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Agenda  
Glen Ellyn Village Board of Trustees  
Monday, August 22, 2011  
8:00 p.m. – Galligan Board Room

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Village Recognition:
  - A. The Village Board accepts the resignation of Tessa Loftus as a Student Commissioner on the Architectural Review Commission and thanks her for her service to the Village.
  - B. A local family emailed their thanks to the Public Works Department for their quick response and excellent work in the followup to the recent storm event.
  - C. The Village Board and Management Team congratulates the following employees who recently celebrated an anniversary as a Village employee:

Keith Duval	Police Department	5 Years
Ryan Cusack	Police Department	10 years

5. Audience Participation
  - A. Assistant to the Village Manager Schrader will present information on the article entitled “Best Places to Live 2011” in the current issue of *Money* magazine. Glen Ellyn was included in the listing of the top 100 American small towns.

6. Consent Agenda

The following items are considered routine business by the Village Board and will be approved in a single vote in the form listed below: (*Trustee Ladesic*)

- A. Village Board Meeting Minutes:
  1. August 8, 2011 Regular Workshop
  2. August 8, 2011 Regular Meeting
- B. Total Expenditures (Payroll and Vouchers) - \$1,200,853.44.

The vouchers have been reviewed by Trustee Ladesic prior to this meeting.

- C. Motion to approve the recommendation of Village President Pfefferman that Rollin S. Burket be appointed as a Student Commissioner to the Architectural Review Commission through December 31, 2011.
  - D. Ordinance No. 5938, an Ordinance Amending Chapter 1 (Building Code) of Title 4 (Building Regulations) of the Village Code of the Village of Glen Ellyn, Illinois and Adopting the 2009 International Energy Conservation Code with no amendments. *(Building and Zoning Official Kvapil)*
7. Ordinance No. 5945, an Ordinance Approving a Variation from the Front Porch Setback Requirements of the Zoning Code to Allow Reconstruction of an Existing Front Porch for Property at 566 Hillside Avenue. *(Trustee Cooper)*

Planning and Development Director Staci Hulseberg will present information on a request by Lincoln and Gail Bode for a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the reconstruction of an existing front porch that projects 51% (15 feet 3 inches) into the required front yard setback in lieu of the maximum permitted projection of 25% (7 feet 6 inches). The subject property is an interior lot located on the north side of Hillside Avenue in the R2 Residential District.

8. Ordinance No. 5946, an Ordinance Approving a Variation from the Rear Yard Setback Requirements of the Zoning Code to Allow a One-Story Sunroom Addition for Property at 761 Highview Avenue. *(Trustee Cooper)*

Planning and Development Director Staci Hulseberg will present information on a request by Gene and LaVonne Ruoff for a variation from Glen Ellyn Zoning Code Section 10-4-8(D)2 to allow the construction of a sunroom addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. The subject property is a corner lot located on the southwest corner at the intersection of Highview Avenue and Van Damin Avenue in the R2 Residential District.

9. Ordinance No. 5947, an Ordinance Approving a Variation from the Fence Requirements of the Zoning Code to Allow a Fence to Exceed the Height Requirements for Property at 780 Harding Avenue. *(Trustee Cooper)*

Planning and Development Director Staci Hulseberg will present information on a request by Joseph and Roxanne Simon for a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the construction of a solid wood fence in the side and rear yard setbacks with a height of 7 feet and the construction of a solid wood fence in the front yard setback with a height of 6 feet for 16 lineal feet and a height of 5 feet for 14 lineal feet up to the front lot line. The subject property is an interior lot located on the north side of Harding Avenue in the R2 Residential District.

10. Reminders:

- The next Regular Village Board Meeting is scheduled for Monday, September 12, 2011 with the Workshop beginning at 7 p.m. and the Regular Board Meeting beginning at 8 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

11. Other Business?

12. Adjournment

13. Press Conference

A-5A

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MEMORANDUM

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**TO:** Mark Franz, Village Manager *MF*  
**FROM:** Kristen Schrader, Assistant to the Village Manager – ADM *KS*  
**DATE:** August 17, 2011  
**RE:** Money Magazine – Best Places to Live



**Background**

Money Magazine has ranked the Village of Glen Ellyn as one of the top 100 places to live in the country for 2011. Ranked as the 54<sup>th</sup> best community, the Village was chosen for a number of reasons including residents' high level of civic pride, the large number of community events and public safety. In addition, the Village was noted for having a great number of recreation activities and easy access to Chicago. Money Magazine made their choices based on factors such as quality of life, education and leisure and cultural activities. The Village will be presenting information on this award at the upcoming Village Board Workshop on August 22, as well as providing information to residents via the quarterly Village newsletter, eNewsletter, press release, website and tv station.

**Attachments**

- Village Press Release dated 8/17/11
- Money Magazine: Glen Ellyn excerpt and *How We Picked the Best Places to Live*



Contact: Mark Franz, Village Manager  
Administration Department  
Phone: 630-469-5000

FOR IMMEDIATE RELEASE  
August 17, 2011

### **Glen Ellyn Chosen as One of the Top Places to Live**

Glen Ellyn, IL - The Village is pleased to announce that it has been chosen by Money Magazine as one of the top 100 places to live in the country. Ranked as the 54<sup>th</sup> best community, the Village was chosen because of the residents' high level of civic pride, the large number of community events and because it is a very safe place to live. In addition, the Village was noted for having a great number of recreation activities and easy access to Chicago. Money Magazine made their choices based on factors such as quality of life, education and leisure and cultural activities. For more information, please visit [www.glenellyn.org](http://www.glenellyn.org), "Latest News."

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# BEST PLACES TO LIVE

## How we picked the Best Places to Live

Using statistics from data services company Onboard Informatics, we crunched the numbers in order to zero in on America's best small towns for families. (Last year, we looked at small cities, with populations between 50,000 and 300,000.) Here's how:

**3,570**

Start with all U.S. towns that have a population of 8,500 to 50,000.

**1,548**

Screen out places with median family income more than 200% or less than 85% of the state median; those more than 95% white; and those with poor education and crime scores.

**749**

Exclude retirement communities and towns with major job losses. Rank the rest based on job growth, home affordability, safety, school quality, health care, arts and leisure, diversity, and several ease-of-living criteria.

**100**

Factor in more data on the economy (including fiscal strength of state and local governments), jobs, housing, and schools. Weight economic data most heavily.

**35**

Visit towns and interview residents, assess traffic, parks, and gathering places, and consider intangibles like community spirit.

**1**

Select the winner based on the data and reporting.

### 54. Glen Ellyn, IL

54 of 100

Back

Next

Vote for this town as fan favorite:  Like 682

 Share

 Tweet

WINNER

**Top 100 rank:** 54

**Population:** 27,100

[Compare Glen Ellyn to Top 10 Best Places](#)

Known as the "Village of Volunteers," this suburb 35 minutes from Chicago is full of civic pride. Residents dedicate time to local government committees and family events, such as cardboard boat races at one of the town's 31 parks. Other recreation opportunities include a lake and a golf course. While some residents work in education--at local schools or in the community college in town--most hop the commuter train to the big city. Thanks to that easy access, homes here aren't cheap. --A.W.



COURTESY: VILLAGE OF GLEN ELLYN

**Minutes  
Regular Village Board Workshop  
Glen Ellyn Village Board of Trustees  
August 8, 2011**

A-6A,

Time of Meeting: 7:01 p.m.

Present: President Pfefferman; Trustees Friedberg, McGinley, Hartweg, Ladesic, and Henninger; Trustee Cooper was excused; Village Clerk Connors, Village Attorney Diamond.

Staff present: Village Manager Franz, Assistant to the Village Manager - Admin. Schrader, Interim Finance Director Noller, Interim Public Works Director Perrigo, Planning and Development Director Hulseberg, Chief Norton, Recreation Director M. Pekarek, Professional Engineer Minix, IT Manager Binkerd.

**1. Call to Order**

President Pfefferman called the Board Workshop to order at 7:01 p.m. with a roll call. Trustees Hartweg, Henninger, Friedberg, and McGinley responded "Present." Trustee Cooper was excused; Trustee Ladesic arrived at 7:43 p.m.

**2. Community Grant Program Recommendation**

President Pfefferman introduced Assistant to the Village Manager-Administration Schrader and gave a short explanation about the purpose of the program. Ms. Schrader then explained that the FY11/12 budget allocated \$30,000 to Not-For-Profit 501(c)(3) organizations. Eighteen applications were received for a total requested amount of \$118,500. A selection committee was created to assess the requests. They developed a score card to judge each organization's fund request. A chart showing the amount requested, the score, and the recommended amount for each organization that applied was presented.

Steve Morris, 900 Hill, thanked the Village Board for the support for the Festival of the Arts which will be held later in August.

Ray Campbell, Unit 3K, 460 Raintree Drive, thanked the Village Board for supporting the Lions Club which helped provide eye glasses to Glen Ellyn school children who cannot afford them.

The Village Board agreed with the funding recommendations of the selection committee. The Finance Department will send checks to the organizations in the recommended amounts. Those organizations receiving funds will be listed on the Village web page.

### **3. Village Links Facility Master Plan**

Recreation Director Matt Pekarek gave a brief summary of the process used to make recommendations and how the plan was developed and modified. Information was previously distributed and he was now prepared to answer questions from the Village Board.

Richard Schmid, 251 Abbotsford Ct., questioned the proposed parking lot size.

Director Pekarek presented Phase I as addressing immediate needs and Phase II to meet longer term requirements. He explained that completing Phase I all at once is the most efficient approach. The planned schedule, with Village Board approval, would be to hire a design firm, file applications, and bid the work in early 2012, with the improvements beginning in 2012 and completed in 2013, which would include a new clubhouse. Village Board discussion followed concerning return on investment estimate, the social aspect in Glen Ellyn that would be of great benefit to the Village, and the quality of design and engineering firms available to do the work.

President Pfefferman reminded the public that their feedback was still welcome. Members of the Village Board commented on various aspect of what they would like to see in the renovations.

### **4. Other Items?**

None

### **5. Adjournment**

At 7:56 p.m., Trustee Hartweg moved, seconded by Trustee Henninger to adjourn to the Regular Village Board Meeting in the Galligan Board Room. All voted “aye.” Motion passed; Village Board Workshop adjourned.

Submitted by:

Suzanne R. Connors,  
Village Clerk

Minutes  
Regular Meeting  
Glen Ellyn Village Board of Trustees  
Monday, August 8, 2011

A-6A<sub>2</sub>

The Village Board, led by President Pfefferman, observed a period of silence to remember former Village Trustee Thomas Scheiner who passed away on July 18. He served two terms of office covering the years 1962 to 1973 and was instrumental in moving Village offices in late 1972 from Pennsylvania Avenue to the current location on Duane Street.

**Call to Order**

Village President Pfefferman called the meeting to order at 8:03 p.m.

**Roll Call**

Upon roll call by Village Clerk Suzanne Connors, Village President Pfefferman and Trustees Friedberg, Hartweg, Henninger, Ladesic and McGinley answered, "Present." Trustee Cooper was excused.

**Pledge of Allegiance**

The Pledge of Allegiance was led by President Pfefferman.

**Village Recognition:**

- A. The Village Board accepted the resignation of Henry Kummerer as a Student Commissioner on the Historic Preservation Commission and thanked him for his service to the Village.
- B. Police Officer Rick Perez received a note of thanks from a local family in appreciation for his assistance.
- C. A resident called to thank the very professional workers who picked up his storm damaged trees in the parkway. He commented that they were quick, thorough and cleaned up the entire parkway.

**Audience Participation**

- A. James Burdett, Architectural Review Commission Chairman, presented this year's winner of the annual Traveling Trophy Award to Central DuPage Hospital for their building on Roosevelt Road and an honorable mention for landscape design to Centrum Properties for Glen Ellyn Crossings at Roosevelt Road and Nicoll Way.
- B. Village Updates:  
President Pfefferman presented the following items to bring the public up-to-date.

- College of DuPage – because of a court-imposed “gag order,” no information is available on this case.
- Montessori School – after giving a brief background, President Pfefferman announced that an October 17, 2011 trial date has been scheduled.
- District 87 Variation Request – The Planning and Development Department received the request on July 29 for variations for Memorial Field not Duchon Field. The Plan Commission will begin consideration regarding the request on August 25. All Plan Commission meetings are open to the public. President Pfefferman explained the agenda the Commission follows. The matter of this request could take more than one meeting before the Commission is ready to make a recommendation to the Village Board.
- Hawthorne Boulevard – The Public Works Department had a meeting with residents on June 28 and on July 12, the Capital Improvements Commission met. The CIC recommendation will be considered on August 15. Work is scheduled to begin in the Spring of 2012 after the end of the school year.
- ComEd and Union Pacific information is available on the Village web site.

Attorney Diamond reminded the public that the Village attempts to follow proper procedure and recognizes everyone has a difference of opinion.

Jim Ozog, 485 Montclair, spoke concerning the District 87 variation request and their decision to defer asking for lights for Duchon Field to a later date.

Chris Berger, 755 Willis, spoke against lights at Memorial Field and mentioned the potential referendum.

Attorney Diamond explained that unless District 87 changes, the Village has to go forward with the process. He explained the status if a referendum is brought by Our Field, Our Town to a vote next Spring.

Don Prydo, 682 Crescent, spoke in favor of a referendum to give guidance to the Village Board regarding lights at Memorial Field.

Adrienne Gregory, 518 Lee, spoke about the beauty of Glen Ellyn and how disturbing the lights would be to that beauty of the neighborhood.

### **Consent Agenda**

Village Manager Mark Franz presented the Consent Agenda: Village President Pfefferman called for questions and/or discussion of the items on the Consent Agenda.

Trustee Hartweg moved and Trustee McGinley seconded the motion that the following items are considered routine business by the Village Board and will be approved in a single vote in the form listed below:

- A. Village Board Meeting Minutes:
1. June 27, 2011 Board Workshop
  2. July 18, 2011 Special Meeting
  3. July 25, 2011 Regular Workshop
  4. July 25, 2011 Regular Meeting
- B. Total Expenditures (Payroll and Vouchers) - \$1,422,814.26.
- The vouchers have been reviewed by Trustee Hartweg prior to this meeting.
- C. Waive Section 10-4-3(B)3 (Promotional Activities) of the Glen Ellyn Zoning Code and Section 6-2-2.5 (Unnecessary Noises) of the Village Code in order to allow for **P.S.S. We Love You's 5k Run/Walk** on Saturday, September 24, 2011 in Glen Ellyn.
- D. Waive Section 10-4-8 (Promotional Activities) of the Glen Ellyn Zoning Code and Section 6-2-2.5 (Unnecessary Noises) of the Village Code in order to allow for **St. Mark's** first annual **Octoberfest** at the St. Mark's campus on Saturday, October 15, 2011. Representatives from St. Mark's were present to remind everyone that the festival is open to the public and will include a Pumpkin Patch.
- E. Approve an agreement with **Voorhees Associates**, at a cost of \$15,650, for the **recruitment of a Public Works Director**, to be expensed to the FY12 General Fund.
- F. Approve payment in the amount of \$25,000 to the **Glen Ellyn Youth & Family Counseling Service** for 'mental health referral support and service access' to the Police Department.
- G. Waive competitive bidding and purchase **replacement phone system equipment** for the Village fire stations from **CMS Communications** as a not-to-exceed cost of \$16,000, including a 10% contingency, to be expensed to the FY12 Facilities Maintenance Reserve Fund. In response to Village Board questions, it was explained that the telephone system at Fire Station #2 could not be repaired, so was being replaced; quotes were received from two companies, but not bids because the systems needed to be in use as soon as possible. The bid process takes much longer. The cost of the replacement at Fire Station #2 has been submitted to the Village's insurance pool for reimbursement.
- H. Approve an engineering services agreement with **Pavia-Marting and Co.** of Roselle, IL for the design of storm sewer and drainage improvements for the **Braeside Area Localized Drainage Improvements Project**, in a not-to-exceed amount of \$57,000 (including a 10% contingency), to be expensed to the FY12 Capital Projects Fund.

- I. Approve additional funds from the **FY12 Water Fund Budget** and to authorize payments associated with the **emergency repair of multiple water main breaks** at Park and Roosevelt in July 2011, including \$50,350 to John Neri Construction Company for contractor labor, equipment and materials; \$18,400 to KPRG and Associates for specialized spoil disposal services; and \$2,250 to Highway Technologies for traffic control devices. In response to Village Board questions, it was explained that the repair was outsourced because of the high traffic area and Village staff was not capable to perform repairs with that type of traffic control.
- J. Waive competitive bidding and award a contract to **Cartégraph Systems, Inc.** of Dubuque, Iowa, for **Implementation Services and Software Licenses**, in the not-to-exceed amount of \$24,200, to be expensed to the FY12 General, Water, and Sewer Fund.
- K. Approve award of a one-year contract to **Suburban Tree Consortium (C/O West Central Municipal Conference)** for the **FY12 Tree Reforestation Program** in the not-to-exceed amount of \$61,000, to be expensed to the FY12 General Fund Budget. The Village Board discussed this motion and agreed to amend it to a not-to-exceed amount of \$45,000.
- L. Approve the recommendation of Village President Pfefferman that Gary Fasules be appointed to the **Zoning Board of Appeals** through December 31, 2012.
- M. **Ordinance No. 5944**, an Ordinance **Establishing a Class A-3 License** for Retail Liquor Service at a Publicly-Owned and Operated Culinary School and Hospitality Center and Applicable License Fees. Following Village Board discussion, it was agreed to amend Ordinance No. 5944 to add “of the Village” following “Chief of Police” in paragraph 4 and “of the Village” following “Chief of Police” at the end of SECTION TWO.

Phil Gieschen from College of DuPage asked from the floor when they would be receiving their liquor license. It was explained that the Village will work with COD on the issuance of the occupancy permit so that they can be issued.

Upon roll call for the Consent Agenda Trustees Hartweg, McGinley, Friedberg, Henninger and Ladesic voted “Aye.” Motion Carried.

#### **Lake Ellyn Drainage Study – RHMG Engineers of Mundelein, IL**

Professional Engineer Bob Minix presented information on the Lake Ellyn Drainage Study. The study is being conducted in conjunction with the Glen Ellyn Park District following the 2008 and 2010 overflow events. RHMG engineers will be retained to conduct the study of the Lake Ellyn watershed. The primary contact from RHMG, Bill Rickert, was introduced. The study will look at the input and outflow and see if it has changed in the 20 years since the last study was done. The Park District monitors the height of the lake and has a warning system in

place. The study will take about four months to complete and project expenses will be split 50/50 with the Park District.

Kathy Cornell, 678 Forest, asked about the amount of water flow leaving the lake.

Joe Sinopoli, 725 Riford Road, owner of the channel that is on his property, spoke about the quantity of water running overland that has increased.

Trustee Henninger moved and Trustee Friedberg seconded the motion to approve an engineering services agreement with RHMG Engineers of Mundelein, IL to conduct various drainage investigations associated with the Lake Ellyn Hydrologic & Hydraulic Studies Project, in a not-to-exceed amount of \$56,500 (including a 10% contingency), to be expensed to the FY12 Capital Projects Fund.

Upon roll call, Trustees Henninger, Friedberg, Hartweg, Ladesic and McGinley voted "Aye." Motion carried.

#### **Reminders:**

The next Regular Village Board Workshop is scheduled for Monday, August 15, 2011 at 7 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

The next Regular Village Board Meeting is scheduled for Monday, August 22, 2011 with the Workshop beginning at 7 p.m. and the Regular Board Meeting beginning at 8 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

#### **Other Business**

None

#### **Adjournment**

At 9:45 p.m., Trustee Ladesic moved and Trustee Hartweg seconded the motion that the Regular Meeting of the Village Board be adjourned to Executive Session for the purposes of discussing threatened or pending litigation, the appointment, employment, compensation, discipline, performance or dismissal of specific employees, and review of executive session minutes, adjourning thereafter without returning to open session.

Upon roll call, Trustees Ladesic, Hartweg, Friedberg, Henninger and McGinley voted "Aye." Motion carried, meeting adjourned.

Respectfully Submitted,

Suzanne R. Connors  
Village Clerk

A-6D

**MEMORANDUM**

**TO:** Mark Franz, Village Manager

**FROM:** Staci Hulseberg, Director of Planning & Development  
 Joe Kvapil, Building and Zoning Official 

**DATE:** August 15, 2011

**FOR:** August 22, 2011 Village Board Meeting

**SUBJECT:** Adoption of the 2009 ICC International Energy Conservation Code

On September 9, 2002, the Village Board passed Resolution 02-22 (attached), a Resolution to Establish a Building Code Adoption Policy for the Village of Glen Ellyn. The Policy requires staff to maintain current and accurate codes and make appropriate updates. Based on the Code Adoption Policy, the Building Board of Appeals conducted public meetings to review and discuss potential codes and amendments for adoption. The Energy Conservation Code is one of eight new or updated codes identified for adoption including:

<u>Code</u>	<u>Status</u>
1. 2009 ICC International Property Maintenance Code (new)	adopted 8/23/10
2. 2009 NFPA 101 Life Safety Code (new)	adopted 8/23/10
3. 2009 ICC International Fire Code (update/new)	adopted 11/1/10
4. 2009 ICC International Building Code (update)	pending
5. 2009 ICC International Residential Code (update)	pending
6. 2009 ICC International Fuel Gas Code (update)	pending
7. 2009 ICC International Mechanical Code (update)	pending
8. <b>2009 ICC International Energy Conservation Code (new)</b>	<b>proposed</b>

**2009 ICC International Energy Conservation Code**

The International Code Council (ICC) is the largest recognized building and fire code development agency with ICC codes adopted in all 50 states. Staff has surveyed suburban municipalities and found that the majority have adopted the International Energy Conservation Code. The 2009 ICC International Energy Conservation Code prescribes the requirements for energy efficiency in all new, and altered existing, residential and commercial buildings. Due to its size, we did not attach a copy of the Energy Conservation Code. If Board members are interested in seeing a copy, please contact the Planning & Development Department.

**History and Application**

The first edition of the ICC International Energy Conservation Code was published in 1998. The Village currently does not have an adopted code governing energy conservation. The State of Illinois Energy Efficient Building Act established the 2009 ICC International Energy Conservation Code as the required standard for all commercial and residential buildings. The State law requires that all work, for which a permit for construction is required by a municipality, follow the provisions of the 2009 International Energy Conservation Code.

**Public Meetings:** The Building Board of Appeals reviewed the 2009 Energy Conservation Code at their July 25, 2011 public meeting. At this meeting, no persons spoke in favor of or in opposition to the proposed code adoption. After review, discussion and deliberations, the Building Board of Appeals voted on a motion to recommend approval of adoption of the 2009 International Energy Conservation Code with no amendments. The motion carried with four (4) “yes” votes and zero (0) “no” votes.

**Village Board:** It is requested that the Village Board consider the recommendation offered by the Building Board of Appeals. Staff has prepared an ordinance to approve the adoption of the 2009 International Energy Conservation Code as recommended by the Building Board of Appeals.

**Staff Recommendation:** Staff recommends that the effective date of this Ordinance be October 3, 2011 to allow time for public notification on the Village website and newsletters, issuance of a press release, revision of our current Planning & Development Department forms and guidelines, and training and education of building inspectors and the plan examiner.

**Attachments:**

- Building Code Adoption Policy – Resolution No. 02-22
- Ordinance Adopting the 2009 ICC International Energy Conservation Code
- Village Code Amendment Adopting the 2009 ICC International Energy Conservation Code, Exhibit ‘A’ (clean)
- Village Code Amendment Adopting the 2009 ICC International Energy Conservation Code, Exhibit ‘A’ (with text format and comments)
- Minutes of Building Board of Appeals Meeting on July 25, 2011, Exhibit ‘B’

C: BBA Members

RESOLUTION NO. 02-22

RESOLUTION TO ESTABLISH A BUILDING CODE ADOPTION POLICY  
FOR THE VILLAGE OF GLEN ELLYN

WHEREAS, the Village of Glen Ellyn is a growing and active community which has experienced an increase in the number of construction projects and developments; and

WHEREAS, the Village desires to establish a framework that would adequately safeguard the public health, safety and welfare of the general public and citizens of Glen Ellyn; and

WHEREAS, the Village also desires to establish a framework that would adequately protect and promote the longevity of the building stock and property in the Village; and

WHEREAS, the Village acknowledges the continued advancements in building technology, materials and methods of construction; and

WHEREAS, the existing Village building, mechanical, electrical and fire prevention codes are outdated and sometimes ambiguous and irrelevant with today's needs; and

WHEREAS, the Village recognizes that the national codes provide a consistency for property owners, design teams, builders and Village staff; and

WHEREAS, the Village recognizes the need for a modern, up-to-date comprehensive building code to establish minimum regulations for the design and installation of building systems; and

WHEREAS, the Village has created the Building Board of Appeals and the Electrical Commission to be advisory to the Village Board; and

WHEREAS, the Building Board of Appeals' and Electrical Commission's intent and purpose is to advise the Village Board on standards, specifications, rules, regulations and fees regarding building systems; and

WHEREAS, the Village Board discussed the adoption of the most up-to-date and applicable codes at the time of each new publication or code development cycle that occurs every three years;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DUPAGE COUNTY, ILLINOIS, in the exercise of its home rule powers as follows:

SECTION ONE: The purpose of this policy is to establish a framework in which the Village will consider the adoption of up-to-date building codes at the time of each newly published edition for, but not limited to, the following reasons:

- A. To safeguard the public health and safety of the general public and citizens of Glen Ellyn;
- B. To protect and promote the longevity of the building stock and property in Glen Ellyn;
- C. To acknowledge the advancements in technology, building materials and methods of construction;
- D. To establish minimum regulations for the design and installation of building systems; and
- E. To reduce ambiguous regulations that are common in older building code editions.

SECTION TWO: Staff shall gather pertinent information related to the most current building codes to be forwarded to the Village of Glen Ellyn Building Board of Appeals and Electrical Commission. Each appropriate Board or Commission will be requested to assemble to discuss the adoption of the most current edition of the applicable building codes of Glen Ellyn. Staff will prepare a written recommendation from each Board or Commission to the Village Board by March 1, 2003, for enactment.

SECTION THREE: Village staff shall develop and maintain current, accurate information pertaining to the updates and publications of codes and shall forward all pertinent and relevant information to each Board or Commission within three months of publication. The Village of Glen Ellyn Building Board of Appeals and Electrical Commission will be requested to have regular meetings to discuss each newly published edition of the applicable building code as they become available for adoption. Staff will prepare a written recommendation from each Board or Commission to the Village Board for enactment within six months of publication.

SECTION FOUR: The written report from the Building Board of Appeals and Electrical Commission shall include the edition, title and year of the code along with any recommended code additions, modification or deletions including all applicable insertions, if necessary.

SECTION FIVE: Village staff shall develop and maintain current, accurate information concerning the applicable building codes.

SECTION SIX: This resolution shall be in full force and effect from and after its passage and approval.

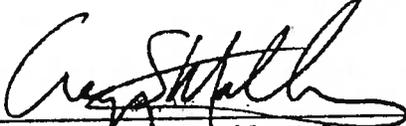
PASSED by the President and Board of Trustees of the Village of Glen Ellyn,  
Illinois, this 9TH day of SEPTEMBER 2002.

