMAS DRAKE

ALSO PRESENT:

DEREK MACH, Development Planner
DAN OSOBA, Planner
DARKO BOJIN, Assistant Planner
HANNAH SAED, Village Legal Representative

CHAIRPERSON JAFFE: Okay, the next agenda item, D which is 308 North Patton Avenue, ZBA Case #25-016.

How are you?

MR. CRUZ: Good, how are you guys?

CHAIRPERSON JAFFE: We're living the dream.

MR. CRUZ: All right, glad to hear that. That's for laughs, right?

CHAIRPERSON JAFFE: What's your name?

MR. CRUZ: My name is Richard Cruz. I live at 308 North Patton Avenue with my wife. I've been there over 30 years. I raised my family there.

CHAIRPERSON JAFFE: Would you raise your right hand?

(Witness sworn.)

MR. BOJIN: This property is zoned R-3 and has a total land area of 7,240 square feet. The Petitioner is proposing to construct a gazebo that is 15 feet by 15 feet and 13 feet high in the side yard. Accessory structures such as gazebos are not permitted in the side yard by code.

Therefore, the Petitioner is requesting the following variation:

- A variation from Chapter 28, Section 6.5-2 to allow a gazebo in the side yard where accessory structures are prohibited in the side yard.

Thanks.

MR. CRUZ: So, I have a unique situation here. You know, my home was built in the 1950's. It hasn't been altered in any way and it's shaped like an L. Inside the L, I have like a semi-private patio area that we've been using since we've lived there.

Since the house was built in the 50's, the zoning laws have changed, and now my home is a preexisting non-conforming structure, but the shape of the L of my home, it naturally frames a back semi-private patio, a courtyard, which is a really nice feature in my home. That's why I'd like to build, actually a pavilion, a roofed pavilion that I would like to build.

Can I approach and just give you some pictures? The pictures I've given you just shows the L shape of my home. There's a Google picture of it, and there's some pictures of my backyard looking at the patio. You'll see a picture of my kitchen door which is my backdoor that leads out to the patio. It's very convenient. You'll see actually part of that patio is actually covered, it's original to the home. It's a very nice area.

The other thing I'd like you to look at those pictures is the sunlight. I want this pavilion to be built to provide shade on the patio. That backyard faces the west, so as the sun moves west and starts to set, my shade leaves my patio. I took those pictures that you're looking at now. You'll see, that was about like at 1:30 in the afternoon, and by 3:00 o'clock there's no shade on my patio and it gets pretty hot in the summer.

So, this basic pavilion, what I want to build, is for shade and to make sure that that patio could be used throughout the later afternoon. Right now, what I have is a patio table with one of those cranked umbrellas. It works fine if it's just two people out there, but if you want to have more than two people, it just, it doesn't work. You need a pavilion.

That's why I want to build this pavilion is for shade. The pavilion I want to build, I'm going to give you some pictures of it. I found these pictures on the Internet. It's not of the exact pavilion I want to build, it's just an idea, to give you sort of an idea of what I want to build. I'm going through a professional contractor, Craiger Custom

Design, they're out of Crystal Lake.

What I want to build is, what you see there is just a basic, very basic pavilion. My pavilion design is just going to have four columns like you see there, and it's going to have a roof, and it's actually going to have that pyramid hip type roof which is consistent with the architecture of my home now which is a pyramid hip roof. The shingles on that pavilion are going to match the shingles on my home right. The pillars and the fascia and the gutters are all going to be white, just like my home that you see now in the pictures.

I want the pavilion to be very basic with straight lines that you see in my house. My house is pretty much a brick wall and straight lines. So, the style of what I want to build the pavilion is going to be within the character and architecture and aesthetically pleasing to my property. I hope it looks like it's almost original to the home when it's complete.

The pavilion will not alter the character of the locality or my home. It's simply there to provide shade. It's not going to change the use of that area. That area is my patio; we've been using that for 30 years as a patio just for relaxation and entertainment.