AYES: RILEY, MELROY, LOCH, MULHERN, STRAYER

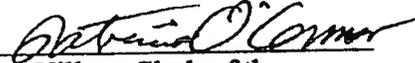
NAYS: - 0 -

ABSENT: KOHNKE

APPROVED by the Village President of the Village of Glen Ellyn, Illinois, this  
9TH day of SEPTEMBER, 2002.

  
\_\_\_\_\_  
Village President of the  
Village of Glen Ellyn

ATTEST:

  
\_\_\_\_\_  
Village Clerk of the  
Village of Glen Ellyn

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**Village of Glen Ellyn**

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**Ordinance No. \_\_\_\_\_ -VC**

**An Ordinance Amending Chapter 1 (Building Code) of  
Title 4 (Building Regulations) of the Village Code of the  
Village of Glen Ellyn, Illinois and  
Adopting the 2009 International Energy Conservation Code**

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**Adopted by the  
President and the Board of Trustees  
of the  
Village of Glen Ellyn  
DuPage County, Illinois  
This \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.**

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**Published in pamphlet form by the authority of the  
President and Board of Trustees of the Village of  
Glen Ellyn, DuPage County, Illinois, this  
day of \_\_\_\_\_, 20\_\_\_\_.**

ORDINANCE NO. \_\_\_\_\_ - VC

**An Ordinance Amending Chapter 1 (Building Code) of  
Title 4 (Building Regulations) of the Village Code of the  
Village of Glen Ellyn, Illinois and  
Adopting the 2009 International Energy Conservation Code**

**Whereas**, the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, pursuant to the provisions of Division 30 of Article 11 of the Illinois Municipal Code (Chapter 65, Section 5/11-30-1 et seq. of the Illinois Compiled Statutes), have the power and authority to require energy efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems; and

**Whereas**, Public Act 093-0936 and Public Act 096-0778 (a.k.a. the Energy Efficient Building Act) were signed into law and are now in effect for the State of Illinois requiring all new commercial and residential construction, for which a building permit is required by a municipality, to follow a comprehensive statewide energy conservation code which is currently the 2009 ICC International Energy Conservation Code; and

**Whereas**, the President and Board of Trustees of the Village of Glen Ellyn passed Resolution No. 02-22, A Resolution to Establish a Building Code Adoption Policy for the Village of Glen Ellyn on September 9, 2002 to establish a framework in which the Village will consider the adoption of up-to-date building codes at the time of each newly published edition; and

**Whereas**, the 2009 ICC International Energy Conservation Code has been published by the International Code Council for the intended use by municipalities in regulating and governing energy

efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems; and

**Whereas**, the Glen Ellyn Village Code does not currently include a specific code that regulates and governs energy efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems; and

**Whereas**, the Glen Ellyn Building Board of Appeals conducted a public meeting on July 25, 2011 for the purpose of considering an amendment to Chapter 1 (Building Code) of Title 4 (Building Regulations) of the Glen Ellyn Village Code to adopt the 2009 ICC International Energy Conservation Code which is attached hereto as Exhibit "A" (clean); and

**Whereas**, the Building Board of Appeals has made its recommendations, as set forth in the draft Minutes of the Glen Ellyn Building Board of Appeals dated July 25, 2011, which are attached hereto as Exhibit "B"; and

**Whereas**, the President and Board of Trustees of the Village of Glen Ellyn have considered the recommendations of the Building Board of Appeals as set forth in its draft Minutes dated July 25, 2011 which are attached hereto as Exhibit "B"; and

**Whereas**, the President and Board of Trustees deem it to be in the best interest of the Village of Glen Ellyn to adopt the proposed amendment to Chapter 1 (Building Code) of Title 4 (Building Regulations) of the Glen Ellyn Village Code as recommended by the Building Board of Appeals in order to adopt the 2009 International Energy Conservation Code, which is attached hereto as Exhibit "A" (clean) as the standards and regulations for energy efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems within the Village of Glen Ellyn.

**Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers as follows:**

**Section One:** Chapter 1 (Building Code) of Title 4 (Building Regulations) of the Glen Ellyn Village Code shall be and is hereby amended as set forth in Exhibit "A" (clean), attached hereto.

**Section Two:** This Ordinance shall be in full force and effect from and after October 3, 2011 to allow time for notification of the public and incorporation into the Planning & Development Department, Building Division administrative process.

**Passed** by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

**Ayes:**

**Nays:**

**Absent:**

**Approved** by the Village President of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Village President of the  
Village of Glen Ellyn, Illinois

**Attest:**

\_\_\_\_\_  
Village Clerk of the  
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_).

**Exhibit A (clean)**  
**The 2009 ICC International Energy Conservation Code (IECC)**  
**As Adopted by the Village of Glen Ellyn, Illinois**

Amend Glen Ellyn Village Code section 4-1-9 Heating Requirements in Residential Buildings by deleting this section in its entirety and substitute the following language:

**4-1-9 Adoption of the 2009 International Energy Conservation Code**

- (A) The 2009 ICC International Energy Conservation Code is adopted by reference as the standards and regulations for energy efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems in the Village of Glen Ellyn as published by the International Code Council except such portions thereof that are modified, or amended in this chapter. At least one copy of the 2009 ICC International Energy Conservation Code shall be maintained on file in the office of the village clerk for inspection and copying as a public record.
- (B) The title of the 2009 ICC International Energy Conservation Code is hereby stated as follows:
1. Amend section 101.1 to read as follows:  
101.1 Title. This code shall be known as the International Energy Conservation Code of the Village of Glen Ellyn, and shall be cited as such. It is referred to herein as "this code."

**Exhibit A (with text format and comments)**  
**The 2009 ICC International Energy Conservation Code (IECC)**  
**As Adopted by the Village of Glen Ellyn, Illinois**

Text format:

Normal – change number and description or existing text in the IECC to remain

**Bold** – new code section, new amendment or new text inserted into an IECC section

~~Strikethrough~~ – existing text in the Village Code or IECC to be removed

*Italics* – comments that will be removed from final ordinance document

Amend Glen Ellyn Village Code section 4-1-9 Heating Requirements in Residential Buildings by deleting this section in its entirety and substitute the following language:

**4-1-9 Adoption of the 2009 International Energy Conservation Code**

**(A) The 2009 ICC International Energy Conservation Code is adopted by reference as the standards and regulations for energy efficient building envelopes and the installation of energy efficient mechanical, lighting and power systems in the Village of Glen Ellyn as published by the International Code Council except such portions thereof that are modified or amended in this chapter. At least one copy of the 2009 ICC International Energy Conservation Code shall be maintained on file in the office of the village clerk for inspection and copying as a public record.**

*Comments: This is standard language consistent with prior adoption ordinances.*

**(B) The title of the 2009 ICC International Energy Conservation Code is hereby stated as follows:**

1. Amend section 101.1 to read as follows:

101.1 Title. This code shall be known as the International Energy Conservation Code of ~~{NAME OF JURISDICTION}~~ **the Village of Glen Ellyn**, and shall be cited as such. It is referred to herein as "this code."

*Comments: This is standard language consistent with prior adoption ordinances.*

EXHIBIT 'B'

DRAFT  
BUILDING BOARD OF APPEALS  
MINUTES  
JULY 25, 2011

The meeting was called to order by Chairman James Ryan at 7:37 p.m. Board Members Thomas Bredfeldt, Michaelene Burke Hoeh and Mike Morange were present. Board Members Pete Campbell and James McGinley were excused. Also present were Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

Board Member Bredfeldt moved, seconded by Board Member Burke Hoeh, to approve the minutes of the June 6, 2011 Building Board of Appeals meeting. The minutes were approved with four (4) yes votes and zero (0) no votes as follows: Board Members Bredfeldt, Burke Hoeh, Morange and Chairman Ryan voted yes.

2009 ICC INTERNATIONAL BUILDING CODE AND INTERNATIONAL RESIDENTIAL CODE. PUBLIC DISCUSSION AND OPPORTUNITY FOR LOCAL BUILDERS AND ARCHITECTS TO QUESTION AND CLARIFY THE PROVISIONS AND AMENDMENTS TO THESE CODES THAT ARE PROPOSED FOR ADOPTION.

Chairman Ryan stated that the public has been asked to respond to the 2009 ICC International Building Code and International Residential prior to a formal recommendation being forward to the Village Board.

Ray Whalen, a local builder, was present at the meeting. Mr. Whalen requested clarification regarding the fee schedule for a house with a crawl space and each basement floor. Mr. Kvapil clarified that each basement floor should mean each lower level below the grade and that if the grade is above half, it's a basement and if it's below half, it's a first floor (the halfway point being the divider). Mr. Kvapil responded to Board Member Bredfeldt that there is no cost for a crawl space because it is not habitable. Mr. Whalen commented that the Village will lose money on permit fees because a third floor is typically 700-900 square feet on a 3,800-square foot house. In response to Mr. Whalen's claim that the total figure for a house would be the same but different per the floors, Mr. Kvapil responded that he will compare the fees from the previous chart to the new chart for a 3-story home as he thought both figures were the same. Mr. Kvapil reminded those present that the lot coverage square foot area for the first floor includes everything covered by a roof, including porches and that all of the other floors include the gross square feet of the living area. Mr. Kvapil responded to Mr. Whalen that a walkout basement is 20 cents per square foot if the basement floor is below the halfway point. Chairman Ryan commented that the intention of the fee schedule is to make the process more simple. Mr. Whalen stated that he likes the new fee process but feels it will cause a builder to save a minimal amount of money in permit fees. Mr. Kvapil responded that he will again research this process and forward a sample of the results to interested parties.

Mr. Whalen stated that a demolition tax must be paid if a roof is removed from a ranch house and a second story is added. Mr. Kvapil responded that the Building and Zoning Department is currently not charging for that fee because it is his understanding that it relates to total teardowns only, however, he read the definition of Demolition Taxes which includes partially demolished projects. Mr. Kvapil added that in the Demolition Tax section, only the reference to classes will be removed and the tax will remain applicable to partial demolition projects that qualify. Mr. Whalen commented that some will view charging a demolition tax for partial projects as perpetuating teardowns. Mr. Kvapil agreed with Mr. Whalen that construction hours could be limited or excluded on federal holidays. Chairman Ryan, however, felt it was not the purpose of government to limit work hours and because the issue is not an existing problem, stated that the BBA should not try to solve a problem that doesn't exist. Board Member Morange also stated that homeowners sometimes need to work on projects during their holidays from work. Mr. Kvapil stated that construction hours will remain as is. Mr. Kvapil stated that Section 105.2 regarding work exempt from permits assists regarding enforcement.

Please note that the BBA has previously passed motions regarding the above codes.

VILLAGE CODE SECTION 4-1-4(A)1a BASE PERMIT FEE TABLE. REVIEW AND RECOMMENDATIONS FOR CHANGES TO THIS CODE SECTION THAT WAS PREVIOUSLY APPROVED AT THE JUNE 6, 2011 BBA MEETING.

In response to Chairman Ryan, Mr. Kvapil responded that he will revise any discrepancies in the fee code.

VILLAGE CODE SECTION 2-7-4 REGARDING BBA QUORUM REQUIREMENTS. REVIEW OF AN ORDINANCE THAT REVISES THE LANGUAGE OF THESE REQUIREMENTS FOR CLARIFICATION.

Chairman Ryan stated this code section has been previously discussed.

2009 ICC INTERNATIONAL ENERGY CONSERVATION CODE. DISCUSSION, CONSIDERATION AND RECOMMENDATIONS REGARDING A PROPOSED ORDINANCE TO ADOPT AND AMEND THE 2009 ICC INTERNATIONAL ENERGY CONSERVATION CODE TO BE INCORPORATED AS A TEXT AMENDMENT INTO THE VILLAGE CODE, TITLE 4 BUILDING REGULATIONS, CHAPTER 1 BUILDING CODE.

Mr. Kvapil referred to the index and ordinance related to adopting the 2009 ICC International Energy Conservation Code with no proposed changes. Mr. Kvapil also referred to the attached summary regarding the Energy Conservation Code from the State of Illinois that applies to commercial and residential buildings. He stated that municipalities have no latitude in making any changes and added that he found nothing in the material that would require the Village to petition the State for a change(s) or amendment(s). Mr. Kvapil recommended adopting the code as is. He added that there are significant changes from the previous code and that the Village had amendments in

place regarding roof and ceiling insulation requirements. At Mr. Kvapil's request, Board Member Morange stated that R11 is current for walls and R30 is current for ceilings; Mr. Kvapil added that those figures have been changed to R21 for walls and R38 for ceilings. Board Member Bredfeldt asked if there are requirements on the efficiency of heating equipment, and Mr. Kvapil responded that that information would be in the mechanical code.

#### Motion

Board Member Burke Hoeh moved, seconded by Board Member Morange to approve the adoption of the International Energy Conservation Code to be the Glen Ellyn Code. The motion carried unanimously with four (4) "yes" votes as follows: Board Members Morange, Burke Hoeh, Bredfeldt and Chairman Ryan voted yes.

#### Staff Report

Mr. Kvapil updated the BBA regarding the College of DuPage. After a discussion, it was decided that the next BBA meeting will be held on September 12, 2011.

#### Chairman's Report

Chairman Ryan asked Mr. Kvapil to provide the BBA members with letters documenting their time spent on this process.

There being no further business before the BBA, Chairman Ryan moved, seconded by Board Member Burke Hoeh, to adjourn the meeting at 8:35 p.m.

Submitted by:  
Barbara Utterback  
Recording Secretary

Reviewed by:  
Joe Kvapil  
Building and Zoning Official

MEMORANDUM

**TO:** Mark Franz, Village Manager

**FROM:** Staci Hulseberg, Director of Planning & Development  
 Joe Kvapil, Building and Zoning Official

**DATE:** August 12, 2011

**FOR:** August 22, 2011 Village Board Meeting

**SUBJECT:** 566 Hillside Avenue – Front Porch Setback Variation



**Petition:** The property owners, Lincoln and Gail Bode, are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-5-5(B)4 to allow the reconstruction of an existing front porch in the same location that projects 15 feet 3 inches (51%) into the required front yard setback of 30 feet. The Zoning Code does not allow an open front porch to project more than 7 feet 6 inches (25%) into the required front yard setback. The subject property is an interior lot located on the north side of Hillside Avenue in the R2 Residential District.

**Public Hearing:** The Zoning Board of Appeals conducted a public hearing on the requested variation on Tuesday, July 12, 2011. Notice of the public hearing was published in the Daily Herald on June 27, 2011. At the meeting, no persons spoke in favor of and no persons spoke in opposition to the variation request. The Zoning Board of Appeals was in favor of the variation because they felt that the porch was a significant element that resulted in the historic designation of the home and the location did not alter the essential character of the locality. The Zoning Board of Appeals voted on a motion to recommend approval of the variation request. The motion carried with four (4) “yes” votes and zero (0) “no” votes.

**Village Board:** It is requested that the Village Board consider the petitioners' request and the recommendation offered by the Zoning Board of Appeals. Staff has prepared an ordinance to approve the requested variation as recommended by the Zoning Board of Appeals.

**Attachments:**

- Minutes of ZBA meeting dated July 12, 2011
- Photo of the Subject Property
- Location Map
- Ordinance
- Notice of Public Hearing
- List of Addresses
- Petitioners' Application packet

**CC:** Lincoln and Gail Bode

DRAFT  
ZONING BOARD OF APPEALS  
MINUTES  
JULY 12, 2011

The meeting was called to order by Acting Chairman Ed Kolar at 7:30 p.m. Board Members Barbara Fried, Mary Ozog and Dale Siligmueller were present. Also present were Trustee Liaison Peter Cooper, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

Acting Chairman Kolar described the proceedings of the Zoning Board of Appeals.

Board Member Fried moved, seconded by Board Member Siligmueller, to approve the minutes of the June 14, 2011 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

Two public hearing agendas were on the agenda for the properties at 566 Hillside Avenue and 780 Harding Avenue.

PUBLIC HEARING – 566 HILLSIDE AVENUE

A REQUEST FOR A ZONING VARIATION FROM THE MAXIMUM DISTANCE AN OPEN FRONT PORCH CAN EXTEND INTO THE REQUIRED FRONT YARD SETBACK.

*(Lincoln and Gail Bode, owners)*

Staff Report

Mr. Kvapil explained that Lincoln and Gail Bode, the owners of the property at 566 Hillside Avenue, are requesting a variation to allow the construction of an open front porch that projects 15 feet 3 inches or 51% into the required front yard setback in lieu of the maximum permitted projection of 7 feet 6 inches or 25% into the required front yard setback. Mr. Kvapil displayed a photograph of the subject home which is on an interior lot in the R2 Single Family Residential Zoning District. Mr. Kvapil stated that the lot is nonconforming at 60 feet wide with a minimum interior lot width of 66 feet. He also stated that the house is nonconforming with a front yard setback of 19-1/2 feet and the minimum required setback is 30 feet. Mr. Kvapil stated that no variation requests have been granted for this property, however, several building permits have been issued over the years. Mr. Kvapil displayed a site plan of the subject property which showed that the house extends into the required setback. The site plan also showed the location of an existing porch which projects from the 30-foot lot line into the front yard 51 percent of the distance (15 feet 3 inches). Mr. Kvapil stated that the maximum permitted projection for a front porch from the 30-foot setback line is 7-1/2 feet or 25 percent of the distance. Mr. Kvapil stated that the subject home was constructed in 1894 and has been plaqued by the Glen Ellyn Historical Society who stated in a letter that removal of the front porch would jeopardize the historic recognition of the subject home because of the significance of the architectural design. Board Member Fried read to those present a portion of the

Historical Society letter which stated that removal of a porch would no longer allow a home to be plaqued by the Historical Society. Mr. Kvapil added that the homes on both sides of the subject house are close to 30 feet from the front yard setback.

#### Petitioners' Presentation

Lincoln and Gail Bode, the owners of 566 Hillside Avenue, and Daryl Drake, architect, 422 Phillips Avenue, Glen Ellyn, Illinois were present to speak on behalf of the variation request. Mr. Drake stated that the subject home which is an interesting historic home was built approximately 10 feet in front of the road in 1894 prior to zoning in Glen Ellyn. The homes on either side of the subject home were built in approximately the same position on the street in the 1950's. Mr. Drake stated that the petitioners would like to fix the outside of the house but were required to appear before the ZBA in order to gain permission to repair the porch. Mr. Drake stated that the porch roof swales approximately 7 inches and the deck also slopes approximately 7 inches which creates an unsightly and unsafe condition. He added that the stairs and railing are at incorrect heights. Mr. Drake stated that the homeowners would like to remove the posts and replace or possibly re-use the posts, and the front railing would be raised to the proper required height. The deck would then be built to modern codes and would almost entirely maintain the original architectural structure. Displaying an elevation, Mr. Drake stated that the west end of the roof currently hips up, however, the homeowners and he would like the roof to go straight back which is believed to be the original design. Mr. Drake stated that the Historical Society and the Village Building Department would like to use this home as an example of how to save other similar houses from having to go through the variation process. Mr. Drake stated that the hardship regarding this home is that the front is falling apart and needs to be repaired.

Lincoln Bode stated they have owned the subject property since 1994 and have spent a great deal of money renovating the inside of the home. Mr. Bode stated that they would now like to work on the outside of the home. Gail Bode stated that they would like to stabilize their home and bring it up to code.

#### Responses to Questions from the ZBA

The ZBA members had no questions for the Building and Zoning Official or the petitioners.

#### Persons in Favor of or in Opposition to the Petition

Building and Zoning Official Joe Kvapil distributed a letter from Rinda Allison of 537 Hillside Avenue, Glen Ellyn, Illinois in favor of the proposed variation request. No persons spoke in favor of or in opposition to the petition being requested.

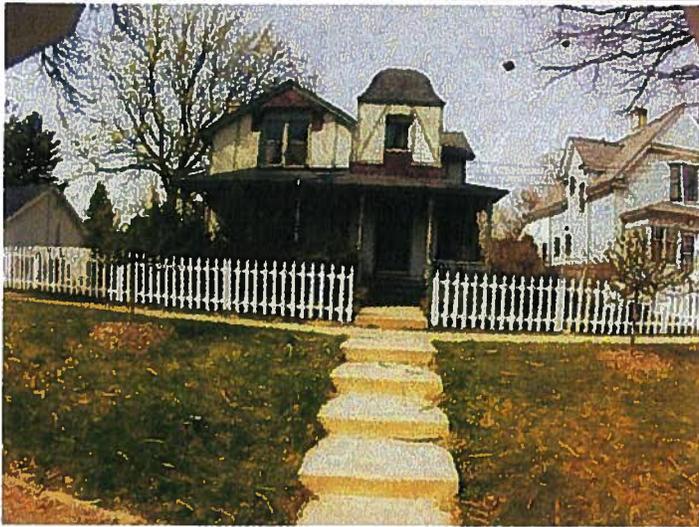
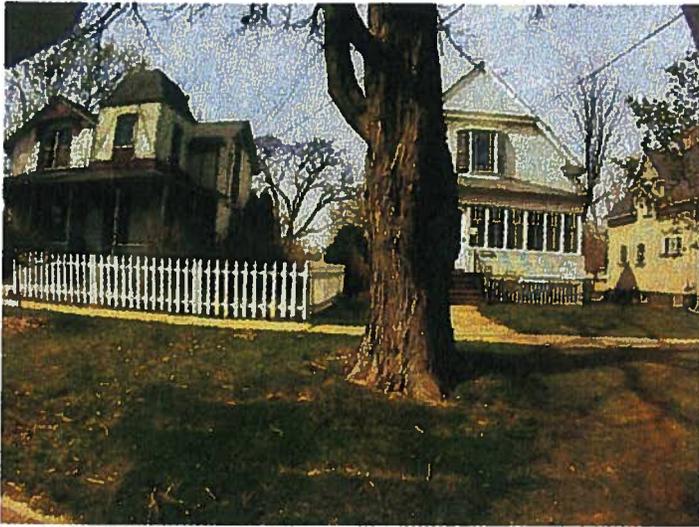
Comments from the ZBA

All of the ZBA members present were fully supportive of the requested zoning variation and felt that the hardship is the location of the original placement of the home on the lot.

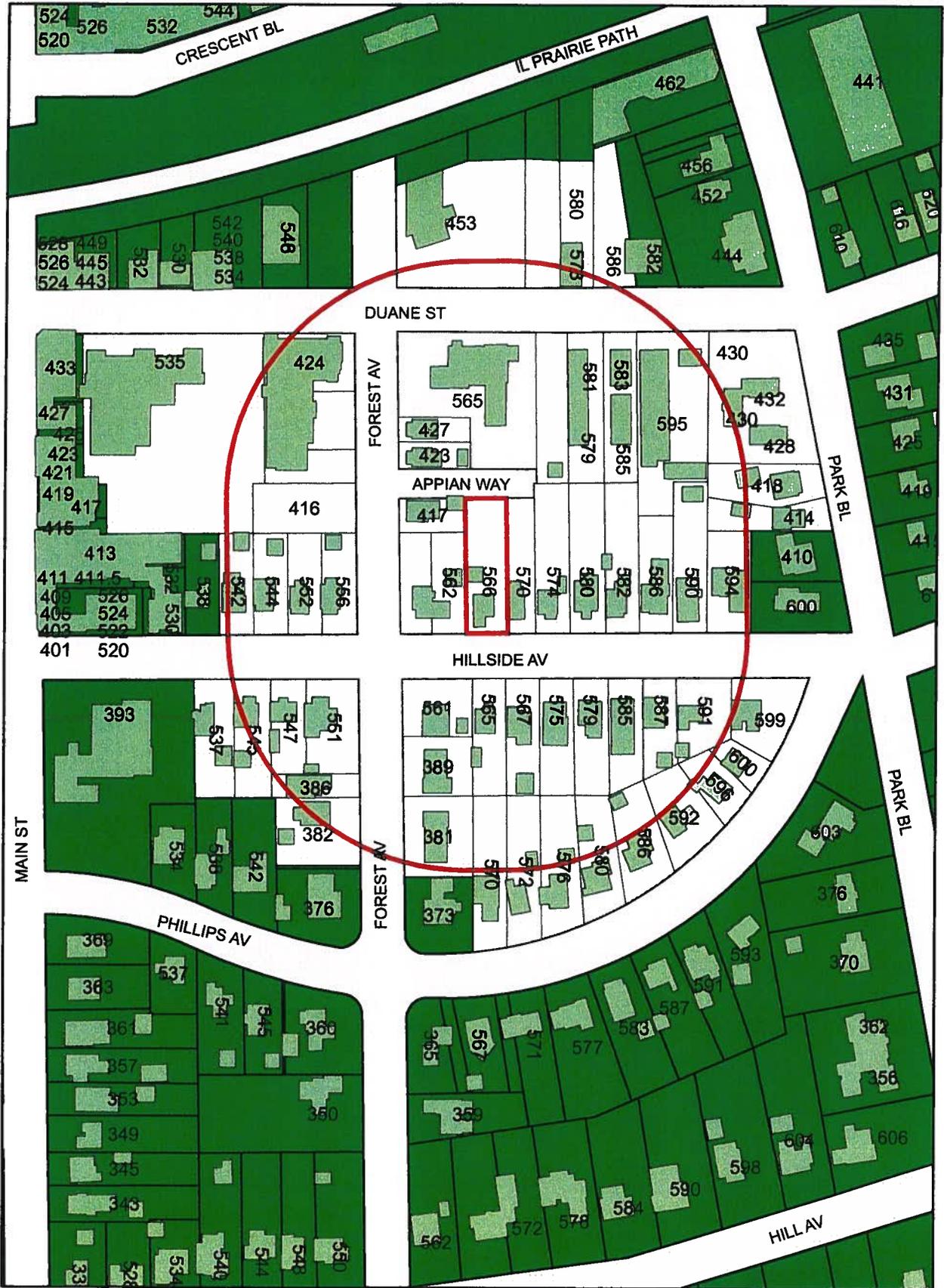
Motion

Board Member Fried moved, seconded by Ms. Ozog, to grant permission to the petitioners to reconstruct the front porch of the historic home at 566 Hillside Avenue because safety issues exist, the lot is nonconforming and the location of the repaired porch will not change. Ms. Fried stated that if the variation is not approved, the homeowners will lose their historical front porch. The recommendation for approval was based on the condition that the construction is in compliance with the plans as submitted at this public hearing

The motion carried unanimously with four (4) "yes" votes as follows: Board Members Fried, Ozog, Siligmuller and Acting Chairman Kolar voted yes.



# 566 Hillside Avenue



Prepared By: Planning and Development  
Date Prepared: July 7, 2011



**Village of Glen Ellyn**

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**Ordinance No. \_\_\_\_\_**

**An Ordinance Approving a Variation from the  
Front Porch Setback Requirements  
of the Zoning Code  
to Allow Reconstruction of an Existing Front Porch  
For Property at 566 Hillside Avenue  
Glen Ellyn, IL 60137**

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**Adopted by the  
President and Board of Trustees  
Of the Village of Glen Ellyn  
DuPage County, Illinois  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

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Published in pamphlet form by the authority of the  
President and Board of Trustees of the Village of  
Glen Ellyn, DuPage County, Illinois, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

Ordinance No. \_\_\_\_\_

**An Ordinance Approving a Variation from the  
Front Porch Setback Requirements  
of the Zoning Code  
to Allow Reconstruction of an Existing Front Porch  
For Property at 566 Hillside Avenue  
Glen Ellyn, IL 60137**

**Whereas**, Lincoln and Gail Bode, owners of the property at 566 Hillside Avenue, Glen Ellyn, Illinois, which is legally described as follows:

Lot 8 and the west 10 feet of Lot 9 in the Phillip's Subdivision of the west 4.48 chains of Block 11 of the Village of Glen Ellyn (formerly Danby) being known as Lots 4, 5 and 6 of the Assessment Division of said Block 11 in Section 11, Township 39 North, Range 10, East of the Third Principal Meridian, in the Village of Glen Ellyn, DuPage County, Illinois.

P.I.N.: 05-11-329-014

have petitioned the President and Board of Trustees of the Village of Glen Ellyn for a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the reconstruction of an existing open front porch that projects 15 feet 3 inches (51%) into the required front yard setback in lieu of the maximum permitted projection of 7 feet 6 inches (25%) into the required front yard setback; and

**Whereas**, following due notice by publication in the Daily Herald not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all property owners within 250 feet of the subject property at least ten (10) days prior thereto, and following the placement of a placard on the subject property not less than fifteen (15) days prior thereto, the Glen Ellyn Zoning Board of Appeals conducted a public hearing on July 12, 2011, at which the petitioners presented evidence, testimony, and exhibits in support of the variation request and no persons appeared in favor of the variation and no persons appeared in opposition thereto; and

**Whereas**, based upon the evidence, testimony, and exhibits presented at the public hearing on July 12, 2011, the Zoning Board of Appeals adopted findings of fact and voted on a motion to approve the Variation, which carried by a vote of four (4) “yes” and zero (0) “no,” resulting in a recommendation for approval as set forth in its draft Minutes dated July 12, 2011, appended hereto as Exhibit "A"; and

**Whereas**, the President and Board of Trustees have reviewed the exhibits and evidence presented at the aforementioned public hearing and have considered the findings of fact and recommendations of the Zoning Board of Appeals; and

**Whereas**, the President and Board of Trustees make the following findings of fact:

- A. That the plight of the owner is due to unique circumstances since this home was constructed in 1894 and the reconstruction of the front porch is necessary to retain its historic significance;
- B. That the variation, if granted, will not alter the essential character of the locality since an open front porch is a common and desirable feature in this residential district;
- C. That the particular location of the home on the lot prohibits the construction of any size front porch on the property which brings practical difficulty and particular hardship upon the owner as distinguished from a mere inconvenience;
- D. That the conditions upon which the variation is based would not be applicable generally to other property within the same zoning district since this home is positioned unusually close to the front of the lot and is historically significant;
- E. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property since the applicant has expressed no intention for further development or sale of the property;

F. That the practical difficulty or particular hardship has not been created by any persons presently having an interest in the property since the deteriorating conditions of the existing front porch over many years are as result of normal weather exposure;

G. That the variation will not diminish or impair property values within the neighborhood since the existing deteriorating condition of the front porch conditions will be improved with new construction;

H. That the variation is the minimum variation that will make possible the reasonable use of the land, building or structure and the reconstructed porch will be identical to the existing porch in area; and

**Whereas**, the President and Board of Trustees, based on the aforementioned findings of fact, find it appropriate to grant the variation presented to the Zoning Board of Appeals.

**Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois**, in exercise of its home rule powers, as follows:

**Section One:** The draft minutes of the July 12, 2011 Glen Ellyn Zoning Board of Appeals meeting, Exhibit "A" appended hereto, are hereby accepted, and the findings of fact and conclusions set forth in the preambles above are hereby adopted as the findings of fact and conclusions of the corporate authorities of the Village of Glen Ellyn.

**Section Two:** Based upon the above findings of fact, the President and Board of Trustees hereby approve a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the reconstruction of an existing open front porch that projects 15 feet 3 inches (51%) into the required front yard setback in lieu of the maximum permitted projection of 7 feet 6 inches (25%) into the required front yard setback at 566 Hillside Avenue, Glen Ellyn, Illinois, which is legally described as

follows:

Lot 8 and the west 10 feet of Lot 9 in the Phillip's Subdivision of the west 4.48 chains of Block 11 of the Village of Glen Ellyn (formerly Danby) being known as Lots 4, 5 and 6 of the Assessment Division of said Block 11 in Section 11, Township 39 North, Range 10, East of the Third Principal Meridian, in the Village of Glen Ellyn, DuPage County, Illinois.

P.I.N.: 05-11-329-014

**Section Three:** This grant of variation to reconstruct a front porch is conditioned upon the construction being completed in substantial conformance with the signed Application for Variation received by the Planning & Development Department on June 14, 2011, supporting documents and materials received on June 14, 2011, and the testimony and exhibits provided at the July 12, 2011 Zoning Board of Appeals public hearing.

**Section Four:** The Building and Zoning Official is hereby authorized and directed to issue building permits for the subject property, consistent with the variation granted herein, provided that all conditions set forth hereinabove have been met and that the proposed construction is in compliance with all other applicable laws and ordinances. This grant of variation shall expire and become null and void twenty four (24) months from the date of passage of this Ordinance unless a building permit to begin construction in reliance on this variation is applied for within said eighteen (18) month time period and construction is continuously and vigorously pursued provided, however, the Village Board, by motion, may extend the period during which permit application, construction, and completion shall take place.

**Section Five:** The Village Clerk is hereby authorized and directed to cause a copy of this Ordinance approving the variation to be recorded with the DuPage County Recorder of Deeds.

**Section Six:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

**Section Seven:** Failure of the owner or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of said Ordinance, shall subject the owner or party in interest to the penalties set forth in Section 10-10-18 "A" and "B" of the Village of Glen Ellyn Zoning Code.

**Passed** by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2011.

**Ayes:**

**Nays:**

**Absent:**

**Approved** by the Village President of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Village President of the  
Village of Glen Ellyn, Illinois

**Attest:**

\_\_\_\_\_  
Village Clerk of the  
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the \_\_\_\_ day of \_\_\_\_\_).

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## NOTICE OF PUBLIC HEARING

Lincoln and Gail Bode, owners of the property at 566 Hillside Avenue, are requesting a public hearing for a variation in accordance with Section 10-10-12 of the Glen Ellyn Zoning Code. The owners would like to reconstruct the existing open front porch in the same location. The existing and new porch will project 15 feet 3 inches (51%) into the required front yard setback of 30 feet. The Zoning Code does not allow an open front porch to project more than 7 feet 6 inches (25%) into the required front yard setback. The Glen Ellyn Zoning Board of Appeals will conduct a public hearing to consider this Variation on **Tuesday, July 12, 2011** at 7:30 p.m. on the third floor in the Civic Center, 535 Duane Street, Glen Ellyn, Illinois. Anyone is welcome to attend.

The property owners are requesting approval of a variation from Glen Ellyn Zoning Code, Section 10-5-5(B)4 Item 25, to allow the construction of an open front porch that projects 15 feet 3 inches (51%) into the required front yard setback in lieu of the maximum permitted projection of 7 feet 6 inches (25%) into the required front yard setback.

The property is zoned R2, Residential District, and is legally described as follows:

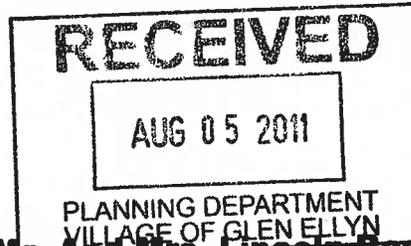
Lot 8 and the west 10 feet of Lot 9 in the Phillip's Subdivision of the west 4.48 chains of Block 11 of the Village of Glen Ellyn (formerly Danby) being known as Lots 4, 5 and 6 of the Assessment Division of said Block 11 in Section 11, Township 39 North, Range 10, East of the Third Principal Meridian, in the Village of Glen Ellyn, DuPage County, Illinois.

P.I.N.: 05-11-329-014

Plans related to the proposed addition are available for public review in the Planning and Development Department, Civic Center, 535 Duane Street, Glen Ellyn, Illinois. If you have questions, please contact Joe Kvapil, Building & Zoning Official, at (630) 547-5244. For individuals with disabilities who have questions regarding the accessibility of the meeting or facilities, contact Harold Kolze, ADA Coordinator, at (630) 547-5209.

(Published in the Daily Herald on Monday, June 27, 2011)

**June 14, 2011**



**RE: Porch Replacement at home of Mr. And Mrs. Lincoln Bodi  
At 566 Hillside, Glen Ellyn, Illinois**

**To Whom It May Concern,**

**This particular Home was constructed in 1894 and is plaqued with the Glen Ellyn Historical Society. The owner's of the Home, Mr. and Mrs. Lincoln Bodi, have been restoring the interior of the home for over a year; have added a small addition to the rear, to improve the interior flow and function, and now the Bodi's would like to address the exterior front porch to improve the exterior appearance and safety issues. They would like to remove the dilapidated existing front porch and replace it. They do not want to alter the historic design in size, style, shape, just make the porch safe and pleasing and meet the proper building codes for construction and safety. The problem is simple, the front porch, as it was originally constructed, is to close to the front lot line set back requirements and can not be removed without a zoning variation. Even though the porch would not change in size or location and is historic in nature, it could not be removed and replaced. This clearly is a unique circumstance and a hardship, and more than meets the requirements for a variation.**

**This particular hardship is compounded, since the porch condition is so poor that it could not be repaired. If it would be possible to repair the front porch and it is not possible, the cost for repair would be more than a new front porch. That would be a financial hardship, but is not germane, since the owner can not repair anything in the setback that is structural-only cosmetic. The structure is the problem, although it looks pretty bad, as well!**

**Historic houses are required to meet the same setback requirements for newer and non-historic properties, but a special circumstance arises when a home is very old, built before present zoning and present construction requirements. A home owner should be allowed to reconstruct without the added expense and time of a zoning variation an historic property regardless of the setbacks; given that the Glen Ellyn Historical Society agrees that the home is historic, particularly for safety reasons. That is another argument for another time, however!**

**The code requires that an open front porch be no further into the front yard set back than 25% of the required front set back; in this case 30 feet is the required front yard set back from the lot line, but the house presently sits some 19'-6" from the front lot line. The required front setback for the porch would be 22'-6", but it is located 14'-9" from the front lot line. This clearly is a hardship, since the home not only is historic and original to Glen Ellyn Architectural History; it was constructed before the present more restrictive setbacks.**

**The front porch deck, drops about 7 inches in slope; is soft to walk on, has a railing height of some 22 inches, and the steps are all different in height. The roof sags about 6 inches and has pulled away from the home 6 inches and is unsafe to be under. The Owners would like to reconstruct the front porch with the same style, appearance, and size historically in the same place that it presently exists, however it does not conform to the present day front set back for an open porch, thus a variation is required.**

**The Bodi's have owned there home for over ten years and have worked hard to restore the original style and architecture. They would like the exterior appearance to match the interior upgrades that they have made, but are required to have a zoning variation. I believe that they have a hardship and a unique circumstance and have met the burden of proof for a variation. A variation is not required if they choose not to repair the front porch, but it is unsafe and dangerous and must be reconstructed from top to bottom in order to enter the front door. Building codes do, however require safety for the inhabitant and for the general welfare, a variation is a necessity.**

**Please consider this request and grant this variation, Glen Ellyn will be pleased with another restored landmark.**

**Sincerely,**



**Daryl A. Drake AIA**

Lincoln V Bode & Gail Z Bode  
566 Hillside Avenue  
Glen Ellyn, Ill. 60137 USA  
Mobile: 1 630 940 9933 Email: [lincolnbode@gmail.com](mailto:lincolnbode@gmail.com)

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May 2, 2011

RE: Replace porch at 566 Hillside Ave.

To Whom It May Concern:

We ask for your consideration in granting us a variance to replace the front porch at our house located at: 566 Hillside Avenue.

The house is a historically plaqued house, built in 1894 for the Kerr family. Over the years the footings have sunk, therefore, lowering the front porch several inches and pulling the roof away from the main house.

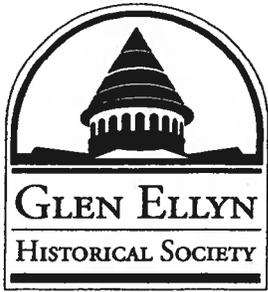
To repair the porch maybe technically feasible, but not necessarily be as safe or wise for the long term. Therefore, we believe that it is better to replace the entire porch. The new porch will remain within the existing parameters of the current and in keeping with the character of the Queen Anne Victorian Stick style house.

If you have any questions, or wish additional information, let us know.

Regards,

  
Lincoln & Gail Bode  
Owners





June 8, 2011

Mr. and Mrs. Lincoln Bode  
566 Hillside Avenue  
Glen Ellyn, IL 60137

Dear Mr. and Mrs. Bode:

Your home at 566 Hillside Avenue has been recognized for its historic significance by the Glen Ellyn Historical Society. It was built by Charles H. Kerr in 1894 and was plaqued by the Society in 1974.

Plaqued homes must remain true to their architecture. If your home changes significantly, such as the removal of your front porch, it would no longer qualify to be plaqued by the Historical Society. The front porch is an integral part of the design and its replacement should be the same as the original construction.

If I can be of further assistance regarding this matter, please do not hesitate to contact me.

Sincerely yours,

Jane Rio  
Interim Executive Director

**Lincoln V Bode & Gail Z Bode**  
566 Hillside Avenue  
Glen Ellyn, Ill. 60137 USA  
Mobile: 1 630 940 9933 Email: [lincolnbode@gmail.com](mailto:lincolnbode@gmail.com)

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May 2, 2011

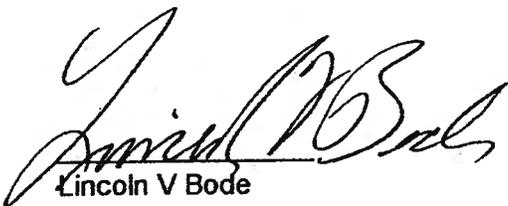
To Whom It May Concern:

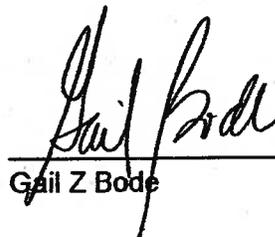
We, Lincoln V Bode and Gail Z Bode, are pleased to provide you with the following documents as proof of ownership of 566 Hillside Avenue, Glen Ellyn, Illinois 60137.

- 1) Release of deed from Marine Midland Bank.
- 2) Mortgage Interest Statement for 2010
- 3) Glen Ellyn Historical Society letter

If you have any questions or wish additional information let us know.

Regards,

  
Lincoln V Bode

  
Gail Z Bode

1195742 JLS  
RELEASE DEED  
(GENERAL)

FOR THE PROTECTION OF THE  
OWNER, THIS RELEASE SHALL  
BE FILED WITH THE RECORDER  
OF DEEDS IN WHOSE OFFICE  
THE MORTGAGE OR DEED OF  
TRUST WAS FILED.

KNOW ALL MEN BY THESE PRESENTS, THAT MARINE MIDLAND BANK, CORPORATE SUCCESSOR TO FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF ROCHESTER, 1 MARINE MIDLAND CENTER, BUFFALO, NEW YORK 14203 of the County of ERIE and State of NEW YORK for and in consideration of one dollar, and for other good and valuable consideration, the receipt whereof is hereby confessed, do hereby remise, convey, release and quit-claim unto LINCOLN V. BODE AND GAIL Z. BODE, HUSBAND AND WIFE of the County of DUPAGE and State of ILLINOIS all the right, title, interest, claim or demand, whatsoever MARINE MIDLAND BANK may have acquired in, through or by a certain MORTGAGE, bearing the date the 8TH day of AUGUST A.D., 1994 and recorded in the Recorder's Office of DUPAGE County in the State of Illinois, as Document No. R94-174837 to the premise therein described, as follows, to wit: (See attached legal description) situated in the County of DUPAGE in the State of Illinois, together with all appurtenances and privileges thereunto belonging or appertaining. All the notes secured by said instrument have been paid, cancelled and surrendered.

Permanent Index Number (PIN): 05-11-329-014  
Address(es) of Real Estate: 566 HILLSIDE AVENUE, GLEN ELLYN, IL

DATED THIS 1ST day of JULY, 1997.

PLEASE PRINT OR TYPE NAME(S) BELOW  
SIGNATURE(S) Tina M. DePasquale (SEAL)

TINA M. DEPASQUALE  
STELLA D. BROWN

Michael T. Stilb 8715 (SEAL)  
MICHAEL T. STILB,  
VICE PRESIDENT

Adla Khoury (SEAL)  
ADLA KHOURY, ASST. SECRETARY



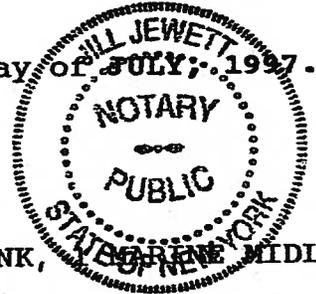
State of New York, County of Erie ss. I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MICHAEL T. STILB AND ADLA KHOURY personally known to me to be the same persons whose names subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

IMPRESS SEAL HERE

Given under my hand and official seal, this 1ST day of JULY, 1997.

Commission expires  
Jill Jewett

JILL JEWETT No. 4969274  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires July 9, 1998  
Notary Public



This instrument was prepared by MARINE MIDLAND BANK, CENTER, BUFFALO, NEW YORK.

Lincoln V Bode & Gail Z Bode  
566 Hillside Avenue  
Glen Ellyn, Ill. 60137 USA  
Mobile: 1 630 940 9933 Email: [lincolnbode@gmail.com](mailto:lincolnbode@gmail.com)

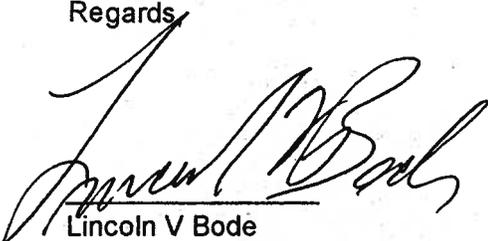
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May 2, 2011

To Whom It May Concern:

We, Lincoln V Bode & Gail Z Bode, owners of the property described as 566 Hillside Avenue, Glen Ellyn, Illinois 60137 verify that Daryl Drake, of Drake Design, is duly authorized to apply and represent our interest before the Glen Ellyn Architectural Review Commission, Plan Commission, Zoning Board of Appeals and/or Village Board. We acknowledge that any notice given Mr. Drake is notice to us.

Regards

  
Lincoln V Bode

  
Gail Z Bode

  
Notary

OFFICIAL SEAL  
BRYAN WOODS  
Notary Public - State of Illinois  
My Commission Expires Jun 8, 2013



VILLAGE OF GLEN ELLYN  
535 Duane Street  
Glen Ellyn, Illinois 60137  
(630) 547-5250

APPLICATION FOR VARIATION

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Note to the Applicant: This application should be filed with, and any questions regarding it, should be directed to the Director of the Village Planning and Development Department.

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The undersigned hereby petitions the Village of Glen Ellyn, Illinois, for one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended), as described in this application.

I. APPLICANT INFORMATION:

(Note: The applicant must comply with Section 10-10-10(B) of the Zoning Code).

Name: DARYL DRAKE

Address: 422 Phillips GLEN ELLYN, IL

Phone No.: 630 790 2545

Fax No.: 630-790-2565

E-mail: DRAKEDSIGN@YAHOO.COM

Ownership Interest in the Property in Question: NONE

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II. INFORMATION REQUIRED BY SECTION 10-10-10(B) OF THE ZONING CODE, IF APPLICABLE:

NOTE: All parties, whether petitioner, agent, attorney, representative and or organization et al. must be fully disclosed by true name and address in compliance with Section 10-10-10(B) of the Zoning Code. Disclosure forms are attached for your convenience.

Name and address of the legal owner of the property (if other than the applicant):

LINCOLN AND GAIL BODE  
566 HILLSIDE AVE, G.E.

Name and address of the person or entity for whom the applicant is acting (if the applicant is acting in a representative capacity):

LINCOLN AND GAIL BODE  
566 HILLSIDE AVE, G.E.

Is the property in question subject to a contract or other arrangement for sale with the fee owner? (Circle "Yes" or "No")

YES

NO

If YES, the contract purchaser must provide a copy of the contract to the Village and must either be a co-petitioner to this application or submit the attached Affidavit of Authorization with the application packet.

Is the property in question the subject of a land trust agreement? (Circle "Yes" or "No")

YES

NO

If YES, (1) either the trustee must be a co-petitioner or submit the attached Affidavit of Authorization from the trustee to represent the holders of the beneficial interests in the trust and (2) the applicant must provide a trust disclosure in compliance with "An Act to Require Disclosure of All Beneficial Interests", Chapter 148, Section 71 et seq., Illinois Revised Statutes, signed by the trustee.

III. PROPERTY INFORMATION:

Common address: 566 HILLSIDE AVE, G.E.

Permanent tax index number: 05-11-329-014

Legal description: LOT 8 AND THE WEST 10 FEET OF LOT 9 IN PHILLIP'S SUBDIVISION OF THE WEST 4.48 CHAINS OF BLOCK 11, OF THE VILLAGE OF GLEN ELLYN (FORMERLY DERRY) BEING KNOWN AS LOTS 4, 5 AND 6 OF THE ASSESSMENT DIVISION OF SAID BLOCK 11 IN SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE VILLAGE OF GLEN ELLYN, DAUPHIN COUNTY, ILLINOIS.

Zoning classification: R-3

Lot size: 60 ft. x 200 ft. Area: 12,000 sq. ft.

Present use: HOME - PORCH VARIATION

IV. INFORMATION REGARDING THE VARIATION(S) REQUESTED:

Description of the variation(s) requested (including identification of the Zoning Code provisions from which variation is sought) and proposed use(s): PLEASE SEE LETTER!

THE VARIATION REQUESTED IS A FRONT YARD PORCH THAT PRESENTLY SITS TOO FAR INTO THE FRONT YARD AND NEEDS TO BE TORN DOWN AND REBUILT HISTORICALLY THE SAME SIZE, SHAPE AND DESIGN. THE ZONING CODE FOR THIS REQUEST IS 10-5-5-B4 - IT WILL BE IN THE EXACT SAME LOCATION AFTER THE VARIATION IS HOPEFULLY GRANTED

Estimated date to begin construction: ASAP

Names and addresses of any experts (e.g., planner, architect, engineer, attorney, etc.):  
DARYL DRAKE - ARCHITECT, 422 PHILLIPS AVE, G.E.

V. EVIDENCE RELATING TO ZONING CODE STANDARDS FOR A VARIATION:

The following items are intended to elicit information to support conclusions by the ZBA or PC and the Village Board that the required findings/standards for a variation under the Zoning Code have been established and met. Therefore, please complete these items carefully.

A. Standards Applicable to All Variations Requested:

1. Provide evidence that due to the characteristics of the property in question, there are practical difficulties or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code:

THE EXISTING HOME IS 19'-1" FROM FRONT PROPERTY AND THE FRONT PORCH THAT IS THE REQUESTED VARIATION IS 13'-0" FROM THE SAME SETBACK. THE HOUSE WOULD BE REQUIRED TO BE SETBACK 21'.

2. a. Provide evidence that the property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the Zoning Code (i.e., without one or more variations):

IF THE VARIATION IS NOT GRANTED IT WOULD LOOSE THE HISTORIC VALUE OF THE HOME WHICH WOULD DAMAGE THE RETURN.

OR

- b. Provide evidence that the plight of the applicant/owner is due to unique circumstances relating to the property in question:

THIS IS A UNIQUE SITUATION AND A HARDSHIP, SINCE BECAUSE OF ITS HISTORIC RECOGNITION, STYLE AND BECAUSE IT WAS ORIGINALLY CONSTRUCTED VERY CLOSE TO THE SIDEWALK, THE DIMENSION TO THE HOUSE IS 19.5', THE DECK IS 14.5' FROM FRONT LOT LINE - CLEARLY A HARDSHIP.

Provide evidence that the requested variation(s), if granted, will not alter the essential character of the locality of the property in question:

IT WILL NOT CHANGE THE CHARACTER OF THE LOCALITY ONLY IMPROVE LOOKS, SAFETY AND OVER ALL PROPERTY, SINCE THE REQUEST IS TO REPLACE THE EXISTING WITH THE SAME PORCH IN ALL WAYS. (ONLY EXCEPTION WILL BE SAFETY ISSUES)

- B. For the purpose of supplementing the above standards, the ZBA or PC, in making its recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes or fails to establish the following facts favorably to the applicant:

1. Provide evidence that the particular physical surroundings, shape or topographical condition of the property in question would bring particular hardship upon the applicant/owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out:

THE PORCH IS NOT SAFE, FLOOR, ROOF, SLOPE, RAILINGS THE HARDSHIP WOULD BE IN THE COST TO REPAIR IN LIEU OF REPLACING - PARTICULARLY STRUCTURE.

2. Provide evidence that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district:

THERE ARE NO OTHER PROPERTIES ON STREET SIMILAR BUT MANY HISTORIC HOMES HAVE THE SAME CONSIDERATIONS. THE HOME AND PORCH WERE CONSTRUCTED PRE ZONING IN 1894.

3. Provide evidence that the purpose of the variation is not based exclusively upon a desire to make more money out of the property in question:

THE OWNER WANTS TO MAKE HIS HOUSE SAFE FIRST AND SECOND MORE ARCHITECTURALLY APPEALING. NO PLANS TO SELL ARE BEING MADE SINCE OWNERS HAVE ADDED A PER ADDITION AND HAVE RESTORED THE ENTIRE INTERIOR FOR THEMSELVES

4. Provide evidence that the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property in question or by the applicant.

THE VARIATION REQUEST IS STRICTLY FOR SAFETY TO HOME OWNER AND FOR CURB APPEAL - THE SETBACK ON AN HISTORIC HOME IS THE ISSUE NOT CREATED BY ANY ONE OTHER THAN THE MORE MODERN AND RESTRICTIVE CODES.

5. Provide evidence that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property in question is located

ONLY ISSUE WITH PUBLIC WELFARE OR SAFETY IS THAT IF IT IS NOT GRANTED, THE PORCH COULD AND SOON WILL FALL AND SOMEONE WILL GET HURT - IT IS NOT SAFE AND NEEDS TO BE COMPLETELY REBUILT - GROUND UP,

6. Provide evidence that the proposed variation will not:

- a. Impair an adequate supply of light and air to adjacent property;

THE PORCH WILL BE THE SAME, SIZE SHAPE AND OPEN - NO DIFFERENT THAN EXISTING,

- b. Substantially increase the hazard from fire or other dangers to the property in question or adjacent property;

IT ALREADY IS UNSAFE BUT COULD GET WORSE AND HURT SOMEONE IF IT IS NOT FIXED SOON.

- c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;

THE VARIATION WILL IMPROVE THE BEFORE MENTIONED!

- d. Diminish or impair property values within the neighborhood;  
ONLY IMPROVE, SINCE IT IS AN EYE SORE.
- e. Unduly increase traffic congestion in the public streets and highway;  
NO DIFFERENCE
- f. Create a nuisance; or  
IT WILL UNCREAT A NUISANCE!
- g. Results in an increase in public expenditures.  
NONE ONLY COST FOR VARIATION TO HOME OWNER THAT SHOULD BE WAVED SINCE ALL THAT IS BEING REQUESTED IS TO REPLACE AS IT EXISTS.

7. Provide evidence that the variation is the minimum variation that will make possible the reasonable use of the land, building or structure.