If I do get a variation, it's going to be in harmony with the spirit and intent of the zoning ordinances. I'm going to have that constructed professionally so it's going to be built safely and it's going to be sturdy. It's going to be aesthetically compatible with my home, my neighbors' homes, my neighborhood. It's going to add value to my own property; I would think it will add value to the community. I can't think of any negative impact that they would have if I got this variance and built this pavilion.

I'm requesting the minimum variance necessary to allow reasonable use of the property by just simply providing shade. So, I hope and pray that I get this variance. I'm done.

COMMISSIONER PORTERA: Mr. Cruz, have you had any conversations with your neighbors? Any negative feedback at all?

MR. CRUZ: No, none at all. I have a neighbor that's directly to the north of me, and I've talked to him about it and he's all in favor of it. My neighbor directly to the west of me, talked with them, and I have some other neighbors here tonight that received my letters and know me, and everyone's all got thumbs up for the project.

COMMISSIONER PORTERA: Okay, I don't have any other questions.

Guys, any further questions?

COMMISSIONER SELBKA: No.

CHAIRPERSON JAFFE: You may have a seat and we'll see what's what. Is there anybody in the audience who would like to comment on this petition?

MS. JEREL: Yes.

CHAIRPERSON JAFFE: Come on up.

MS. JEREL: Good evening.

CHAIRPERSON JAFFE: Hi.

MS. JEREL: My name is Diane Jerel; I'm at 319 Patton, across the street from the Cruzes. I would just like to say I've lived there for 29 years, about almost the same time as they have. Everything that they have done to their property has been meticulous. I have never seen anything that would cause any kind of decrease in property values or, you know, keeping it aesthetically pleasing as possible. So, I am for the

variance.

CHAIRPERSON JAFFE: Thank you.

MS. JEREL: Thank you.

CHAIRPERSON JAFFE: I've got to ask you, sir, you're the last one.

AUDIENCE MEMBER: I'm fine.

CHAIRPERSON JAFFE: You're good?

Okay, Mr. Cruz, did you want to respond to it at all?

MR. CRUZ: No, thank you.

CHAIRPERSON JAFFE: All right, I guess we'll shut it down for deliberation.
Frank?

COMMISSIONER PORTERA: Yes, this is a well thought out presentation, a very reasonable ask. So, I appreciate the Petitioner being concise and to the point, and I appreciate the neighbor coming out in support. This is a relatively straightforward petition and I'm in favor. It's met all four elements.

CHAIRPERSON JAFFE: Is there a motion?

COMMISSIONER PORTERA: Motion to approve the variance as
presented.

COMMISSIONER DRAKE: Second.

MR. BOJIN: Mr. Selbka.

COMMISSIONER SELBKA: Yes.

MR. BOJIN: Mr. Portera.

COMMISSIONER PORTERA: Yes.

MR. BOJIN: Mr. Drake.

COMMISSIONER DRAKE: Yes.

MR. BOJIN: Chair Jaffe.

CHAIRPERSON JAFFE: Yes.

Congratulations.

MS. JEREL: All right, thank you.

CHAIRPERSON JAFFE: All right, the last agenda item is public comment.
If anybody would like to make any comment about anything, you have that opportunity, all right?

MS. JEREL: Are the Bears coming?

COMMISSIONER DRAKE: We're not the ones that --

CHAIRPERSON JAFFE: We don't know.

MS. JEREL: Have you heard anything?

CHAIRPERSON JAFFE: We'll let you know.

MS. JEREL: Thank you.

CHAIRPERSON JAFFE: You're welcome.

Is there a motion to adjourn?

COMMISSIONER SELBKA: Motion to adjourn.

COMMISSIONER PORTERA: Second.

CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

CHAIRPERSON JAFFE: All opposed?

(No response.)

(Whereupon, the public hearing on the above-

APPROVED

54

mentioned petition was adjourned at 9:30 p.m.)

APPROVED

55

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, RONALD LeGRAND, JR., 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.

RONALD LeGRAND, JR.

SUBSCRIBED AND SWORN TO
BEFORE ME THIS _____ DAY OF
_____, A.D. 2025.

NOTARY PUBLIC