THE VARIATION DOES NOT INCREASE THE NON-CONFORMITY, SINCE IT WILL ONLY REPLACE IN SIZE, SHAPE AND LOCATION EXISTING UNSAFE PORCH CONDITION!

8. Please add any comments which may assist the Zoning Board of Appeals of Appeals in reviewing this application.

PLEASE LOOK INTO CHANGING CODE FOR FUTURE SIMILAR HISTORIC PROPERTIES, SINCE WE NEED LESS DIFFICULTY IN SAVING SUCH HOMES NOT MORE. ALSO PLEASE CONSIDER WAVING FEE AS WE HAVE DISCUSSED AND ALSO SUGGESTED AND REQUESTED FROM HISTORICAL COMM.

#### VI. EVIDENCE RELATING TO FLOOD HAZARD VARIATION REQUESTS

The following items must be completed only if the requested variation is from Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations.) If no such variation is being requested, the applicant should skip this section and complete Section VII below.

- A. Items applicable only to variation requested from the requirements of Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would result in a structure not being protected to the elevation of the base flood.

1. Provide evidence that the structure is to be located on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level.

NA

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2. Provide evidence that the applicant has acknowledged that (a) such construction below the base flood level will increase the risk to life and property and that the applicant proceeds with knowledge of these risks; and (b) any variation is contingent upon the applicant obtaining approval from other agencies having jurisdiction when the variance violates the requirements of such agencies.

NA

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B. Items applicable only to variations requested from the requirements in Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would significantly impede or increase the flow and passage of floodwaters.

1. Provide evidence that the use will not result in an increased flood height greater than 0.1 feet within the designated regulatory floodway.

NA

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2. Provide evidence that the resulting increase in the base flood elevations will not affect any existing structures or utilities.

NA

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3. Provide evidence that the owners of the properties affected by the increased base flood elevation are compensated for the resulting effect on property values, and they give their written agreement to granting the variation.

NA

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4. Provide evidence that the resulting increased flood elevations will not affect any flood protection structures.

NA

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VII. CERTIFICATIONS, CONSENT AND SIGNATURE(S)

I (We) certify that all of the statements and documents submitted as part of this application are true and complete to the best of my (our) knowledge and belief.

I (We) consent to the entry in or upon the premises described in the application by any authorized official of the Village of Glen Ellyn.

I (We) certify that I (we) have carefully reviewed the Glen Ellyn Zoning Variation Request Package and applicable provisions of the Glen Ellyn Zoning Code.

I (We) consent to accept and pay the cost to publish a notice of Public Hearing as submitted on an invoice from the publishing newspaper. I (we) understand that our request will not be scheduled for a Village Board agenda until and unless this invoice is paid.

DARYL A. DRAKE

Daryl A. Drake AIA

Signature of Applicant(s)

\_\_\_\_\_  
Date filed

MEMORANDUM

**TO:** Mark Franz, Village Manager

**FROM:** Staci Hulseberg, Director of Planning & Development  
 Joe Kvapil, Building and Zoning Official 

**DATE:** August 12, 2011

**FOR:** August 22, 2011 Village Board Meeting

**SUBJECT:** 761 Highview Avenue – Rear Yard Setback Variation

**Petition:** The property owners, Gene and LaVonne Ruoff, are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-4-8(D)2 to allow the construction of a sunroom addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. The subject property is a corner lot located on the southwest corner at the intersection of Highview Avenue and Van Dam Avenue in the R2 Residential District.

**Public Hearing:** The Zoning Board of Appeals conducted a public hearing on the requested variation on Tuesday, July 26, 2011. Notice of the public hearing was published in the Daily Herald on July 11, 2011. At the meeting, no persons spoke in favor of and no persons spoke in opposition to the variation request. The Zoning Board of Appeals was in favor of the variation because they felt that the position of the home on the property was a hardship that prohibited reasonable expansion and that the addition was consistent with the character of the home and locality. The Zoning Board of Appeals voted on a motion to recommend approval of the variation request. The motion carried with five (5) “yes” votes and zero (0) “no” votes.

**Village Board:** It is requested that the Village Board consider the petitioners' request and the recommendation offered by the Zoning Board of Appeals. Staff has prepared an ordinance to approve the requested variation as recommended by the Zoning Board of Appeals.

Attachments:

- Minutes of ZBA meeting dated July 26, 2011
- Photo of the Subject Property
- Location Map
- Ordinance
- Notice of Public Hearing
- List of Addresses
- Petitioners' Application packet

CC: Gene and LaVonne Ruoff

PUBLIC HEARING – 761 HIGHVIEW AVENUE

A PUBLIC HEARING REGARDING A ZONING VARIATION REQUEST TO CONSTRUCT AN ADDITION TO A SINGLE FAMILY RESIDENCE THAT DOES NOT MEET THE MINIMUM REQUIRED REAR YARD SETBACK FROM THE LOT LINE.

*(Gene and LaVonne Ruoff, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that Gene and LaVonne Ruoff, the petitioners and owners of the property at 761 Highview Avenue, are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-4-8(D)2 to allow a building addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. Three letters in favor of the variation request were contained in the petitioners' packet, and two additional letters in favor of the variation request were distributed to the ZBA members just prior to this meeting. Mr. Kvapil displayed a photograph of the subject one-story home located on the corner lot at the intersection of Highview Avenue and Van Damin Avenue. The subject property is in the R2 Zoning District as are the homes in the surrounding area. The subject home was built in 1955. Several permits have been issued for the subject property, however, no zoning variations have been issued. Mr. Kvapil displayed a site plan and photos of the subject home. He also displayed a location map on which neighbors in support of the variation were indicated.

Mr. Kvapil stated that the owners would like to convert an existing concrete patio to a one-story sunroom addition on the rear of the home. The proposed sunroom covers an area of approximately 346 square feet and extends slightly beyond the corner of the existing patio which results in an increase of approximately 8 square feet of impervious surface area on the property. Mr. Kvapil stated that the subject home is set back 48 feet from the front lot line which results in a small rear yard and the need for this variation. The existing home is 24 feet from the rear lot line in lieu of the required 40 feet and the house is closer than the required 30 feet to the corner side yard property line. Mr. Kvapil pointed out that the required minimum interior side yard setback is indicated as 6.5 feet on the zoning variation table, however, that figure should be 8 feet which complies with the Zoning Code. Mr. Kvapil stated that the subject house covers 25% of the lot coverage ratio but that the maximum for a one-story house is 35%. He stated that the addition would add another 2.7% so the lot coverage ratio would increase to 27.7%.

Mr. Kvapil displayed a drawing that indicated the location of the proposed one-story sunroom which is 26 feet from one corner of the property to the rear property line. The proposed sunroom is mostly glass and windows on the exposed sides with a low-sloped roof.

Petitioners' Presentation

Gene W. Ruoff, the petitioner, of 761 Highview Avenue, and Josh Delpierre, installation manager, Champion Patios, 549 W. Lake Street, Elmhurst, Illinois, spoke on behalf of the proposed variation request. Mr. Ruoff stated that the 26-foot area on the west side of the subject property is a utility easement in a swale which has many wires, is in a drainage ditch and is unkempt by ComEd. Mr. Ruoff stated that the slope from his patio to the edge of his property (southwest corner) is not usable except as a perennial garden which it currently is. He stated that drainage from his property goes toward the house to the south on Van Damin and not toward the swale. Mr. Ruoff added that a screen porch would make a portion of his property more usable and would not be visible from the street. He also stated that a stairwell at the east corner of the addition prevents construction at that location.

Responses to Questions from the ZBA

Mr. Kvapil responded to ZBA Member Kolar that, from a variation point-of-view, all of the requirements from the building code would apply on an enclosed structural addition to a house. Mr. Kvapil clarified for Board Member Constantino that the front yard is always the side of the lot that is on a public way and that is the shortest distance in length/width so the subject front yard faces Van Damin. Mr. Kvapil further explained that the front yard setback would be no less than 30 feet and no more than 50 feet but no closer to the front property line than the closest house on either side of the subject property. Mr. Kvapil clarified for Board Member Kolar that if the house next door is set back 50 feet, the subject property does not have to be set back more than 50 feet. Mr. Kvapil added that the petitioners are near the maximum setback on their lot. Mr. Kvapil responded to Board Member Kolar that he did not calculate the impervious surface on the subject lot but believes it will not exceed 50% of the rear yard area. Board Member Siligmuller asked if the Village Engineer would review the proposed variation request because the Franchi's at 272 Van Damen Avenue commented that there is currently ponding in their back yard. Mr. Kvapil responded that no engineering review would be conducted because the impervious surface is not increasing more than 300 square feet. Mr. Kvapil responded to Board Member Kolar that the first floor area plus a second story area cannot exceed 40% of a subject lot without a variation. Mr. Kvapil responded to Board Member Ozog that a variation should have been required when a garage was added onto the existing home. Mr. Delpierre responded to Board Member Ozog that the existing patio will be saw cut and the proposed foundation will be a 12-inch by 42-inch concrete trench foundation. Mr. Ruoff responded to Board Member Ozog that the roof will be white aluminum.

Persons in Favor of or in Opposition to the Petition

No persons spoke in favor of or in opposition to the petition.

Comments from the ZBA

All ZBA members were in favor of approving the requested zoning variation to allow a building addition (sunroom) with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. The members were in favor of the request because a large setback of the house from the front property line reduces the rear lot line, there are no drainage problems currently at the subject site, the neighbors do not object to the request, and the essential character of the neighborhood will not be altered by the request.

Motion

Board Member Mary Ozog moved, seconded by Board Member Barbara Fried, to recommend approval from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, to allow a building addition with a rear yard setback with a setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet.

The motion carried unanimously with five (5) "yes" votes as follows: Board Members Ozog, Fried, Constantino, Siligmuller and Acting Chairman Kolar voted yes.

Trustee Report

Trustee Cooper and Building and Zoning Official Joe Kvpil updated the ZBA members on the College of DuPage issues.

Staff Report

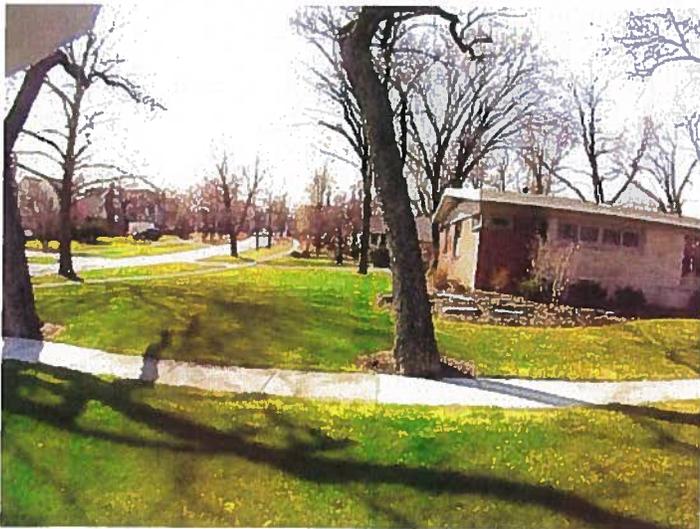
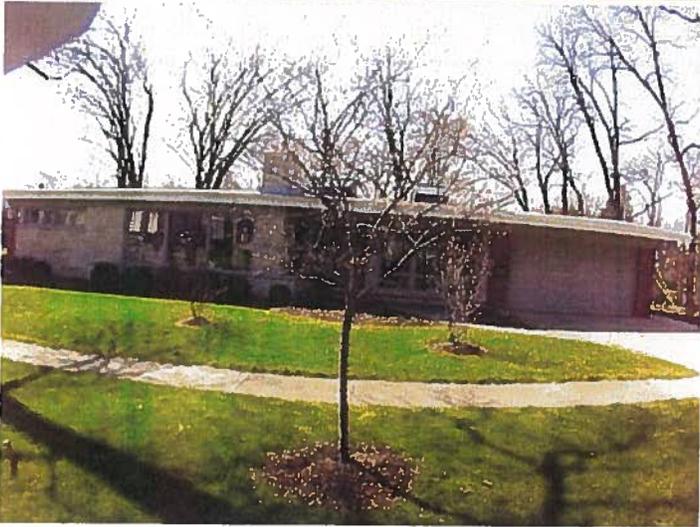
Mr. Kvpil stated that the next ZBA meeting will be cancelled, however, one variation request is scheduled for the meeting on August 23, 2011.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:36 p.m.

Submitted by:  
Barbara Utterback  
Recording Secretary

Reviewed by:  
Joe Kvpil  
Building & Zoning Official

**761 HIGHVIEW**





**Village of Glen Ellyn**

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**Ordinance No. \_\_\_\_\_**

**An Ordinance Approving a Variation from the  
Rear Yard Setback Requirements  
of the Zoning Code  
to Allow a One-Story Sunroom Addition  
For Property at 761 Highview Avenue  
Glen Ellyn, IL 60137**

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**Adopted by the  
President and Board of Trustees  
Of the Village of Glen Ellyn  
DuPage County, Illinois  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

---

Published in pamphlet form by the authority of the  
President and Board of Trustees of the Village of  
Glen Ellyn, DuPage County, Illinois, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

Ordinance No. \_\_\_\_\_

**An Ordinance Approving a Variation from the  
Rear Yard Setback Requirements  
of the Zoning Code  
to Allow a One-Story Sunroom Addition  
For Property at 761 Highview Avenue  
Glen Ellyn, IL 60137**

**Whereas**, Gene and LaVonne Ruoff, owners of the property at 761 Highview Avenue, Glen Ellyn,

—  
Illinois, which is legally described as follows:

Lot 1 in Block 2 on Arthur T. McIntosh and Company's Elmwood Addition to Glen Ellyn on the East half of Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 18, 1924 as Document No. 175398, in DuPage County, Illinois.

P.I.N.: 05-14-217-010

have petitioned the President and Board of Trustees of the Village of Glen Ellyn for a variation from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, to allow the construction of a sunroom addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet; and

**Whereas**, following due notice by publication in the Daily Herald not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all property owners within 250 feet of the subject property at least ten (10) days prior thereto, and following the placement of a placard on the subject property not less than fifteen (15) days prior thereto, the Glen Ellyn Zoning Board of Appeals conducted a public hearing on July 26, 2011, at which the petitioners presented evidence, testimony, and exhibits in support of the variation request and no persons appeared in favor of the variation and no persons appeared in opposition thereto; and

**Whereas**, based upon the evidence, testimony, and exhibits presented at the public hearing on July 26, 2011, the Zoning Board of Appeals adopted findings of fact and voted on a motion to approve the Variation, which carried by a vote of five (5) "yes" and zero (0) "no," resulting in a recommendation for approval as set forth in its draft Minutes dated July 26, 2011, appended hereto as Exhibit "A"; and

**Whereas**, the President and Board of Trustees have reviewed the exhibits and evidence presented at the aforementioned public hearing and have considered the findings of fact and recommendations of the Zoning Board of Appeals; and

**Whereas**, the President and Board of Trustees make the following findings of fact:

- A. That the plight of the owner is due to unique circumstances since the size, shape and position of the house on this property is unique with a nonconforming corner side setback and nonconforming rear yard setback;
- B. That the variation, if granted, will not alter the essential character of the locality since a one-story addition is harmonious with the one-story home and the sunroom design is common in this residential district;
- C. That the particular physical location of the home on the lot prohibits any expansion of the home on three sides but additional lot coverage is permitted which brings practical difficulty and particular hardship upon the owner as distinguished from a mere inconvenience;
- D. That the conditions upon which the variation is based would not be applicable generally to other property within the same zoning district since the position of this one-story home on the lot is unique;

- E. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property since the applicant has expressed no intention for further development or sale of the property;
- F. That the practical difficulty or particular hardship has not been created by any persons presently having an interest in the property since these conditions existed upon the original construction of the home prior to the applicant's ownership;
- G. That the variation will not diminish or impair property values within the neighborhood since this is an improvement to the property that increases its value;
- H. That the variation is the minimum variation that will make possible the reasonable use of the land, building or structure and provides a typical residential space and use that did not previously exist; and

Whereas, the President and Board of Trustees, based on the aforementioned findings of fact, find it appropriate to grant the variation presented to the Zoning Board of Appeals.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in exercise of its home rule powers, as follows:

**Section One:** The draft minutes of the July 26, 2011 Glen Ellyn Zoning Board of Appeals meeting, Exhibit "A" appended hereto, are hereby accepted, and the findings of fact and conclusions set forth in the preambles above are hereby adopted as the findings of fact and conclusions of the corporate authorities of the Village of Glen Ellyn.

**Section Two:** Based upon the above findings of fact, the President and Board of Trustees hereby approve a variation from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, to allow the construction of a sunroom addition with a rear yard setback of 26 feet in lieu of the minimum

required rear yard setback of 40 feet at 761 Highview Avenue, Glen Ellyn, Illinois, which is legally described as follows:

Lot 1 in Block 2 on Arthur T. McIntosh and Company's Elmwood Addition to Glen Ellyn on the East half of Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 18, 1924 as Document No. 175398, in DuPage County, Illinois.

P.I.N.: 05-14-217-010

**Section Three:** This grant of variation to construct an addition is conditioned upon the construction being completed in substantial conformance with the signed Application for Variation received by the Planning & Development Department on May 23, 2011, supporting documents and materials received on May 23, 2011 and the testimony and exhibits provided at the July 26, 2011 Zoning Board of Appeals public hearing.

**Section Four:** The Building and Zoning Official is hereby authorized and directed to issue building permits for the subject property, consistent with the variation granted herein, provided that all conditions set forth hereinabove have been met and that the proposed construction is in compliance with all other applicable laws and ordinances. This grant of variation shall expire and become null and void twenty four (24) months from the date of passage of this Ordinance unless a building permit to begin construction in reliance on this variation is applied for within said eighteen (18) month time period and construction is continuously and vigorously pursued provided, however, the Village Board, by motion, may extend the period during which permit application, construction, and completion shall take place.

**Section Five:** The Village Clerk is hereby authorized and directed to cause a copy of this Ordinance approving the variation to be recorded with the DuPage County Recorder of Deeds.

**Section Six:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

**Section Seven:** Failure of the owner or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of said Ordinance, shall subject the owner or party in interest to the penalties set forth in Section 10-10-18 "A" and "B" of the Village of Glen Ellyn Zoning Code.

**Passed** by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**Ayes:**

**Nays:**

**Absent:**

**Approved** by the Village President of the Village of Glen Ellyn, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Village President of the  
Village of Glen Ellyn, Illinois

**Attest:**

\_\_\_\_\_  
Village Clerk of the  
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the \_\_\_\_\_ day of \_\_\_\_\_).



## NOTICE OF PUBLIC HEARING

Gene and A. LaVonne Ruoff, owners of the property at 761 Highview Avenue, are requesting a public hearing for a Variation in accordance with Section 10-10-12 of the Glen Ellyn Zoning Code. The owners would like to modify the existing home by constructing a sunroom addition closer to the rear property line than permitted in the Zoning Code. The Glen Ellyn Zoning Board of Appeals will conduct a public hearing to consider this Variation on **Tuesday July 26, 2011** at 7:30 p.m. on the third floor in the Civic Center, 535 Duane Street, Glen Ellyn, Illinois. Anyone is welcome to attend.

The property owners are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-4-8(D)2 to allow a building addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet.

The property is zoned R2, Residential District, and is legally described as follows:

Lot 1 in Block 2 on Arthur T. McIntosh and Company's Elmwood Addition to Glen Ellyn on the East half of Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 18, 1924 as Document No. 175398, in DuPage County, Illinois.

P.I.N.: 05-14-217-010

Plans related to the proposed addition are available for public review in the Planning and Development Department, Civic Center, 535 Duane Street, Glen Ellyn, Illinois. If you have questions, please contact Joe Kvapil, Building & Zoning Official, at (630) 547-5244. For individuals with disabilities who have questions regarding the accessibility of the meeting or facilities, contact Harold Kolze, ADA Coordinator, at (630) 547-5209.

(Published in the Daily Herald on Monday, July 11, 2011)

VILLAGE OF GLEN ELLYN  
535 Duane Street  
Glen Ellyn, Illinois 60137  
(630) 547-5250

RECEIVED  
MAY 23 2011

RECEIVED  
PLANNING DEPARTMENT  
VILLAGE OF GLEN ELLYN  
JUL 29 2011  
PLANNING DEPARTMENT  
VILLAGE OF GLEN ELLYN

APPLICATION FOR VARIATION

Note to the Applicant: This application should be filed with, and any questions regarding it, should be directed to the Director of the Village Planning and Development Department.

The undersigned hereby petitions the Village of Glen Ellyn, Illinois, for one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended), as described in this application.

I. APPLICANT INFORMATION:

(Note: The applicant must comply with Section 10-10-10(B) of the Zoning Code).

Name: JOSH DELPIERRE / CHAMPION

Address: 549 W LAKE ST ELMHURST IL 60126

Phone No.: 847-668-0742

Fax No.: 630-279-0955

E-mail: JOSH DELPIERRE @ HOTMAIL .COM

Ownership Interest in the Property in Question: GENERAL CONTRACTOR

II. INFORMATION REQUIRED BY SECTION 10-10-10(B) OF THE ZONING CODE, IF APPLICABLE:

NOTE: All parties, whether petitioner, agent, attorney, representative and or organization et al. must be fully disclosed by true name and address in compliance with Section 10-10-10(B) of the Zoning Code. Disclosure forms are attached for your convenience.

Name and address of the legal owner of the property (if other than the applicant):

GENE RUOFF  
761 HIGHVIEW AVE GLEN ELLYN CO0137

Name and address of the person or entity for whom the applicant is acting (if the applicant is acting in a representative capacity):

CHAMPION WINDOW COMPANY  
549 W. LAKE ST ELMHURST IL 60126

Is the property in question subject to a contract or other arrangement for sale with the fee owner? (Circle "Yes" or "No")

YES

NO

If YES, the contract purchaser must provide a copy of the contract to the Village and must either be a co-petitioner to this application or submit the attached Affidavit of Authorization with the application packet.

Is the property in question the subject of a land trust agreement? (Circle "Yes" or "No")

YES

NO

If YES, (1) either the trustee must be a co-petitioner or submit the attached Affidavit of Authorization from the trustee to represent the holders of the beneficial interests in the trust and (2) the applicant must provide a trust disclosure in compliance with "An Act to Require Disclosure of All Beneficial Interests", Chapter 148, Section 71 et seq., Illinois Revised Statutes, signed by the trustee.

III. PROPERTY INFORMATION:

Common address: 761 HIGHVIEW AVE

Permanent tax index number: 05-14-217-010

Legal description: \_\_\_\_\_

Lot 1 in Block 2 in Arthur T. McIntosh and Company's Elmwood Addition to Glen Ellyn in the East half of Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 18, 1924 as Document No. 175398, in DuPage County, Illinois. \_\_\_\_\_

Zoning classification: \_\_\_\_\_

Lot size: 80 ft. x 148 ft. Area: 12,320 sq. ft.

Present use: SINGLE FAMILY

IV. INFORMATION REGARDING THE VARIATION(S) REQUESTED:

Description of the variation(s) requested (including identification of the Zoning Code provisions from which variation is sought) and proposed use(s):

REQUESTING VARIATION IN REAR YARD SETBACK  
FROM 40' TO 20'  
Zoning Code Section number 10-4-8(D)2

Estimated date to begin construction: 2 WEEKS AFTER PERMIT APPROVAL

Names and addresses of any experts (e.g., planner, architect, engineer, attorney, etc.):

JEFF HEANEY, ARCHITECT 1900 DEWES ST 00025

847-730-4190 847-729-6109 847-729-4190  
FAX

V. EVIDENCE RELATING TO ZONING CODE STANDARDS FOR A VARIATION:

The following items are intended to elicit information to support conclusions by the ZBA or PC and the Village Board that the required findings/standards for a variation under the Zoning Code have been established and met. Therefore, please complete these items carefully.

A. Standards Applicable to All Variations Requested:

1. Provide evidence that due to the characteristics of the property in question, there are practical difficulties or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code:

DUE TO THE SHAPE / SIZE OF THE CORNER LOT WITH THE SETBACKS, THE REAR YARD SETBACKS ONLY ALLOW FOR ABOUT 2' FOR ADDITIONS

2. a. Provide evidence that the property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the Zoning Code (i.e., without one or more variations):

PROPERTIES WITH MORE THAN 2' AVAILABLE FOR REAR YARD ADDITIONS WOULD BE ABLE TO GAIN MORE OF A REASONABLE RETURN THAN THOSE WITHOUT

OR

- b. Provide evidence that the plight of the applicant/owner is due to unique circumstances relating to the property in question:

PLIGHT OF THE OWNER IS DUE TO THE SHAPE / SIZE OF THE PROPERTY & SETBACKS WHICH LEAVE ONLY 2 FT IN REAR FOR ADDITIONS

3. Provide evidence that the requested variation(s), if granted, will not alter the essential character of the locality of the property in question:

SUNROOM WILL BE A BEAUTIFULL ADDITION THAT WILL BLEND WELL WITH THE CHARACTER OF THE LOCALITY

B. For the purpose of supplementing the above standards, the ZBA or PC, in making its recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes or fails to establish the following facts favorably to the applicant:

1. Provide evidence that the particular physical surroundings, shape or topographical condition of the property in question would bring particular hardship upon the applicant/owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out:

HOMES OF THE SAME SIZE / VALUE IN THE COMMUNITY HAVE MORE THAN 2' FOR REAR YARD ADDITIONS

2. Provide evidence that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district:

CONDITIONS WOULD ONLY APPLY TO  
OTHER CORNER LOTS

3. Provide evidence that the purpose of the variation is not based exclusively upon a desire to make more money out of the property in question:

THE PURPOSE IS NOT TO MAKE MONEY, IT  
IS TO GAIN A SPACE TO SIT, RELAX, & ENJOY  
THE HOME & YARD. Note that one of THE OWNERS  
HAS BEEN Diagnosed with COPD, which is aggravated  
by outdoor allergies.

4. Provide evidence that the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property in question or by the applicant.

THE HARDSHIP HAS BEEN CREATED BY THE  
SHAPE, SIZE, & LOCATION OF THE LOT.

5. Provide evidence that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property in question is located

THE SUNROOM WILL BE BUILT TO CODE & WILL  
IN NO WAY BE DANGEROUS

6. Provide evidence that the proposed variation will not:

- a. Impair an adequate supply of light and air to adjacent property;

MAX HEIGHT ABOVE GRADE WILL BE 9'2" WHICH IS  
LOWER THAN HOUSE HEIGHT & WILL NOT BLOCK LIGHT & AIR

- b. Substantially increase the hazard from fire or other dangers to the property in question or adjacent property;

NUMEROUS ICC REPORTS AVAILABLE SHOWING  
FIRE RESISTANCE

- c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;

INSPECTIONS BY BUILDING DEPARTMENT WILL  
ENSURE ROOM IS BUILT SAFELY & TO CODE

d. Diminish or impair property values within the neighborhood;  
WOULD LIKELY INCREASE HOME'S VALUE, THEREFORE  
INCREASING OTHERS AROUND

e. Unduly increase traffic congestion in the public streets and highway;  
SUNROOM WOULD NOT BE VISIBLE FROM  
THE STREET

f. Create a nuisance; or

\_\_\_\_\_

\_\_\_\_\_

g. Results in an increase in public expenditures.  
WONT COST THE PUBLIC ANYTHING,  
ONLY THE HOMEOWNER

7. Provide evidence that the variation is the minimum variation that will make possible the reasonable use of the land, building or structure.

VARIATION OF REAR YARD SETBACK WOULD BE  
THE ONLY VARIATION NECESSARY TO BUILD  
SUNROOM & GAIN REASONABLE USE OF  
THE LAND

8. Please add any comments which may assist the Zoning Board of Appeals of Appeals in reviewing this application.

PROPOSED SUNROOM WILL NOT ENCRATCH ONTO  
NEIGHBORING PROPERTIES ANY MORE THAN THE  
EXISTING HOUSE IS NOW. SUNROOM WILL NOT STICK  
OUT FARTHER THAN THE SIDE OR REAR OF THE HOME

## VI. EVIDENCE RELATING TO FLOOD HAZARD VARIATION REQUESTS

The following items must be completed only if the requested variation is from Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations.) If no such variation is being requested, the applicant should skip this section and complete Section VII below.

A. Items applicable only to variation requested from the requirements of Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would result in a structure not being protected to the elevation of the base flood.

1. Provide evidence that the structure is to be located on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level.

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2. Provide evidence that the applicant has acknowledged that (a) such construction below the base flood level will increase the risk to life and property and that the applicant proceeds with knowledge of these risks; and (b) any variation is contingent upon the applicant obtaining approval from other agencies having jurisdiction when the variance violates the requirements of such agencies.

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**B. Items applicable only to variations requested from the requirements in Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would significantly impede or increase the flow and passage of floodwaters.**

1. Provide evidence that the use will not result in an increased flood height greater than 0.1 feet within the designated regulatory floodway.

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2. Provide evidence that the resulting increase in the base flood elevations will not affect any existing structures or utilities.

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3. Provide evidence that the owners of the properties affected by the increased base flood elevation are compensated for the resulting effect on property values, and they give their written agreement to granting the variation.

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4. Provide evidence that the resulting increased flood elevations will not affect any flood protection structures.

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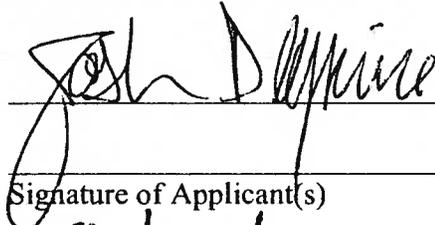
VII. CERTIFICATIONS, CONSENT AND SIGNATURE(S)

I (We) certify that all of the statements and documents submitted as part of this application are true and complete to the best of my (our) knowledge and belief.

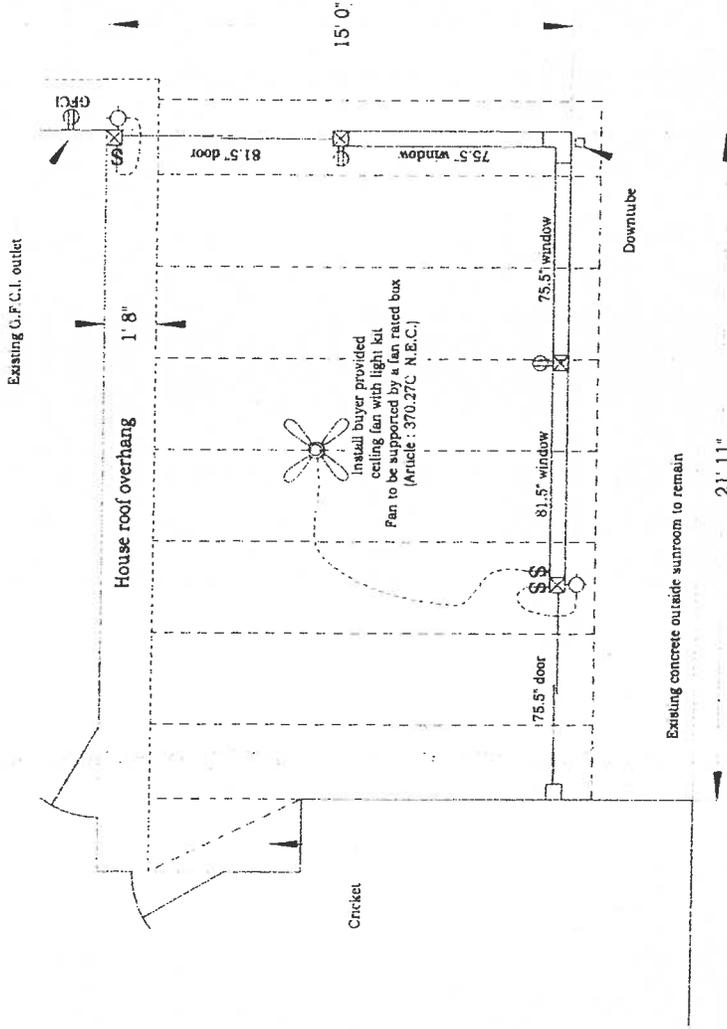
I (We) consent to the entry in or upon the premises described in the application by any authorized official of the Village of Glen Ellyn.

I (We) certify that I (we) have carefully reviewed the Glen Ellyn Zoning Variation Request Package and applicable provisions of the Glen Ellyn Zoning Code.

I (We) consent to accept and pay the cost to publish a notice of Public Hearing as submitted on an invoice from the publishing newspaper. I (we) understand that our request will not be scheduled for a Village Board agenda until and unless this invoice is paid.

  
\_\_\_\_\_  
Signature of Applicant(s)  
5 / 20 / 11  
\_\_\_\_\_  
Date filed

Sunroom to have (1) dedicated 110V circuit in existing panel



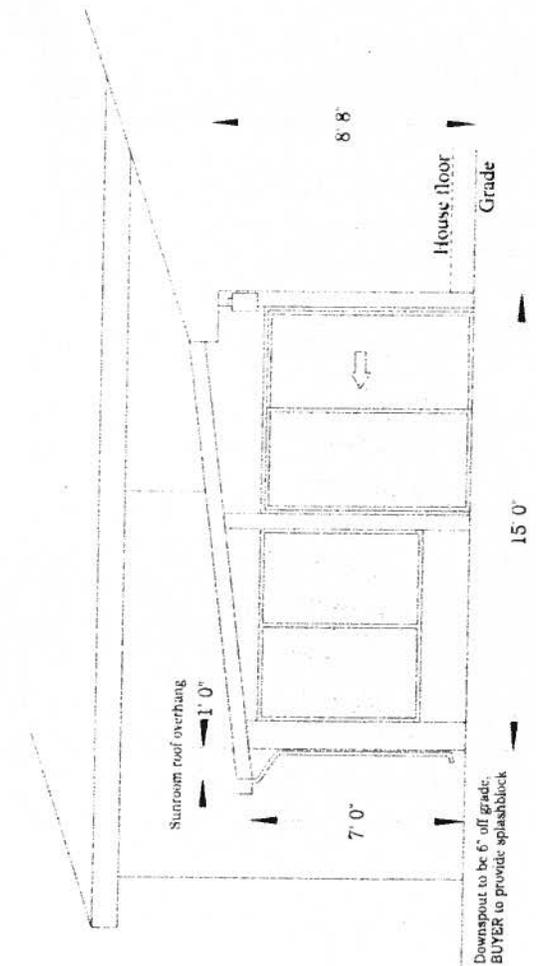
- CHAMPION  
Modular aluminum construction.  
Seasonal, unheated, non-habitable space.  
3-SEASON window room with 365 glass  
Framing to be tan aluminum.  
Exterior panel to be tan.  
Interior panel to be tan.  
All sashes & door glass to be tempered.
- Champion 6" roof system is rated at R-30 to comply with section 402.2.10 of the I.E.C.
- Champion windows have a U-factor of .32 to comply with section 402.3.5 of the I.E.C.
- Champion doors have a U-factor of .33 to comply with section 402.3.5 of the I.E.C.
- Champion 6" wall system is rated at R-30
- All glass in sunroom to be tempered

**CODES**

- 2003 International Building Code
- 2003 International Residential Code
- 2008 National Mechanical Code
- 2009 National Electric Code
- 2009 International Energy Code

Jeffery J. Heaney Architect A.I.A.  
1966 Dewes St. \* Glenview, IL 60025  
847.729-4190

<p>I HEREBY CERTIFY THAT THESE DRAWINGS WERE PREPARED UNDER MY HAND AND SUPERVISION, AND THAT THEY, TO THE BEST OF MY KNOWLEDGE CONFORM TO THE CHAMPION ENGINEERED DRAWINGS OF MARTIN GOSS LICENSED ILLINOIS ENGINEER. JOSH DELPIERRE, PATIO ROOM DESIGNER</p>		<p>CHAMPION PATIO ROOMS 549 WEST LAKE STREET ELMHURST, IL 60126 (630) 279-0909</p>	<p>RESIDENCE Gene &amp; Alavonne Ruoff 761 Highview Ave Glenn Ellyn, IL 60137 630-793-5138</p>	<p>DATE 04/08/11</p>	<p>SCALE: 1/4" = 1'</p>
		<p>PATIO ROOM MANAGER JOSH DELPIERRE</p>	<p>CUSTOMER ID NO. 13732</p>	<p>SHEET NO. 1 of 3</p>	<p>NOTES</p>



**CODES**

- 2003 International Building Code
- 2003 International Residential Code
- 2003 International Mechanical Code
- 2008 National Electric Code
- 2009 International Energy Code

Jelkry J. Heaney Architect A.I.A.  
 1965 Dewes St. \* Glenview, IL 60025  
 847 729-4190

I HEREBY CERTIFY THAT THESE DRAWINGS WERE PREPARED UNDER MY HAND AND SUPERVISION, AND THAT THEY, TO THE BEST OF MY KNOWLEDGE CONFORM TO THE CHAMPION ENGINEERED DRAWINGS OF MARTIN GOSS LICENSED ILLINOIS ENGINEER. JOSH DELPIERRE, PATIO ROOM DESIGNER

CHAMPION PATIO ROOMS  
 549 WEST LAKE STREET  
 ELMHURST, IL 60126  
 (630) 279-0909

PATIO ROOM MANAGER  
 JOSH DELPIERRE

RESIDENCE  
 Gene & Alavonne Ruoff  
 761 Highview Ave  
 Glenn Ellyn, IL 60137  
 630-793-5138

CUSTOMER ID NO.  
 13732

DATE

04/08/11

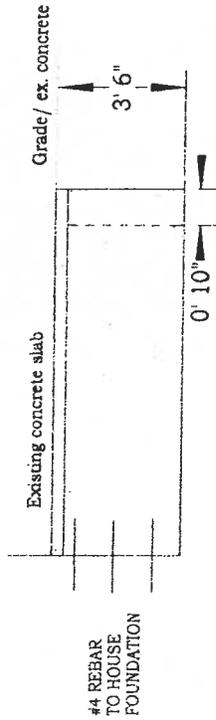
SHEET NO.

2 of 3

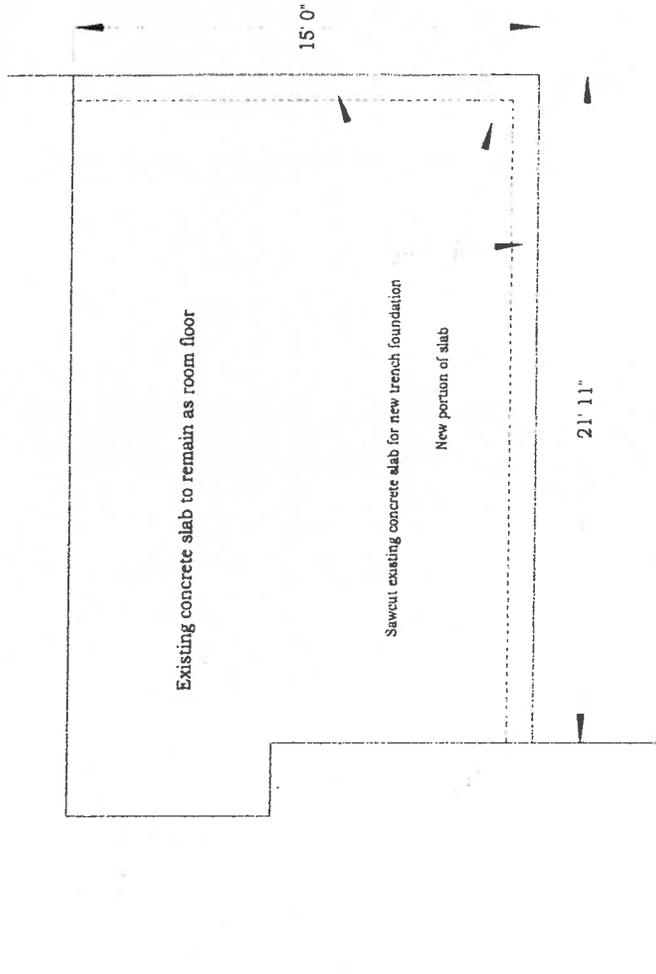
SCALE: 1/4" = 1'

NOTES

# FOUNDATION DETAIL / LAYOUT



- Concrete Check List:
- saw cut
  - remove slab
  - pour over slab
  - visquine & gravel
  - found. underpin
  - foundation
  - anchor bolts
  - remove concrete stoops



## CODES

- 2003 International Building Code
- 2003 International Residential Code
- 2003 International Mechanical Code
- 2008 National Electric Code
- 2009 International Energy Code

Jeffery J. Heaney Architect A.I.A.  
 1966 Dewes St. \* Glenview, IL 60025  
 847.729-4190

I HEREBY CERTIFY THAT THESE DRAWINGS WERE PREPARED UNDER MY HAND AND SUPERVISION, AND THAT THEY, TO THE BEST OF MY KNOWLEDGE CONFORM TO THE CHAMPION ENGINEERED DRAWINGS OF MARTIN GOSS LICENSED ILLINOIS ENGINEER. JOSH DELPIERRE, PATIO ROOM DESIGNER

CHAMPION PATIO ROOMS  
 549 WEST LAKE STREET  
 ELMHURST, IL 60126  
 (630) 279-0909

PATIO ROOM MANAGER  
 JOSH DELPIERRE

RESIDENCE  
 Gene & Alavonne Ruoff  
 761 Highview Ave  
 Glenn Ellyn, IL 60137  
 630-793-5138

CUSTOMER ID NO.  
 13732

DATE

04/08/11

SHEET NO.

3 of 3

SCALE: 1/4" = 1'

NOTES



# KABAL SURVEYING COMPANY

Land Surveying Services

2411 Hawthorne Avenue  
Westchester, Illinois 60154  
(708) 688-8282  
Fax (708) 688-7314  
Registration No. 184-003061

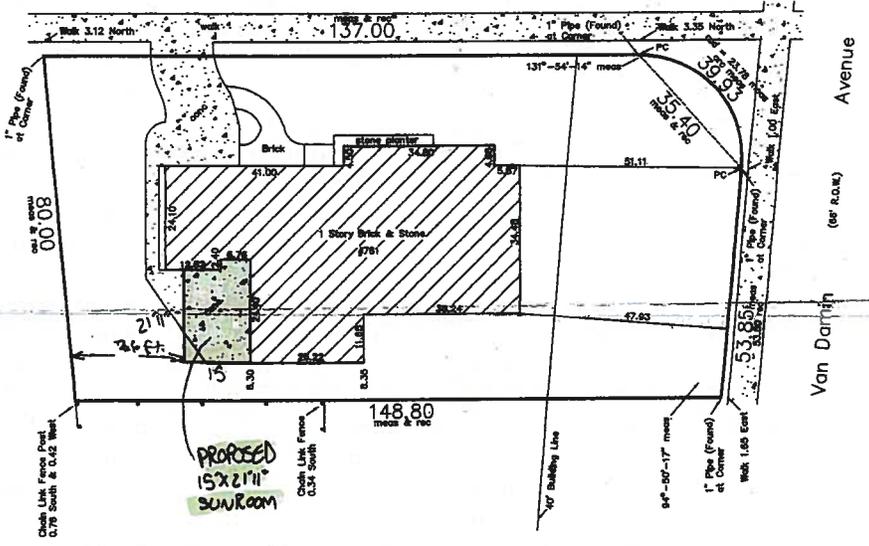
## Plot of Survey

Lot 1 in Block 2 in Arthur T. McIntosh and Company's Elmwood Addition to Glen Ellyn in the East half of Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 18, 1924 as Document No. 175398, in DuPage County, Illinois.

Address: 761 Highview Avenue, Glen Ellyn.



Highview (66' R.O.W.) Avenue



**LEGEND**  
conc = concrete  
R.O.W. = right-of-way  
rec = record, red = radius  
meas = measured  
pch = porch, PC = point of curve

Area of property is approximately 12,320 square feet

In box indicates that hereon drawn plot was ordered as a non-monumented survey

Please check Legal Description with Deed and report any discrepancy immediately.

Surveyed July 21 20 10  
Building Located July 21 20 10

Scale: 1 inch = 20 ft.  
Order No. 100522  
Ordered By: McIntosh Attorney

This professional service conforms to the current Illinois minimum standards for a boundary survey

STATE OF ILLINOIS }  
COUNTY OF COOK }



I, STEPHEN J. BALEX, an Illinois Professional Land Surveyor, hereby certify that I have surveyed the property described above and the plot hereon drawn is a correct representation of said survey.

Dimensions are in feet and decimal parts thereof and are corrected to a temperature of 82 degree Fahrenheit.

Stephen J. Balex  
Illinois Professional Land Surveyor No. 035-001712  
My license expires on November 30, 2010

ORIGINAL SEAL IN RED

MEMORANDUM

A-9

**TO:** Mark Franz, Village Manager

**FROM:** Staci Hulseberg, Director of Planning & Development  
Joe Kvapil, Building and Zoning Official

**DATE:** August 15, 2011

**FOR:** August 22, 2011 Village Board Meeting

**SUBJECT:** 780 Harding Avenue – Fence Variation

**Petition:** The property owners, Joseph and Roxanne Simon, are requesting approval of a variation from Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the construction of a solid wood fence in the side and rear yard setbacks with a height of 7 feet, and the construction of a solid wood fence in the front yard setback with a height of 6 feet for 16 lineal feet and a height of 5 feet in the front yard setback for 14 lineal feet up to the front lot line. The Zoning Code does not permit a fence height to exceed 6 feet 6 inches in the side and rear yard setbacks and requires a 50% open fence in the front yard setback that does not exceed 4 feet in height. The subject property is an interior lot located on the north side of 780 Harding Avenue in the R2 Residential (single family) District and adjacent to an R4 (multifamily) District.

**Public Hearing:** The Zoning Board of Appeals conducted a public hearing on the requested variation on Tuesday, July 12, 2011 which was continued to Tuesday, July 26, 2011. Notice of the public hearing was published in the Daily Herald on June 27, 2011. At the meetings, 5 persons spoke in favor of and no persons spoke in opposition to the variation request. The Zoning Board of Appeals was in favor of the height variation because they felt that unique conditions were created by the adjacent condominium building, Route 53 traffic noise, and nuisances from adjacent property owners and pets. However, they did not recommend approval of a solid fence, in lieu of the required 50% open, in the front yard since they felt that it would not be in character with the rest of the locality and an open fence would not create a hardship. The Zoning Board of Appeals voted on a three motions as follows:

1. To recommend approval of a 7-foot high solid wood fence in the side and rear yard setbacks that carried unanimously with a vote of five (5) “yes” votes.
2. To recommend approval of a 6-foot high fence reducing in height to a 5-foot high fence in the front yard setback that carried with a vote of four (4) “yes” votes and one (1) “no” vote.
3. To recommend approval of a solid wood fence in the front yard setback that did not carry with a vote of three (3) “yes” votes and two (2) “no” votes.

**Village Board:** It is requested that the Village Board consider the petitioners' request and the recommendation offered by the Zoning Board of Appeals. Staff has prepared an ordinance to approve the requested variation as recommended by the Zoning Board of Appeals.

Attachments:

- Minutes of ZBA meetings dated July 12 and July 26, 2011
- Photo of the Subject Property
- Location Map
- Ordinance

- Notice of Public Hearing
- List of Addresses
- Petitioners' Application packet

CC: Joseph and Roxanne Simon

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PUBLIC HEARING – 780 HARDING AVENUE

A REQUEST FOR A ZONING VARIATION FROM THE MAXIMUM HEIGHT REQUIREMENTS FOR A NEW FENCE IN THE REQUIRED FRONT, SIDE AND REAR YARDS.

*(Joseph and Roxanne Simon, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that Joseph and Roxanne Simon, the owners of the property at 780 Harding Avenue, are requesting a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, Item 11, to allow the construction of a solid wood fence that is 8'6" high in the front, side and rear yards along the east property line. The Zoning Code does not allow a fence to be less than 50% open in the front yard or to exceed 4'0" high in the front yard or 6'6" high in the side and rear yards. Mr. Kvapil displayed photographs of the subject house which is located on an interior lot and explained that the home complies with all current zoning requirements. He also displayed a zoning map and described the surrounding land uses. Mr. Kvapil stated that Village records indicate that one permit was issued for the home constructed in 2008 at the subject property and no variations have been granted. Mr. Kvapil explained that the property to the east of the subject property is a 2-1/2-story condominium building that has balconies and significant amounts of glass facing towards the west. Mr. Kvapil explained that the condominium building is at a higher elevation than the subject property by approximately 4-5 feet and that no screening is required nor exists between the two properties.

Petitioners' Presentation

Roxanne Simon, the petitioner, of 780 Harding Avenue, Glen Ellyn, Illinois summarized the three variations her family is requesting to the existing code. Ms. Simon stated that they are requesting a solid fence to be 2 feet higher than the 6 feet 6 inches allowed per code, and they would like to install the fence to the front property line. The Zoning Code does not allow a fence to be less than 50% open in the front yard or exceed 4 feet 0 inches high in the front yard or 6 feet 6 inches high in the side and rear yards. Regarding hardships, Ms. Simon displayed a side view of their home and stated that the 2-1/2-story condominium property next door is 2 feet higher than her property and she would like to make up some of the difference related to the 2-foot elevation change. Ms. Simon added that her family would like more privacy as some condominium units with glass areas face the front, side and rear of their home. She added that the addition of a fence would also keep neighbors' dogs out of their yard and afford some condominium owners more privacy. Ms. Simon also stated that they would like a privacy fence in their front yard to block noise from Route 53. Ms. Simon stated that their only option regarding adding privacy screening to the 7-foot side of their home would be to add a fence in their yard or ask their neighbor to install fencing. Ms. Simon stated that all of her neighbors are very supportive of their variation request although one neighbor did not sign a petition because they did not know if their condo association would approve.

Responses to Questions from the ZBA

Mr. Kvapil responded to Mr. Kolar that the condominium building was in existence prior to the subject property which was built on a vacant lot in 2008. Mr. Kvapil responded to Mr. Siligmuller that there is no limit to the height of landscape material except for vision obstruction at corners. Mr. Kvapil responded to Ms. Kolar that a dog issue is considered to be a nuisance that would be handled by the police. Ms. Fried commented that people on the second floor of a condominium building would be able to see into the petitioners' property even with an 8-foot fence, and Ms. Simon responded that the fence would provide privacy when everyone is outdoors. Ms. Simon added that the elevation differential would also cause the fence to seem shorter in height compared to the property next door. Mr. Kvapil responded to Mr. Siligmuller that the condominium building could have a 6-1/2 foot high fence on the rear and side if Harding Avenue was vacated. Mr. Siligmuller responded to Mr. Kolar that information regarding whether or not Harding Avenue is vacated will be available for the Village Board members at their meeting. Mr. Kvapil responded to Ms. Fried that the petitioners could landfill their property two feet high and then install the fence on top of that land, however, that process would be costly.

Persons in Favor of or in Opposition to the Petition

Travis and Jennifer Ledet, 775 Wilson Avenue, Glen Ellyn, Illinois spoke in favor of the proposed fence request. Mr. Ledet stated that installing a fence would help their older dog who has a bad leg to be protected from the petitioners' dog. He added that a fence would also help to screen from view the industrial look of the condominium building.

Neil and Martha Bokemeier, 210 N. Cass Avenue, Westmont, Illinois stated that they spend a lot of time visiting the Simons residence and that they hear noise from the road when outdoors. Mr. Bokemeier stated that the Simons' have spent a lot of time and money upgrading the outside area of their home. He feels that a fence would offer some privacy so that the Simons' could feel they have their own back yard. Ms. Bokemeier added that a fence would be beneficial to offer privacy as neighbors pass by on foot within 15 feet of the Simons' home.

#### Comments from the ZBA

Mr. SiligmueLLer felt conflicted regarding the petitioners' request for a fence that is 8 feet 6 inches high in the front, side and rear yards because the petitioners were aware of the condominium building next door when they bought their house. Mr. SiligmueLLer felt that a 6.6-foot fence that meets the Zoning Code regulations would be effective to improve privacy issues as well as issues with their dog disturbing neighbors. Ms. Fried also felt that the requested fence is too tall and recommended that the petitioners plant tall bushes to allow privacy on their property. Ms. Ozog stated that nuisances sometimes become apparent after one moves into a house and was supportive of the petitioners' request. She stated that the hardship regarding this request is the slope of the lot and that the slope does not allow the fence to appear to be 8 feet in height. Ms. Ozog also felt that a fence rather than bushes would help with the noise reduction issue as noise from the street is a problem. Ms. Ozog stated that this unique situation does not set a precedent because of the proximity of the subject house to a condominium building and Route 53. Ms. Ozog added that support has been received from condominium owners and no objections were received from condominium owners. Mr. Kolar was not in favor of increasing the size of the petitioners' fence from the standard code height and stated that plantings could also be added. Mr. Kolar also stated that the Village Board could review transitional issues between single-family and multi-family homes.

#### Motion

Ms. Fried moved, seconded by Board Member Ozog, to continue the public hearing to June 26, 2011, when additional ZBA members may be present to vote in favor of the proposed project. The motion carried unanimously by voice vote.

#### Trustee Report

Trustee Cooper provided information regarding the lack of electrical power in the Village due to the heavy storm. He also stated that today was the first day of employment for Mark Franz, the new Village Manager of Glen Ellyn. Trustee Cooper also reported on four (4) water main failures at Roosevelt Road and Park Boulevard and continuing issues at the College of DuPage.

DRAFT  
ZONING BOARD OF APPEALS  
MINUTES  
JULY 26, 2011

The meeting was called to order by Acting Chairman Edward Kolar at 7:30 p.m. Board Members Gregory Constantino, Barbara Fried, Mary Ozog and Dale Siligmuller were present. Chairman Richard Garrity was excused. Also present were Trustee Liaison Peter Cooper, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

Acting Chairman Kolar described the proceedings of the Zoning Board of Appeals.

Board Member Fried moved, seconded by Board Member Constantino, to approve the minutes of the June 28, 2011 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

A continuation of a public hearing for property at 780 Harding Avenue and a public hearing for property at 761 Highview Avenue were on the agenda.

CONTINUED PUBLIC HEARING – 780 HARDING AVENUE

A CONTINUATION OF THE PUBLIC HEARING CONDUCTED ON JULY 12, 2011 FOR DISCUSSION, CONSIDERATION AND RECOMMENDATION REGARDING A ZONING VARIATION REQUEST TO CONSTRUCT A NEW FENCE THAT EXCEEDS THE MAXIMUM HEIGHT LIMITATION AND DOES NOT MEET THE OPENNESS REQUIREMENTS FOR A FENCE IN THE REQUIRED FRONT, SIDE AND REAR YARDS.

*(Joseph and Roxanne Simon, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that the public hearing for 780 Harding Avenue is a continuation of a public hearing first held on July 12, 2011. Mr. Kvapil displayed a photograph of the subject property and reviewed the public hearing held on that date. He stated that Joseph and Roxanne Simon, the petitioners, had requested a variation to construct an 8-foot high fence along the east property line extending from the rear property line to the front property line for privacy, security and nuisance control reasons. Mr. Kvapil stated that the petitioners have resubmitted a request for a fence in the same location as previously requested, however, with a height reduction across the entire length of the fence as follows: The height in the side yard behind the front of the house would be 7 feet, the height in the 16-foot section of fence toward the front property line would be 6 feet and the height in the 14-foot section of fence to the front property line would be 5 feet. Mr. Kvapil displayed right-of-way vacation information regarding the nearby Water's Edge development. He stated that the setbacks at the condominium next to the subject property from Route 53/Harding Avenue would limit the condominium's fence to be 4 feet in height and 50 percent open. Adjacent to the

property at 780 Harding Avenue, Mr. Kvapil stated that the condominium's fence height could be solid and a maximum of 6 feet in height. In response to a question asked at the previous ZBA meeting, Mr. Kvapil stated that Harding Avenue has not been vacated.

#### Petitioners' Presentation

Joseph and Roxanne Simon, the petitioners and owners of 780 Harding Avenue, were present to speak on behalf of their variation request. Mr. Simon reviewed their reasons for requesting the fence variation and stated that amendments have been made to their original request. Photographs of the subject site and condominium next door to the subject property were displayed. Mr. Simon stated that two window wells are located on the east side of their residence which leave 3 feet of space to the property line. Mr. Simon stated that the elevation of the condominium property is 2-3 feet higher than their property elevation, and the elevation of Illinois Route 53 is another 3-5 feet above the condominium property. Mr. Simon stated that the east side of their property borders the high traffic common area and the back yard of the condominium complex and the high traffic of Lincoln Avenue/Route 53 with its noise. Mr. Simon added that the orientation of the condominium property to the east with its attendant activity is adjacent to the east side of the Simons' house. Mr. Simon also stated that there is no vehicle access to the condominium property from Harding Avenue. Mr. Simon stated that their situation is unique because of their close proximity to Illinois Route 53, the elevation differences of that property and the Simon's property and being located on the end of an active street.

Ms. Simon stated that their request has been reviewed with all of their neighbors on their block with the exception of the property next door on which a new house is in the process of being built. Ms. Simon stated that their neighbors are fully supportive of their request and that a petition has been signed by five neighbors. Ms. Simon added that their intent in adding a fence on their property is to add value to their home and retain the character of Glen Ellyn and their neighborhood.

#### Responses to Questions from the ZBA

Ms. Simon responded to Board Member Constantino that they have had to clean up after a dog that comes onto their property but that they have had no issues since contacting the police. Ms. Simon added that one of the reasons they would like a physical barrier on their property is to keep dogs off of their property. Ms. Simon responded to Board Member Fried that a picket-type fence would keep dogs off of their property but would not address noise issues. Mr. Kvapil responded to Board Member Kolar that every tenant in the condominium building next door to the subject property was sent a notice regarding the public hearing. Mr. Simon also responded to Board Member Kolar that they have spoken with the neighbors who do not front on the fence and that those neighbors are supportive of the proposed fence.

Persons in Favor of or in Opposition to the Petition

Eric Scharaga, 97 Nicoll Way, Glen Ellyn, Illinois stated that his home faces Nicoll Way and his detached garage faces Harding Avenue. Mr. Scharaga strongly supported a 7-foot privacy fence on the subject property. Mr. Scharaga responded to Board Member Constantino that he has not had a problem with dogs in the area and that the petitioners experience sound and privacy issues because of the condominium building next door.

Jennifer Ledet, 775 Wilson Avenue, Glen Ellyn, Illinois stated that her husband and she support the petitioners' request for a fence. Ms. Ledet stated that a neighborhood dog used to disturb their dog who is behind their 4-foot high fence. She stated that she has may neighborhood get-togethers in her back yard and the proposed fence would help the sound problem. Ms. Ledet responded to Board Member Kolar that a 7-foot fence as requested by the petitioners would offer privacy for all the neighbors in that area. Ms. Ledet verified for Board Member Ozog that the property next door at 781 Wilson has a 6-foot fence.

Comments from the ZBA

Board Member Constantino was supportive of the variation request because of the significant difference in grade between the subject house and the neighboring condominium building and the subject house and Route 53 which creates a practical difficulty. Mr. Constantino indicated that the petitioners experience a loss of privacy because of condominiums with balconies on their terraces and single-family to multi-family residences without a buffer. He indicated that a fence would help with health issues due to animal droppings in the neighborhood. Mr. Constantino also felt that no adverse effect upon the neighborhood would be created by the requested fence. Board Member Siligmuller was also supportive of the variation request because the subject situation is unique. Board Member Ozog was also supportive of the variation request and appreciated that the petitioners revised their proposal. She felt that mitigating noise is very important and also commented that no condominium owners expressed opposition to the variation request. Board Member Fried stated that she could support a 7-foot fence but not a 6-foot fence and that the 5-foot fence should remain 50 percent open. Board Member Kolar stated that he has a problem with higher fences in front yards. Mr. Kvapil responded that 7-foot fence limits are allowed to separate commercial districts from residential districts in the Village and that there are no screening requirements between single-family and multi-family residences.

Motions

The following two motions were made:

1. Board Member Fried moved, seconded by Board Member Constantino, to recommend that the Village Board approve a variation for the property at 780 Harding Avenue to allow a 7-foot tall solid wood fence located from the 30-foot setback to the rear property line.

The motion carried unanimously with five (5) "yes" votes as follows: Board Members Fried, Constantino, Ozog, SiligmueLLer and Acting Chairman Kolar voted yes.

2. Board Member Constantino moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board approve a variation for the property at 780 Harding Avenue to allow a 6-foot tall fence within the 30-foot setback for a 16-foot length and to allow the balance of the fence to be 5 feet in height with both sections of the fence to be solid.

The motion did not carry with three (3) "yes" votes and two (2) "no" votes as follows: Board Members Constantino, SiligmueLLer and Ozog voted yes; Board Member Fried and Acting Chairman Kolar voted no.

Some discussion then took place regarding whether or not the fence should be partially open. Trustee Cooper asked Mr. Kvpil if the ZBA adopted the 6-foot/5-foot fence height with 50% of the fence remaining open, could the petitioners request the Village Board to modify that portion of the motion to make the fence solid. Mr. Kvpil replied yes.

Mr. Simon interjected that a 5-foot fence makes less impact to a property if it is farther from the property.

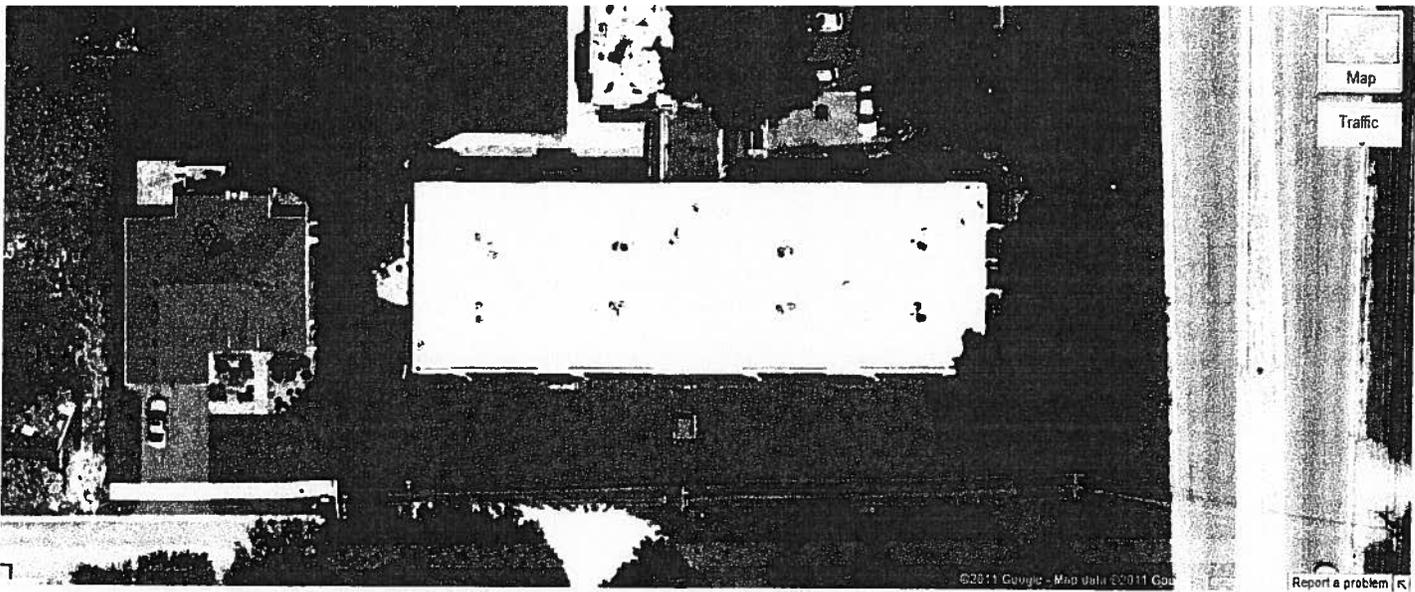
Motion 2 above was withdrawn and two additional motions were made:

3. Board Member Fried moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board allow the height of the fence from the 30-foot setback line to the front property line at 6 feet and 5 feet.

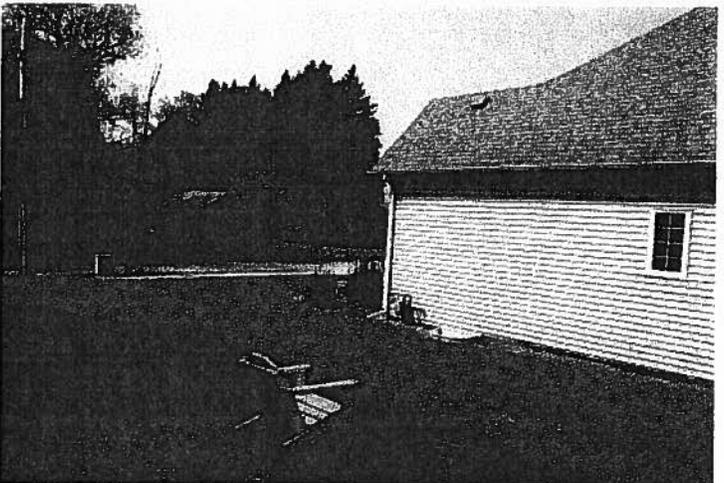
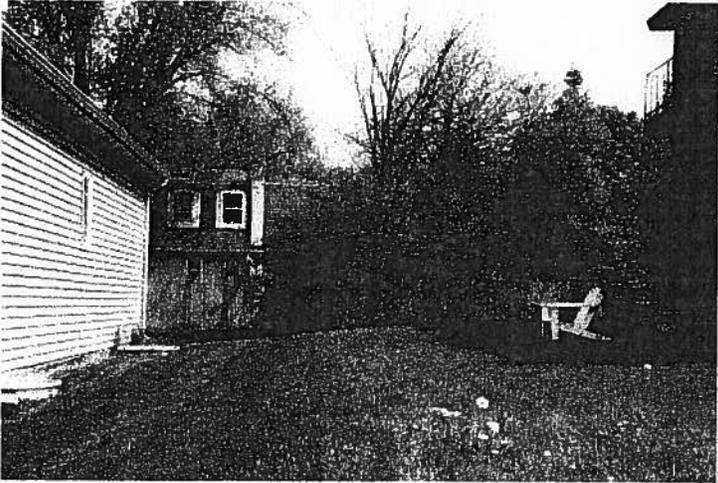
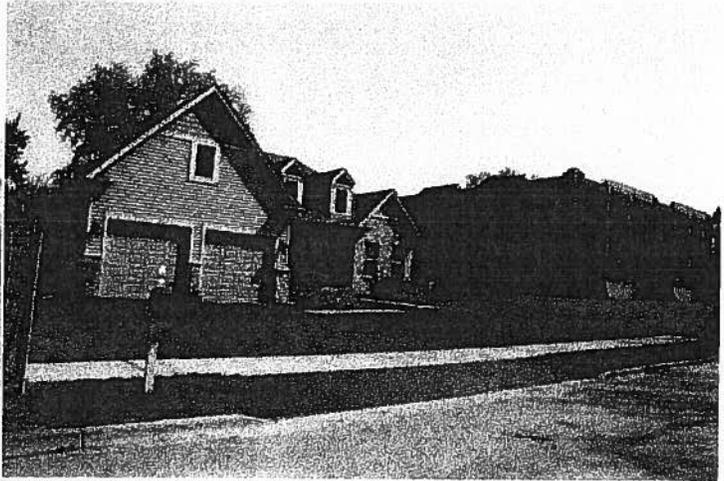
The motion carried with four (4) "yes" votes and one (1) "no" vote as follows: Board Members Fried, SiligmueLLer, Constantino and Ozog voted yes; Acting Chairman Kolar voted no.

4. Board Member Constantino moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board allow the subject fence installed from the 30-foot setback to the front property line and to be a solid privacy fence rather than 50% open.

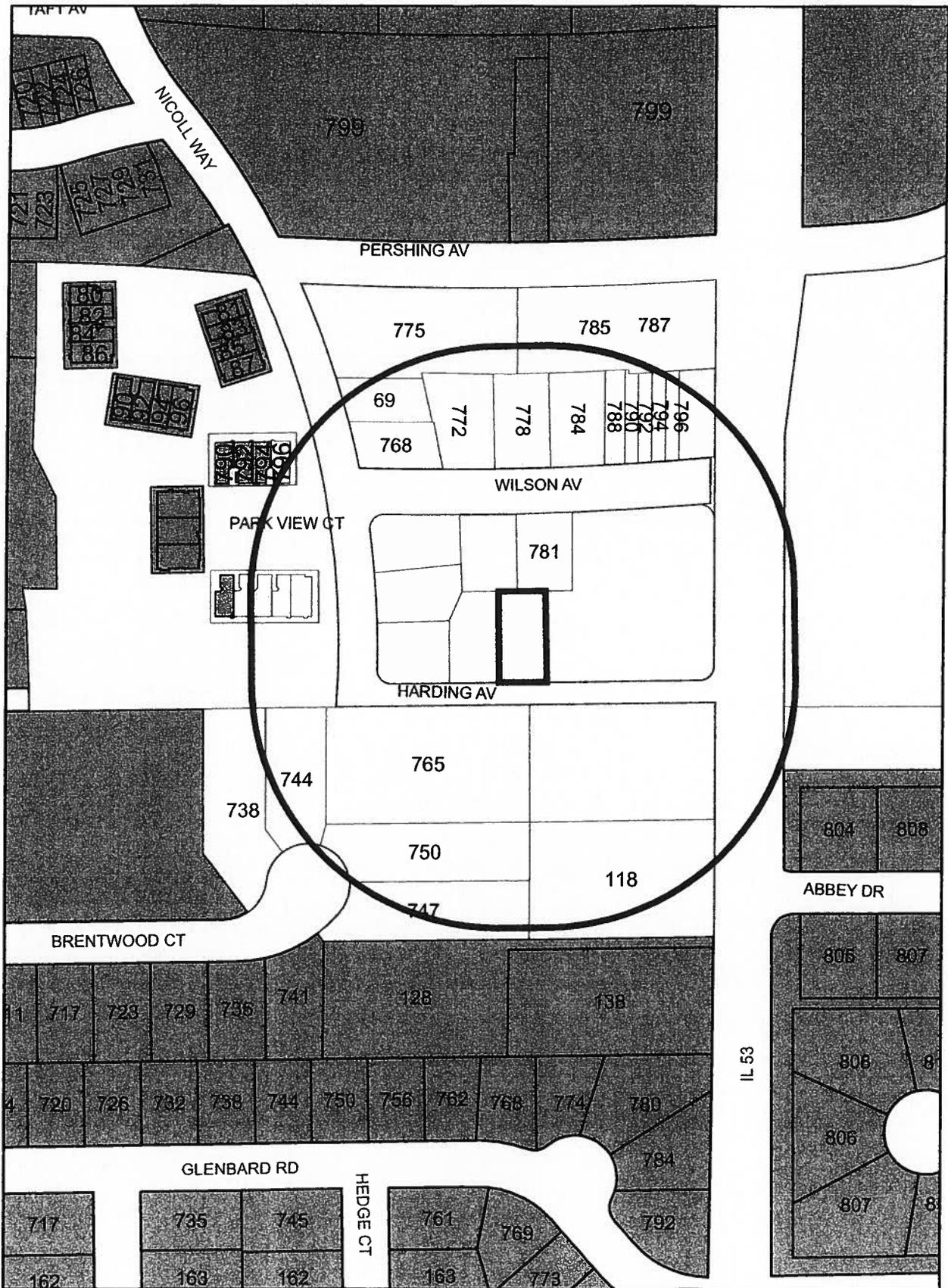
The motion did not carry with three (3) "yes" votes and two (2) "no" votes as follows: Board Members Constantino, SiligmueLLer and Ozog voted yes; Board Member Fried and Acting Chairman Kolar voted no.



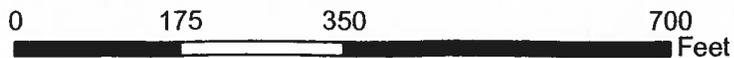
Google Map satellite view of 780 Harding Ave (A), adjacent Hill-Bryant Condominium complex and IL-53 (Lincoln Ave)



# 780 Harding Avenue



Prepared By: Planning and Development  
Date Prepared: July 7, 2011



**Village of Glen Ellyn**

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**Ordinance No. \_\_\_\_\_**

**An Ordinance Approving a Variation from the  
Fence Requirements of the Zoning Code  
to Allow a Fence to Exceed the Height Requirements  
For Property at 780 Harding Avenue  
Glen Ellyn, IL 60137**

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**Adopted by the  
President and Board of Trustees  
Of the Village of Glen Ellyn  
DuPage County, Illinois  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

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Published in pamphlet form by the authority of the  
President and Board of Trustees of the Village of  
Glen Ellyn, DuPage County, Illinois, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

Ordinance No. \_\_\_\_\_

**An Ordinance Approving a Variation from the  
Fence Requirements of the Zoning Code  
to Allow a Fence to Exceed the Height Requirements  
For Property at 780 Harding Avenue  
Glen Ellyn, IL 60137**

**Whereas**, Joseph and Roxanne Simon, owners of the property at 780 Harding Avenue, Glen Ellyn, Illinois, which is legally described as follows:

Lot 5 in the Townhomes of Waters Edge, being part of the Northeast Quarter of Section 23, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded July 12, 2005 as Document R2005-148006, in DuPage County, Illinois.

P.I.N.: 05-23-215-025

have petitioned the President and Board of Trustees of the Village of Glen Ellyn for a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the construction of a solid wood fence in the side and rear yard setbacks with a height of 7 feet, and the construction of a solid wood fence in the front yard setback with a height of 6 feet for 16 lineal feet and a height of 5 feet for 14 lineal feet up to the front lot line; and

**Whereas**, following due notice by publication in the Daily Herald not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all property owners within 250 feet of the subject property at least ten (10) days prior thereto, and following the placement of a placard on the subject property not less than fifteen (15) days prior thereto, the Glen Ellyn Zoning Board of Appeals conducted a public hearing on July 12, 2011 which was continued to July 26, 2011, at which the petitioners presented evidence, testimony, and exhibits in support of the variation

request and five (5) persons appeared in favor of the variation and no persons appeared in opposition thereto; and

**Whereas**, based upon the evidence, testimony, and exhibits presented at the public hearings on July 12, 2011 and July 26, 2011, the Zoning Board of Appeals adopted findings and voted on three motions as follows:

1. To recommend approval of a 7-foot high solid wood fence in the side and rear yard setbacks that carried unanimously with a vote of five (5) "yes" votes.
2. To recommend approval of a 6-foot high fence reducing in height to a 5-foot high fence in the front yard setback that carried with a vote of four (4) "yes" and one (1) "no" vote.
3. To recommend approval of a solid wood fence in the front yard setback that did not carry with a vote of three (3) "yes" votes and two (2) "no" votes.

as set forth in its draft Minutes dated July 12, 2011 and July 26, 2011, appended hereto as Exhibit "A"; and

**Whereas**, the President and Board of Trustees have reviewed the exhibits and evidence presented at the aforementioned public hearing and have considered the findings and recommendations of the Zoning Board of Appeals; and

**Whereas**, the President and Board of Trustees make the following findings of fact:

- A. That the plight of the owner is due to unique circumstances since the property is adjacent to a higher density multifamily zoning district and building in proximity to Route 53 which negatively impacts typical conditions in a single-family residential district;
- B. That the variation, if granted, will not alter the essential character of the locality since the fence does not run across the front of the lot and the height is not excessive when compared to the adjacent 2-1/2 story condominium building;
- C. That the particular topographical conditions cause a practical difficulty upon the owner as distinguished from a mere inconvenience since the condominium building grade elevation is

approximately 4 feet above the grade of the subject property which further reduces privacy on the subject property;

D. That the location of the home is close to the side lot fence line causing a practical difficulty upon the owner as distinguished from a mere inconvenience since the space between the home and side lot line is not adequate to grow a tall plant screen;

E. That the conditions upon which the variation is based would not be applicable generally to other property within the same zoning district since the subject property is affected by a unique combination of zoning, setback and grade elevation conditions;

F. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property since the applicant has expressed no intention for further development or sale of the property;

G. That the practical difficulty or particular hardship has not been created by any persons presently having an interest in the property since the conditions that generated this request for a variation were existing when the applicant purchased the property;

H. That the variation will not diminish or impair property values within the neighborhood since the proposed wood fence is consistent with the types of fences in the locality;

I. That the variation will not create a nuisance but will alleviate some nuisances on the subject property caused by the existing surrounding conditions;

J. That the variation is the minimum variation that will make possible the reasonable use of the land, building or structure since the applicant has reevaluated their original variation and revised and reduced the degree of variation requested; and

**Whereas**, based upon the evidence, testimony, and exhibits presented at the public hearings on July 12, 2011 and July 26, 2011, the Zoning Board of Appeals adopted findings and voted on three motions as follows:

1. To recommend approval of a 7-foot high solid wood fence in the side and rear yard setbacks that carried unanimously with a vote of five (5) "yes" votes.
2. To recommend approval of a 6-foot high fence reducing in height to a 5-foot high fence in the front yard setback that carried with a vote of four (4) "yes" and one (1) "no" vote.
3. To recommend approval of a solid wood fence in the front yard setback that did not carry with a vote of three (3) "yes" votes and two (2) "no" votes.

as set forth in its draft Minutes dated July 12, 2011 and July 26, 2011, appended hereto as Exhibit "A"; and

**Whereas**, the President and Board of Trustees, based on the aforementioned findings of fact, find it appropriate to grant the variation as recommended by the Zoning Board of Appeals.

**Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois**, in exercise of its home rule powers, as follows:

**Section One:** The draft minutes of the July 12, 2011 and July 26, 2011 Glen Ellyn Zoning Board of Appeals meetings, Exhibit "A" appended hereto, are hereby accepted, and the findings of fact and conclusions set forth in the preambles above are hereby adopted as the findings of fact and conclusions of the corporate authorities of the Village of Glen Ellyn.

**Section Two:** Based upon the above findings of fact, the President and Board of Trustees hereby approve a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the construction of a solid wood fence in the side and rear yard setbacks with a height of 7 feet and the construction of a 50% open wood fence in the front yard setback with a height of 6 feet for 16 lineal feet and a height of 5 feet for 14 lineal feet up to the front lot line at 780 Harding Avenue, Glen Ellyn, Illinois, which is legally described as follows:

Lot 5 in the Townhomes of Waters Edge, being part of the Northeast Quarter of Section 23, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded July 12, 2005 as Document R2005-148006, in DuPage County, Illinois.

P.I.N.: 05-23-215-025

**Section Three:** This grant of variation to construct a fence that exceeds the maximum permitted fence height is conditioned upon the construction being completed in substantial conformance with the plans and the Application for Variation received by the Planning & Development Department received and signed on June 14, 2011 with additional identical copies received on August 8, 2011 and the testimony and exhibits provided at the July 12, 2011 and July 26, 2011 Zoning Board of Appeals public hearing.

**Section Four:** The Building and Zoning Official is hereby authorized and directed to issue building permits for the subject property, consistent with the variation granted herein, provided that all conditions set forth hereinabove have been met and that the proposed construction is in compliance with all other applicable laws and ordinances. This grant of variation shall expire and become null and void twenty-four (24) months from the date of passage of this Ordinance unless a building permit to begin construction in reliance on this variation is applied for within said eighteen (18) month time period and construction is continuously and vigorously pursued provided, however, the Village Board, by motion, may extend the period during which permit application, construction, and completion shall take place.

**Section Five:** The Village Clerk is hereby authorized and directed to cause a copy of this Ordinance approving the variation to be recorded with the DuPage County Recorder of Deeds.

**Section Six:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

**Section Seven:** Failure of the owner or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of said Ordinance, shall subject the owner or party in interest to the penalties set forth in Section 10-10-18 "A" and "B" of the Village of Glen Ellyn Zoning Code.

**Passed** by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2011.

**Ayes:**

**Nays:**

**Absent:**

**Approved** by the Village President of the Village of Glen Ellyn, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Village President of the  
Village of Glen Ellyn, Illinois

**Attest:**

\_\_\_\_\_  
Village Clerk of the  
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the \_\_\_\_ day of \_\_\_\_\_).



## NOTICE OF PUBLIC HEARING

Joseph and Roxanne Simon, owners of the property at 780 Harding Avenue, are requesting a public hearing for a variation in accordance with Section 10-10-12 of the Glen Ellyn Zoning Code. The owners would like to construct a solid fence that is 8'-6" high in the front, side and rear yards. The Zoning Code does not allow a fence to be less than 50% open in the front yard or exceed 4'-0" feet high in the front yard or 6'-6" high in the side and rear yards. The Glen Ellyn Zoning Board of Appeals will conduct a public hearing to consider this Variation on **Tuesday, July 12, 2011** at 7:30 p.m. on the third floor in the Civic Center, 535 Duane Street, Glen Ellyn, Illinois. Anyone is welcome to attend.

The property owners are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-5-5(B)4 Item 11 to allow the construction of a solid fence in the front yard in lieu of the required 50% open fence in the front yard and to allow the construction of a 8'-6" high fence in the front, side and rear yards in lieu of the maximum height of 4 feet in the front yard and a maximum height of 6'-6" in the side and rear yards.

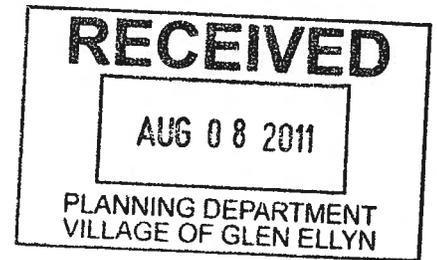
The property is zoned R2, Residential District, and is legally described as follows:

Lot 5 in the Townhomes of Waters Edge, being part of the Northeast Quarter of Section 23, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded July 12, 2005 as Document R2005-148006, in DuPage County, Illinois.

P.I.N.: 05-23-215-025

Plans related to the proposed addition are available for public review in the Planning and Development Department, Civic Center, 535 Duane Street, Glen Ellyn, Illinois. If you have questions, please contact Joe Kvapil, Building & Zoning Official, at (630) 547-5244. For individuals with disabilities who have questions regarding the accessibility of the meeting or facilities, contact Harold Kolze, ADA Coordinator, at (630) 547-5209.

(Published in the Daily Herald on Monday June 27, 2011)



VILLAGE OF GLEN ELLYN

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## **Zoning Variation Request Packet**

780 Harding Avenue, Glen Ellyn, Illinois 60137

*Planning & Development Department*  
*535 Duane Street – Glen Ellyn, IL 60137 – Telephone 630.547.5250 – Fax 630.547.5370*

**VILLAGE OF GLEN ELLYN  
535 Duane Street  
Glen Ellyn, Illinois 60137  
(630) 547-5250**

**APPLICATION FOR VARIATION**

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Note to the Applicant: This application should be filed with, and any questions regarding it, should be directed to the Director of the Village Planning and Development Department.

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The undersigned hereby petitions the Village of Glen Ellyn, Illinois, for one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended), as described in this application.

**I. APPLICANT INFORMATION:**

(Note: The applicant must comply with Section 10-10-10(B) of the Zoning Code).

Name: **Joseph & Roxanne Simon**

Address: **780 Harding Avenue, Glen Ellyn, IL 60137**

Phone No.: **(630) 408-7053**

Fax No.: **none**

E-mail: **simonfamilyhome@gmail.com**

Ownership Interest in the Property in Question:  
**Owners**

II. INFORMATION REQUIRED BY SECTION 10-10-10(B) OF THE ZONING CODE, IF APPLICABLE:

NOTE: All parties, whether petitioner, agent, attorney, representative and or organization et al. must be fully disclosed by true name and address in compliance with Section 10-10-10(B) of the Zoning Code. Disclosure forms are attached for your convenience.

Name and address of the legal owner of the property (if other than the applicant):  
**Same as applicant.**

Name and address of the person or entity for whom the applicant is acting (if the applicant is acting in a representative capacity):  
**Same as applicant.**

Is the property in question subject to a contract or other arrangement for sale with the fee owner?  
(Circle "Yes" or "No")

YES

NO

If YES, the contract purchaser must provide a copy of the contract to the Village and must either be a co-petitioner to this application or submit the attached Affidavit of Authorization with the application packet.

Is the property in question the subject of a land trust agreement? (Circle "Yes" or "No")

YES

NO

If YES, (1) either the trustee must be a co-petitioner or submit the attached Affidavit of Authorization from the trustee to represent the holders of the beneficial interests in the trust and (2) the applicant must provide a trust disclosure in compliance with "An Act to Require Disclosure of All Beneficial Interests", Chapter 148, Section 71 et seq., Illinois Revised Statutes, signed by the trustee.

III. PROPERTY INFORMATION:

Common address: **780 HARDING AVE., GLEN ELLYN, ILLINOIS.**

Permanent tax index number: **05-23-215-025**

Legal description:

**LOT 5 IN THE TOWNHOMES OF WATERS EDGE, BEING PART OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 12, 2005 AS DOCUMENT R2005-148006, IN DUPAGE COUNTY, ILLINOIS.**

Zoning classification: **RESIDENTIAL**

Lot size: **67 ft. x 130 ft.**

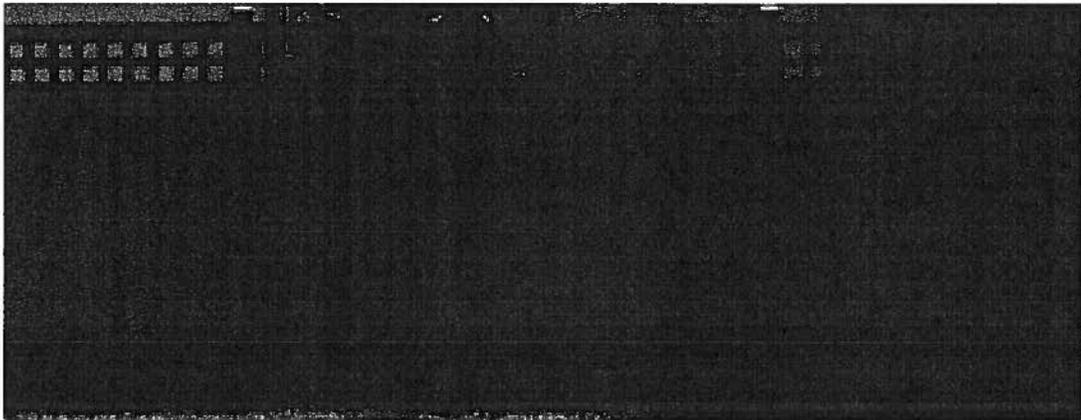
Area: **8,733 sq. ft.**

Present use: **RESIDENTIAL**

IV. INFORMATION REGARDING THE VARIATION(S) REQUESTED:

Description of the variation(s) requested (including identification of the Zoning Code provisions from which variation is sought) and proposed use(s):

**Request for variance to construct a 0% open (privacy-style) high quality fence measuring 8' height (8'6" maximum – measured from the ground level on the inside of the fence to the highest point of the fence) along the length of the East property line within 12" of, but without intersecting, the boundary of the property owned by the applicant.**



***Example fence picture – need to determine exact fence style. Have received competitive quotes from 4 local fence companies: Peerless Fence & Supply, Paramount Fence, SP Fence, & Cedar Rustic Fence Co.; Intentions for a high quality, 8', wood, privacy-style fence.***

**SUMMARY POINTS:**

- The plight of the owner is due to unique circumstances and the Variation, if granted, will not alter the essential character of the locality
- Evidence establishes facts that support the applicants request according to Chapter 10 – Administration and Enforcement of the Glen Ellyn Zoning Code (Effective June 1, 1989 Adopted by Village Ordinance No. 3617-Z on May 8, 1989)

**ZONING CODE PROVISIONS FROM WHICH VARIATION IS SOUGHT:**

***Table 10-5-5(B)4, Item 11 – Fence Obstruction (Permitted Obstruction & Accessory Structures In Required Setbacks) – Request for Variance of Limitation a1, Height b3, and Height b4***

Estimated date to begin construction: **As Soon As Possible – August 1, 2011**

Names and addresses of any experts (e.g., planner, architect, engineer, attorney, etc.):  
**None.**

**V. EVIDENCE RELATING TO ZONING CODE STANDARDS FOR A VARIATION:**

The following items are intended to elicit information to support conclusions by the ZBA or PC and the Village Board that the required findings/standards for a variation under the Zoning Code have been established and met. Therefore, please complete these items carefully.

**A. Standards Applicable to All Variations Requested:**

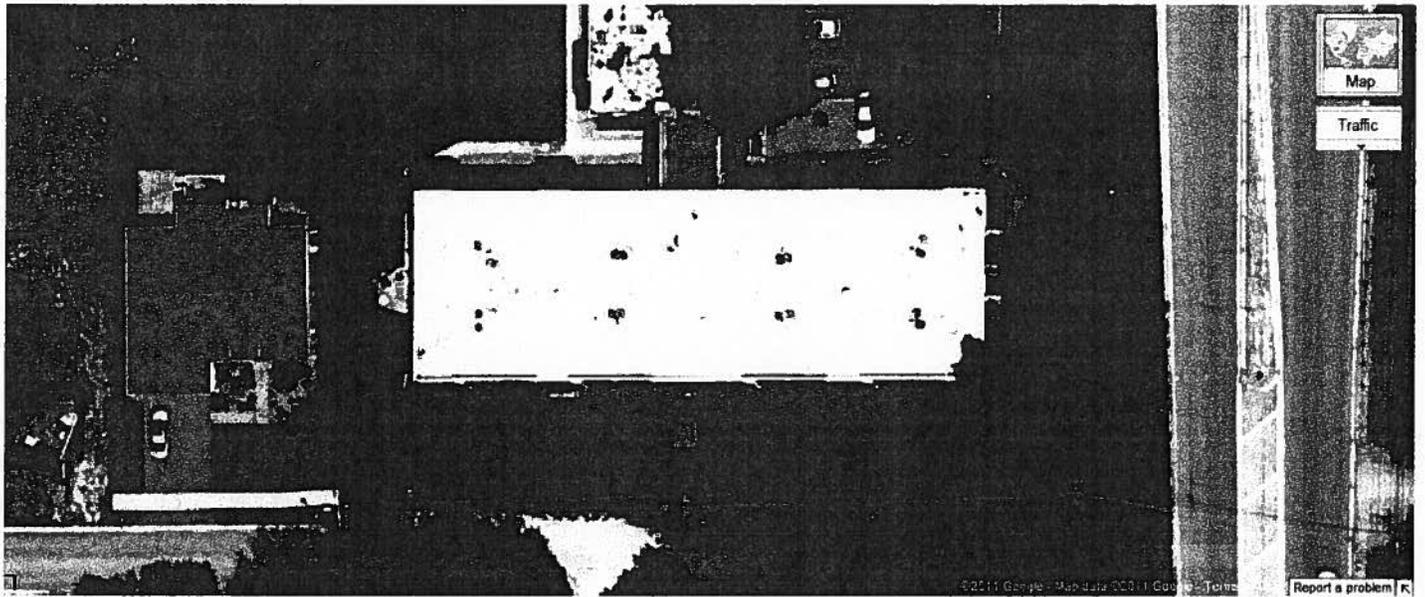
1. Provide evidence that due to the characteristics of the property in question, there are practical difficulties or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code:

**OVERVIEW:**

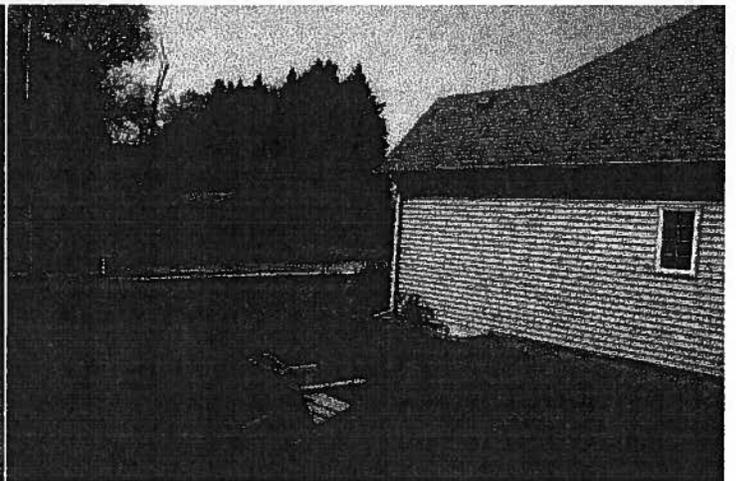
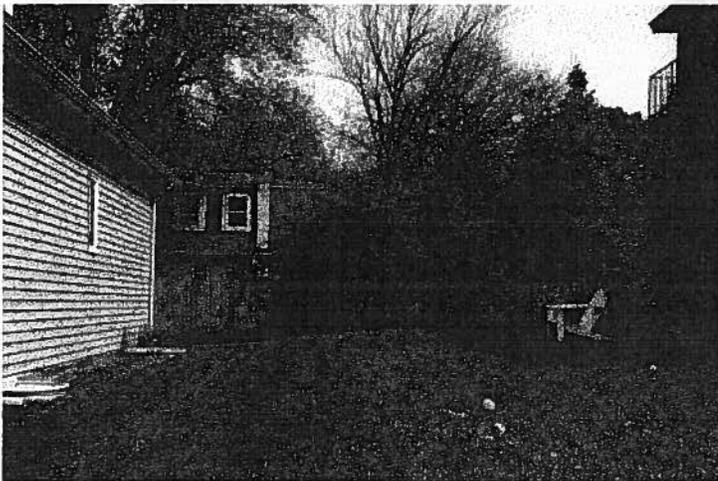
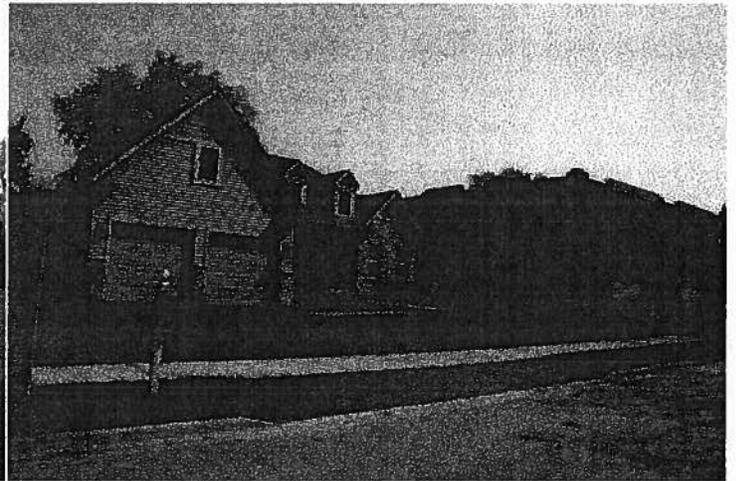
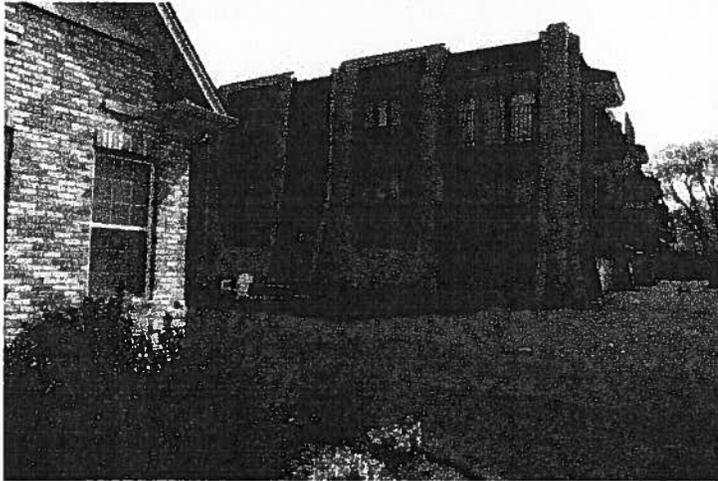
The 780 Harding Ave residence is directly adjacent to a two story condominium complex (Hill-Bryant Condominiums at 787 Wilson Ave). The building has four balconies – two on the first floor and two on the second floor – and a common seating area directly facing the East side of applicant’s dwelling. This results in the following hardships compromising the privacy of the applicants and increasing the noise level in the local area:

- Common seating area directly face the applicants’ bathroom window
- The common seating area and the condominium balconies overlook the applicants’ front/back yard

Additionally, IL-53 (Lincoln Ave) is directly east of the Hill-Bryant Condominiums and contributes to an increase in noise level at the applicants’ residence.



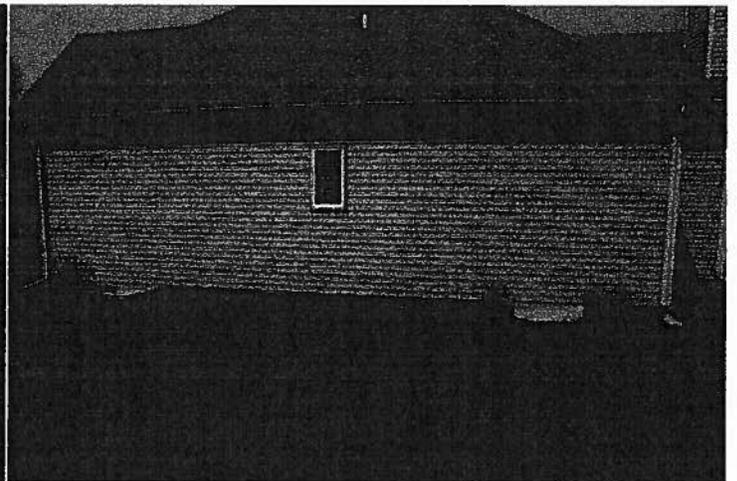
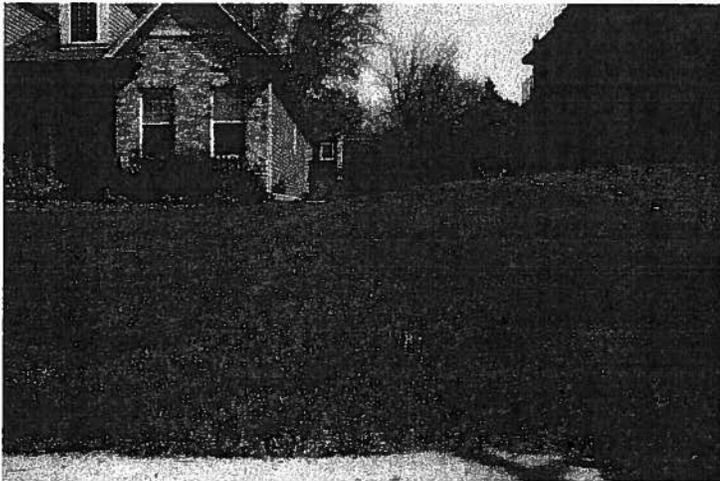
Google Map satellite view of 780 Harding Ave (A), adjacent Hill-Bryant Condominium complex and IL-53 (Lincoln Ave)



**Table 10-5-5(B)4, Item 11(b)3 – 6'6" maximum for fence located no closer to the street than the principle structure on a lot, AND**

**Table 10-5-5(B)4, Item 11(b)4 – 4' maximum all other areas of the lot**

The practical difficulty/particular hardship with the zoning code fence height regulation of 6'6" maximum in this particular case is that the topography at the interface of 780 Harding Ave and 787 Wilson Ave slopes downward towards the East (toward the property of the applicants). As a result, the 780 Harding Ave property is at least 2 feet (and as much as 3 feet) lower in elevation than the 787 Wilson Ave property, such that a 6'6" tall fence would provide privacy with the efficacy of a 4'6" fence and a 4' tall fence would provide privacy with the efficacy of a 2' tall fence. Hardship of the owner is established by considering the assumed intent of the ordinance to permit a fence erected to provide privacy to individual property owners. Privacy from the 787 Wilson Ave common area and a noticeable reduction in noise level from IL-53 could be achieved by extending the fence along the entire property length of the east side of 780 Harding Ave at the 8' height (8'8" maximum).





**Table 10-5-5(B)4, Item 11(a)1 – 50% open in front and corner side yard setbacks, AND**

**Table 10-5-5(B)4, Item 11(b)4 – 4' maximum all other areas of the lot**

The practical difficulty/particular hardship with the zoning code regulation to limit the “% open in front and corner side yard setbacks” (**Table 10-5-5(B)4, Item 11(a)1**) and the zoning code fence height regulation of 4' maximum (**Table 10-5-5(B)4, Item 11(b)4**) in this particular case is that the East property boundary of the 780 Harding Ave residence is adjacent to the back common area of the condominium complex and IL-53 (Lincoln Ave), which are both noisy and compromise privacy.

2. a. Provide evidence that the property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the Zoning Code (i.e., without one or more variations):  
The 780 Harding Ave property was a new construction in 2008 and was listed for \$489,900, reduced to \$375,000 throughout the course

of approximately 641 days on market and was purchased for \$375,000 by the current owner as a distressed sale.

The Hill-Bryant Condominiums are located at 787 Wilson Ave, Glen Ellyn IL. 787 Wilson Ave is in the 60137 ZIP code in Glen Ellyn, IL. The average listing price for ZIP code 60137 is \$412,924.

787 Wilson Ave – Estimated Price Range: \$99,000 - \$138,000

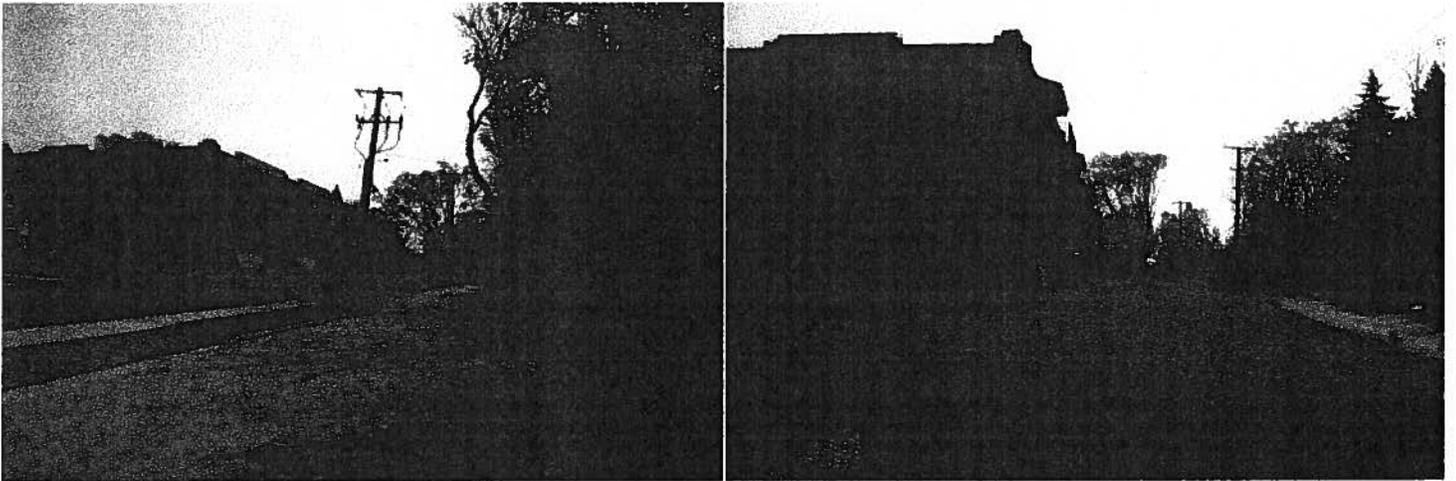
[http://www.movoto.com/il/787-wilson-ave-glen-ellyn/461\\_07395816.htm](http://www.movoto.com/il/787-wilson-ave-glen-ellyn/461_07395816.htm)

<http://www.trulia.com/property/1080930461-787-Wilson-Ave-Glen-Ellyn-IL-60137>

The 780 Harding Ave property is located directly adjacent to a property with housing options currently valued at less than 25% of the average listing price for the ZIP code and immediate area. The purchase price for 780 Harding Ave in 2009 was \$375,000 with an appraised value of \$387,000. Unique to the owners' plight is that the two story condominium complex has four balconies and a common seating area directly facing the east side of their dwelling.

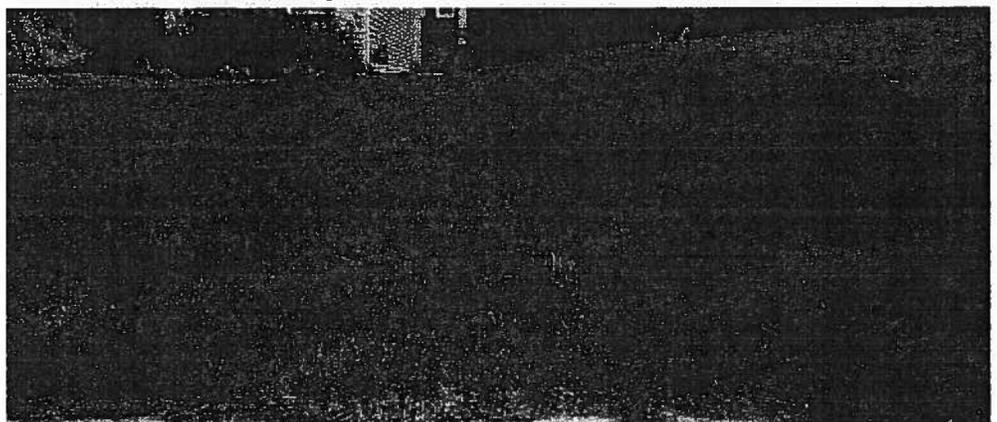
- b. Provide evidence that the plight of the applicant/owner is due to unique circumstances relating to the property in question:  
The physical position and the adjacency between the single family home (780 Harding Ave) and the condominium building (Hill-Bryant Condominiums at 787 Wilson Ave) is the unique condition and is also the border between a single family residential district R2 and a higher density residential use R4.

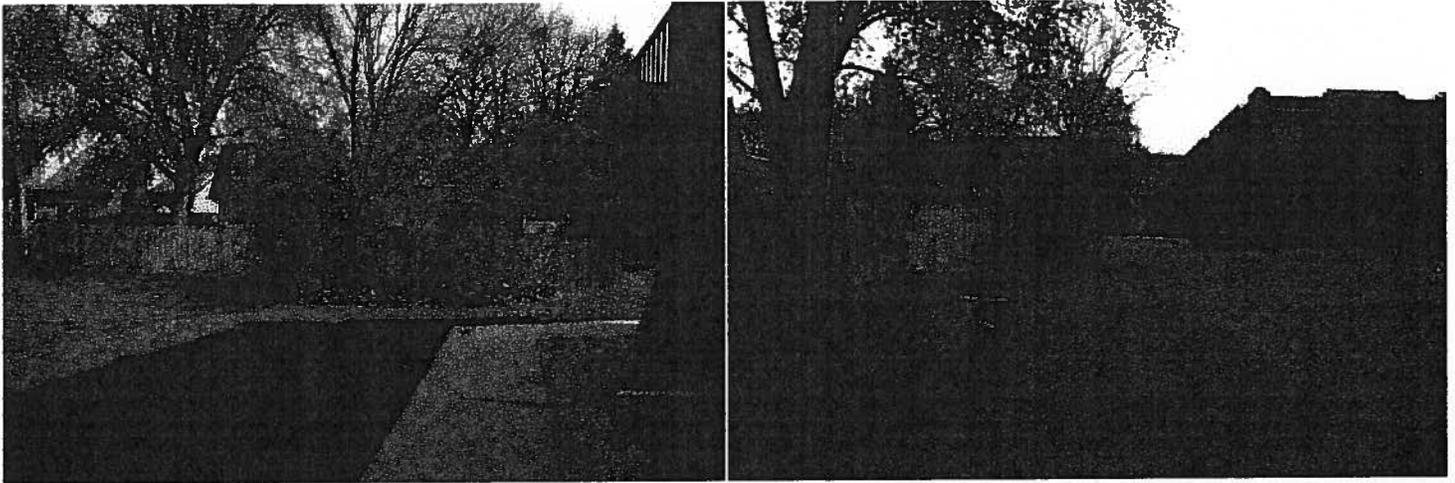
3. Provide evidence that the requested variation(s), if granted, will not alter the essential character of the locality of the property in question:  
The essential character of the zoning area will not be altered because the only access to the 780 Harding residence is from the South-West and the only access to the 787 Wilson Avenue residence is from the North-East. There is no through street or condominium parking access between the two properties and the segregation is natural to the character of the locality.



B. For the purpose of supplementing the above standards, the ZBA or PC, in making its recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes or fails to establish the following facts favorably to the applicant:

1. Provide evidence that the particular physical surroundings, shape or topographical condition of the property in question would bring particular hardship upon the applicant/owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out: The topography at the interface of 780 Harding Ave and 787 Wilson Ave slopes downward towards the East. The 780 Harding Ave property is at least 2 feet (and as much as 3 feet) lower than the 787 Wilson Ave property, such that a 4 foot tall fence would provide privacy as effective as a 2 foot tall fence. Hardship of the owner is established by considering the assumed intent of the ordinance to permit a fence erected to provide privacy to individual property owners. Privacy from the 787 Wilson Ave common area and reduction in noise level from IL-53 extends the entire property length of the east side of 780 Harding Ave.





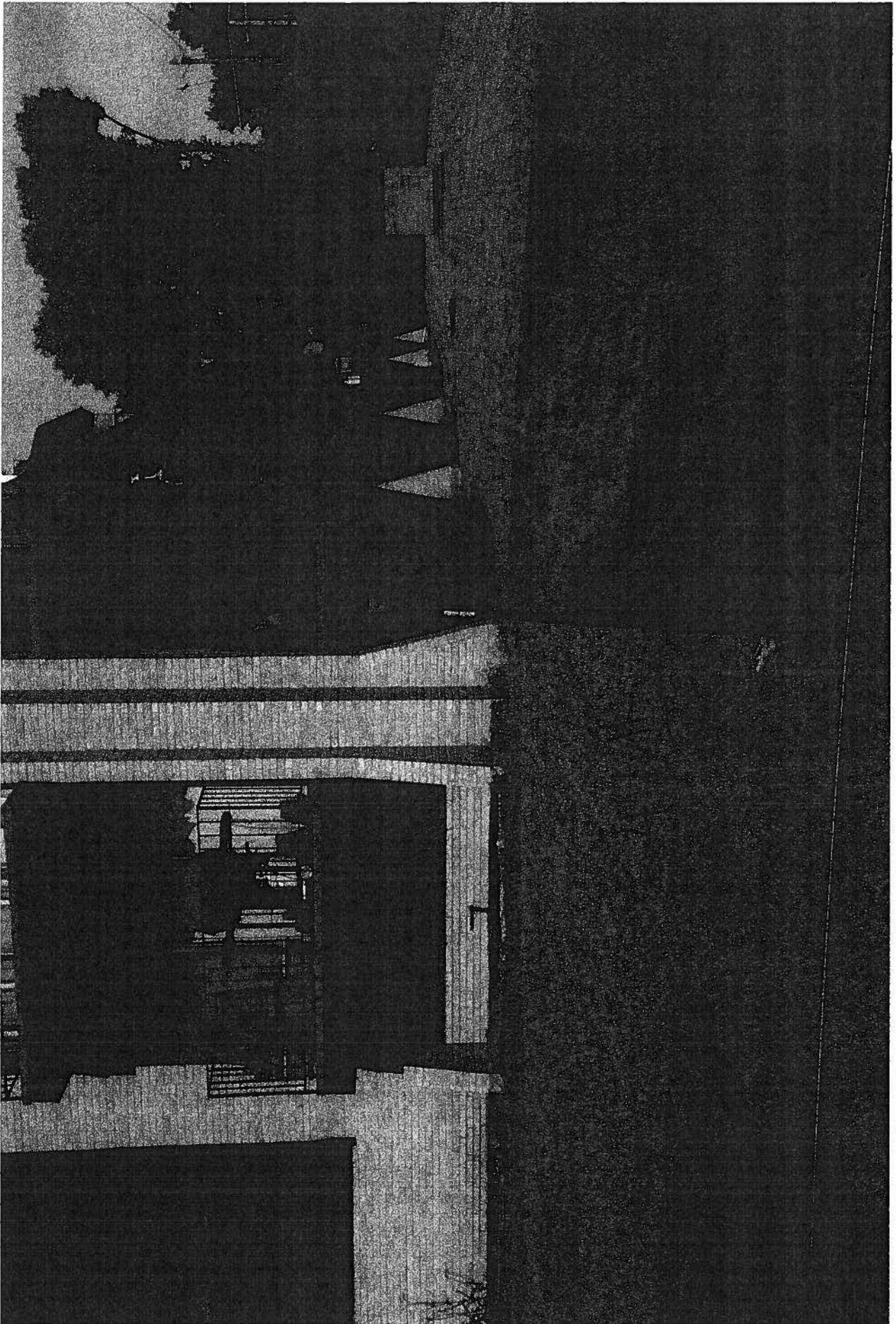
2. Provide evidence that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district:  
The physical surroundings, shape and topographical condition of the specific properties involved are unique to the specific properties involved.
  
3. Provide evidence that the purpose of the variation is not based exclusively upon a desire to make more money out of the property in question:  
The purpose of the Variation is based only in part by a desire to make more money out of the property. In addition to this, the purpose of the Variation is based on the hardship of the owners for the following reasons:
  - I. Owners taking on increased, and avoidable, liability by excessive human traffic on their property
  - II. Owners having to contend with condominium owners dog ordinance violations
    - a. Dog not under control as required by the DuPage County "Leash Law"
      - i. Dog has charged at and jumped up on Roxanne Simon while on 780 Harding Ave property
      - ii. Dog has been seen running out of control on 780 Harding Ave property
    - b. Dog owner not abiding by: "Clean up their waste when they defecate outside.\* You must clean up excrement immediately on property other than your own. You must not allow feces to accumulate on your own property."
      - i. Continual findings of excrement on 780 Harding Ave from 787 Wilson Ave dog

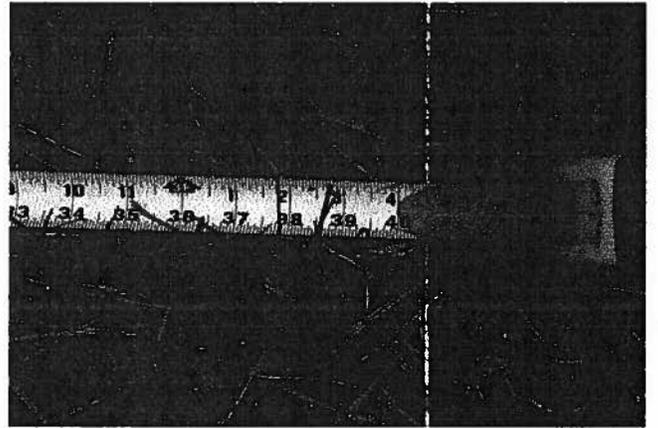
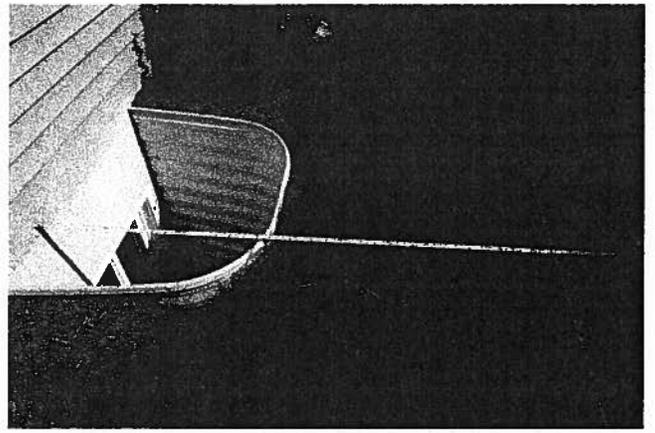
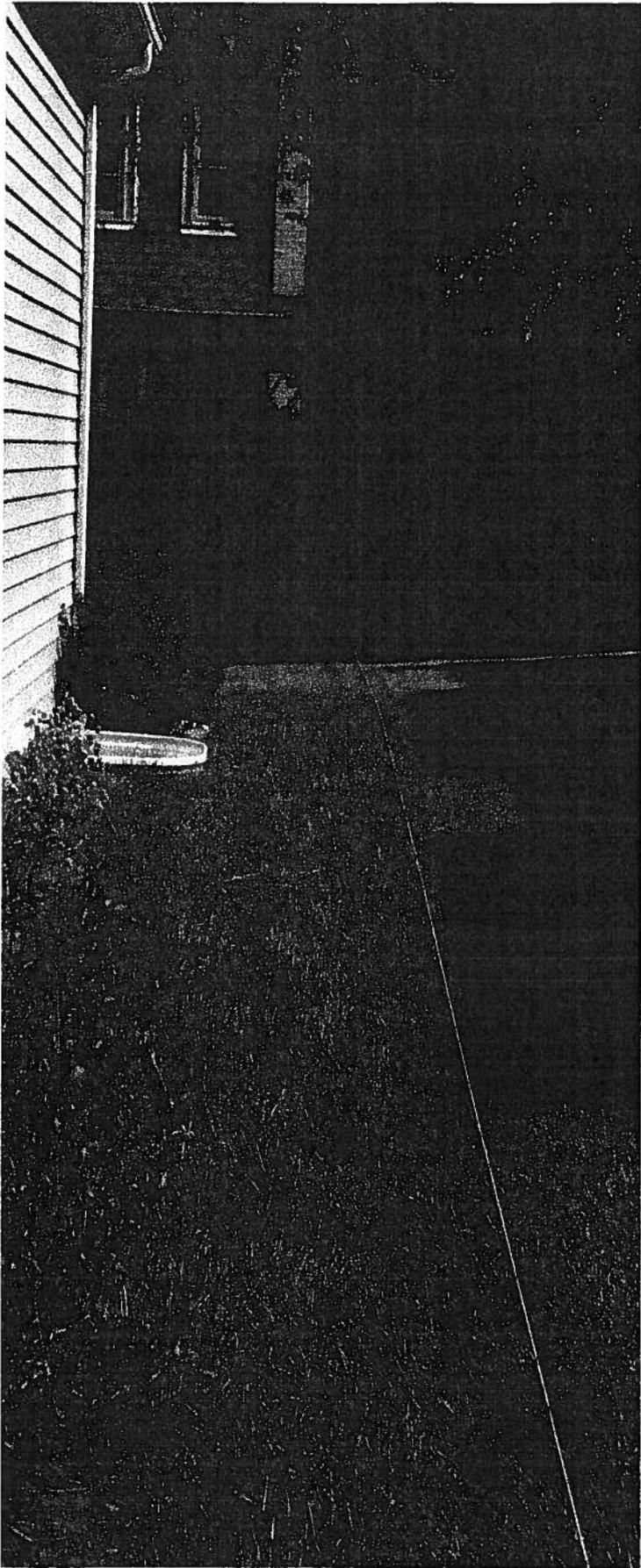
c. Dog owner not abiding by: "Make sure they wear their rabies tags for identification. Dogs and cats are required to wear their rabies tags when off their owner's property."

i. Dog seen without collar or tags as the norm

III. Owners have to contend with lack of weed control from 787 Wilson Ave property

4. Provide evidence that the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property in question or by the applicant.  
The alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant.
5. Provide evidence that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property in question is located  
The granting of this Variation will be a positive factor to the public welfare without being injurious to the 787 Wilson Ave property or improvements in the neighborhood in which the property is located. Neighbors from adjacent residences have commented on the desire for a privacy fence from the 787 Wilson Ave property.
6. Provide evidence that the proposed variation will not:
  - a. Impair an adequate supply of light and air to adjacent property;
  - b. Substantially increase the hazard from fire or other dangers to the property in question or adjacent property;
  - c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;
  - d. Diminish or impair property values within the neighborhood;
  - e. Unduly increase traffic congestion in the public streets and highway;
  - f. Create a nuisance; or
  - g. Results in an increase in public expenditures.The Variation requested is in compliance with the above requirements.
7. Provide evidence that the variation is the minimum variation that will make possible the reasonable use of the land, building or structure.  
Due to the slope of the land and the orientation of the buildings on the adjacent properties, the Variation requested is the minimum Variation that will make possible the reasonable use of land and residence.
8. Please add any comments which may assist the Zoning Board of Appeals of Appeals in reviewing this application.  
Thank you for your consideration.



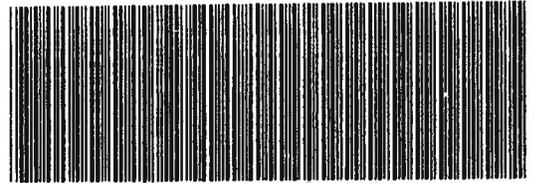


**VI. EVIDENCE RELATING TO FLOOD HAZARD VARIATION REQUESTS**

The following items must be completed only if the requested variation is from Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations.) If no such variation is being requested, the applicant should skip this section and complete Section VII below.

- A. Items applicable only to variation requested from the requirements of Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would result in a structure not being protected to the elevation of the base flood.
1. Provide evidence that the structure is to be located on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level.  
N/A
  2. Provide evidence that the applicant has acknowledged that (a) such construction below the base flood level will increase the risk to life and property and that the applicant proceeds with knowledge of these risks; and (b) any variation is contingent upon the applicant obtaining approval from other agencies having jurisdiction when the variance violates the requirements of such agencies.  
N/A
- C. Items applicable only to variations requested from the requirements in Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would significantly impede or increase the flow and passage of floodwaters.
1. Provide evidence that the use will not result in an increased flood height greater than 0.1 feet within the designated regulatory floodway.  
N/A
  2. Provide evidence that the resulting increase in the base flood elevations will not affect any existing structures or utilities.  
N/A
  3. Provide evidence that the owners of the properties affected by the increased base flood elevation are compensated for the resulting effect on property values, and they give their written agreement to granting the variation.  
N/A
  4. Provide evidence that the resulting increased flood elevations will not affect any flood protection structures.  
N/A

WARRANTY DEED  
ILLINOIS STATUTORY  
TENANCY BY THE ENTIRETY



**FRED BUCHOLZ**  
DUPAGE COUNTY RECORDER  
NOV.04,2009 RHSP 11:49 AM  
DEED 05-23-215-025  
002 PAGES R2009-166658

29052775  
1 of 2 nufse

The Grantor, MCMaster CUSTOM HOMES, LLC, an Illinois Limited Liability Company, of the Village of Lombard, County of DuPage, State of Illinois for and in consideration of TEN & 00/100 DOLLARS, and other good and valuable consideration in hand paid, CONVEYS and WARRANTS to JOSEPH A. SIMON and ROXANNE J. SIMON

(GRANTEES' ADDRESS) 1403 Pheasant Run Quincy Illinois 62305 husband and wife, not as Joint Tenants or ~~Tenants~~ in Common but as TENANTS BY THE ENTIRETY all interest in the following described Real Estate situated in the County of DuPage in the State of Illinois to wit:

Lot 5 in the Townhomes of Waters Edge, being part of the Northeast 1/4 of Section 23, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded July 12, 2005 as Document R2005-148006 in DuPage County, Illinois. ✓

**SUBJECT TO:** General real estate taxes for the year 2008 and subsequent years thereto; easements, covenants, restrictions and conditions of record, if any.

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

TO HAVE AND TO HOLD said premises as husband and wife, not as Joint Tenants or Tenants in Common but as Tenants by the Entirety forever.

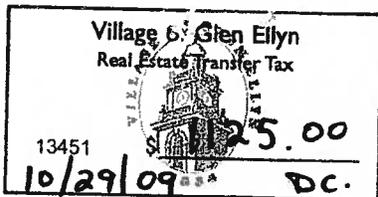
Permanent Real Estate Index Number: 05-23-215-025 ✓

Address of Real Estate: 780 Harding Avenue, Glen Ellyn, Illinois 60137 ✓

DATED this 30<sup>th</sup> day of October, 2009.

MCMaster CUSTOM HOMES, LLC

By:   
Glen McMaster, Jr., Managing Member



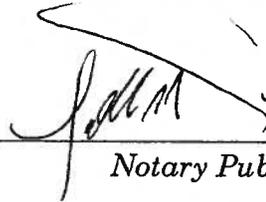
CHARGE C.T.I.C. DUPAGE

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF KANE )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY that R. GLEN MCMCASTER, JR., Managing Member of MCMCASTER CUSTOM HOMES, LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 30<sup>th</sup> day of October, 2009.



  
Notary Public

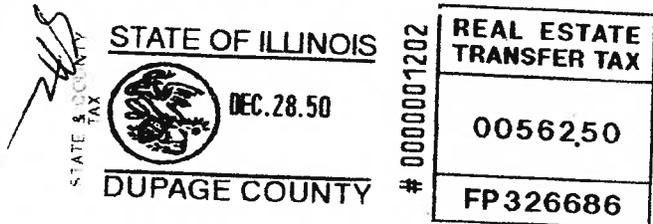
**Prepared By:** Gabrielle A. Gosselin  
Benson, Mair & Gosselin  
133 S. Batavia Avenue  
Batavia, Illinois 60510-0129

**Mail To:**

John C. Clavio  
Clavio Law Offices, P.C.  
10277 West Lincoln Highway  
Frankfort, Illinois 60423

**Name & Address of Taxpayers:**

Joseph A. Simon  
Roxanne J. Simon  
780 Harding Avenue  
Glen Ellyn, Illinois 60137



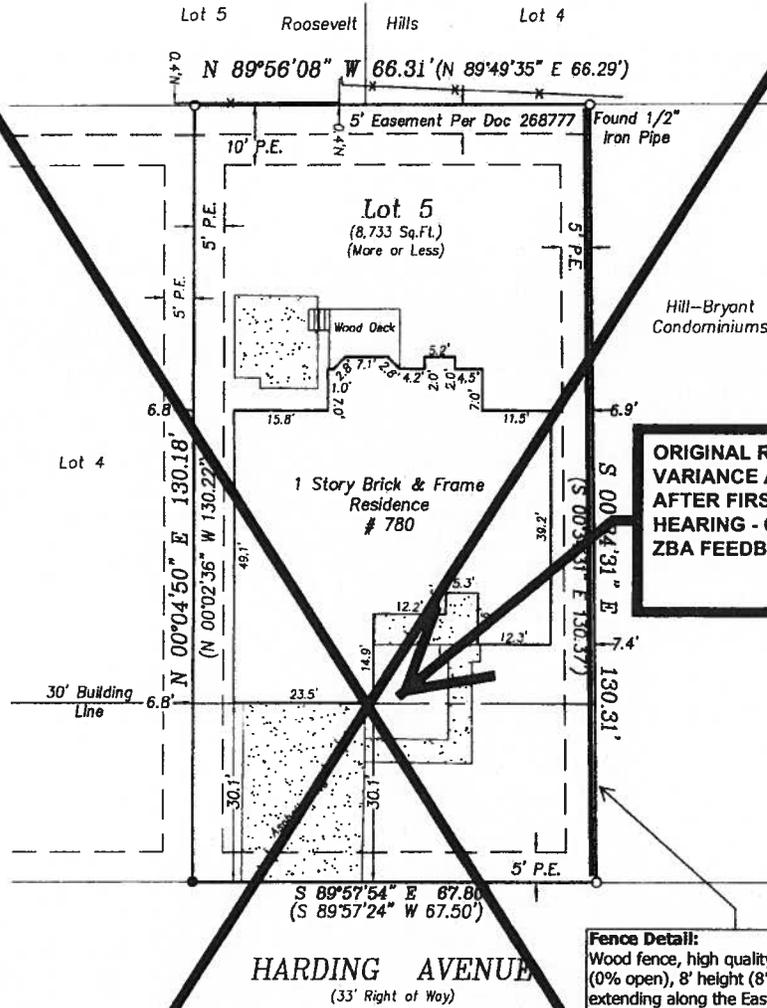




# PLAT OF SURVEY

LOT 5 IN THE TOWNHOMES OF WATERS EDGE, BEING PART OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 12, 2005 AS DOCUMENT R2005-148006, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 780 HARDING AVE. GLEN ELLYN, ILLINOIS.



**ORIGINAL REQUEST FOR VARIANCE AMENDED AFTER FIRST PUBLIC HEARING - CONSIDERED ZBA FEEDBACK**

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF KENDALL

I, MICHEL C. ENSALACO, AN ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2768, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR BOUNDARY SURVEY. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DATED AT YORKVILLE, ILLINOIS ON OCTOBER 29, 2009.

*Michel C. Ensalaco*



MICHEL C. ENSALACO P.L.S. 2768 EXP. 11/30/2010

**TOWNSHIP SURVEYING**

PROFESSIONAL LAND SURVEYING SERVICES  
SITE SURVEYING, INC  
1204 SUNSET AVENUE, SUITE E  
YORKVILLE, ILLINOIS 60550  
PHONE 630-892-1209 FAX 630-892-5544

Survey is valid only if original seal is shown in red.

SCALE 1" = 20'

○ = FOUND 1/4" DIA. IRON PIPE  
UNLESS OTHERWISE NOTED  
● = SET IRON PIPE 1/2" DIA x 24"

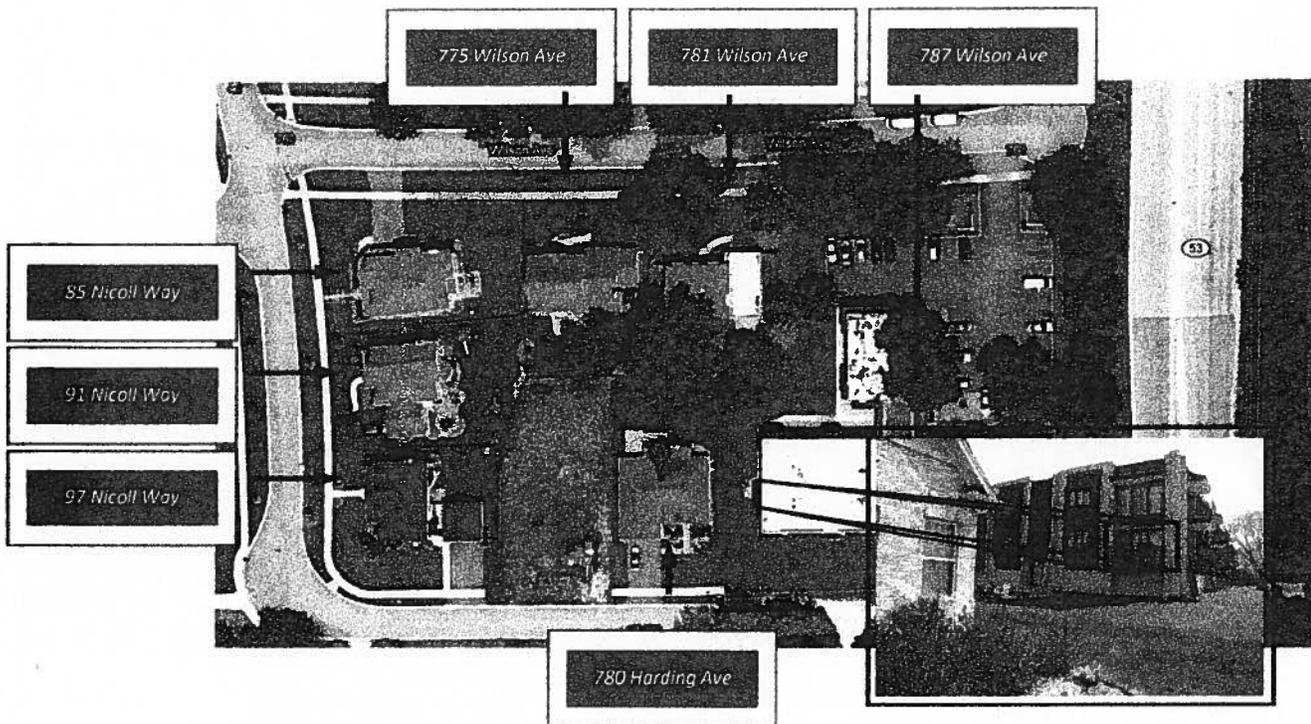
N = NORTH E = EAST  
S = SOUTH W = WEST

P.E. = PUBLIC UTILITY & DRAINAGE EASEMENT  
(XX.XX') = RECORD DISTANCE  
XX.XX' = MEASURED DISTANCE  
R = RADIUS L = ARC LENGTH  
FENCE = ————  
□ = CONCRETE/ASPHALT

Client: Person, Mah & Condon	
Book #: 2009	Page: 3
Drawn By: M.P.S.	Checked By:
Reference:	
Field Work Completed: 10/27/09	
Rev. Date:	Rev. Description:
Placed Number: 2009-0112	



# Petition Signed by Neighbors (all within 250 feet)



1. 780 Harding Avenue, Glen Ellyn, IL 60137 (Applicants)

[Signature]  
Owner #1

[Signature]  
Owner #2

June 11, 2011  
Date

2. 97 Nicoll Way, Glen Ellyn, IL 60137

[Signature]  
Owner #1

\_\_\_\_\_  
Owner #2

6/11/11  
Date

3. 91 Nicoll Way, Glen Ellyn, IL 60137

[Signature]  
Owner #1

\_\_\_\_\_  
Owner #2

6-11-11  
Date

4. 85 Nicoll Way, Glen Ellyn, IL 60137

[Signature]  
Owner #1

\_\_\_\_\_  
Owner #2

6-11-11  
Date

5. 775 Wilson Avenue, Glen Ellyn, IL 60137

[Signature]  
Owner #1

[Signature]  
Owner #2

6-11-11  
Date

6. 781 Wilson Avenue, Glen Ellyn, IL 60137

[Signature]  
Owner #1

\_\_\_\_\_  
Owner #2

6-11-11  
Date

7. 787 Wilson Avenue, Glen Ellyn, IL 60137

\_\_\_\_\_  
Owner #1

\_\_\_\_\_  
Owner #2

\_\_\_\_\_  
Date

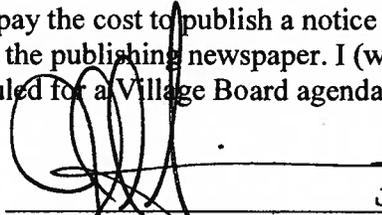
VII. CERTIFICATIONS, CONSENT AND SIGNATURE(S)

I (We) certify that all of the statements and documents submitted as part of this application are true and complete to the best of my (our) knowledge and belief.

I (We) consent to the entry in or upon the premises described in the application by any authorized official of the Village of Glen Ellyn.

I (We) certify that I (we) have carefully reviewed the Glen Ellyn Zoning Variation Request Package and applicable provisions of the Glen Ellyn Zoning Code.

I (We) consent to accept and pay the cost to publish a notice of Public Hearing as submitted on an invoice from the publishing newspaper. I (we) understand that our request will not be scheduled for a Village Board agenda until and unless this invoice is paid.

  
\_\_\_\_\_  
Joseph A. Simon

  
\_\_\_\_\_  
Roxanne J. Simon

Signature of Applicant(s)

8/8/11  
\_\_\_\_\_  
Date filed

MATERIALS INCLUDED:

<u>ITEM</u>	<u>CODE REFERENCE</u>	
1. Properly completed application	10-10-10(A)1 10-10-12(A)5	<u>  x  </u> <u>  x  </u>
2. Fee Paid	Ord. No. 1904-Z	<u>  x  </u>
3. Escrow (for Plan Commission cases)	VC – 4-1-4 (H)	<u>  N/A  </u>
4. Proof of ownership	10-10-10(B)	<u>  x  </u>
5. Current Plat of Survey + floodplain determination (in writing)	10-10-12(E) 10-6-3	<u>  x  </u> <u>  x  </u>
6. Legal description of property (may be included in No. 4)	10-10-12(A)2	<u>  x  </u>
7. A description of the proposed use and/or Variation, on a dimensioned site plan or plat, with the outline of the building(s). The site plan or plat need not be prepared by an architect or engineer. (Elevations [drawings or exterior walls] are requested).	10-10-12(A)4	<u>  x  </u>
8. Petition signed by neighbors (all within 250 feet)	Optional	<u>  x  </u>
9. Reimbursement of Fees Agreement (for Plan Commission cases)	VC – 4-1-4 (H)	<u>  N/A  </u>