

# Village of La Grange



## VILLAGE BOARD MEETING

MONDAY, SEPTEMBER 24, 2007

7:30 p.m.

BOOK 1 OF 2

Village Hall Auditorium

53 S. La Grange Road

La Grange, IL 60525

Elizabeth M. Asperger  
Village President

Robert N. Milne  
Village Clerk

VILLAGE OF LA GRANGE  
BOARD OF TRUSTEES REGULAR MEETING

Village Hall Auditorium  
53 South La Grange Road  
La Grange, IL 60525

AGENDA

Monday, September 24, 2007 – 7:30 p.m.

1. CALL TO ORDER AND ROLL CALL

*President Elizabeth Asperger  
Trustee Mike Horvath  
Trustee Mark Kuchler  
Trustee Mark Langan  
Trustee Tom Livingston  
Trustee James Palermo  
Trustee Barb Wolf*

2. PRESIDENT'S REPORT

*This is an opportunity for the Village President to report on matters of interest or concern to the Village.*

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

*This is the opportunity for members of the audience to speak about matters that are included on this Agenda.*

4. OMNIBUS AGENDA AND VOTE

*Matters on the Omnibus Agenda will be considered by a single motion and vote because they already have been considered fully by the Board at a previous meeting or have been determined to be of a routine nature. Any member of the Board of Trustees may request that an item be moved from the Omnibus Agenda to Current Business for separate consideration.*

- A. Award of Contract – Central Business District Paver Rehabilitation Project
- B. Consolidated Voucher 070827
- C. Consolidated Voucher 070910
- D. Consolidated Voucher 070924
- E. Minutes of the Village of La Grange Board of Trustees Regular Meeting, Monday, August 27, 2007

5. CURRENT BUSINESS

*This agenda item includes consideration of matters being presented to the Board of Trustees for action.*

- A. Ordinance – Variation – Maximum Building Coverage / Herb Schepel, 100 South Ashland Avenue: *Referred to Trustee Horvath*
- B. Ordinance – Variation – Required Front Yard And Maximum Building Coverage / Heather and Jeff Yuknis, 320 South Ashland Avenue: *Referred to Trustee Horvath*
- C. Ordinance – Variation – Required Front Yard / Dennis and Diane Talentowski, 108 South 7<sup>th</sup> Avenue: *Referred to Trustee Horvath*
- D. Ordinance – Amendment to Village Code / Establishing Updated Standards Relating to Disorderly Conduct and Loitering: *Referred to Trustee Langan*
- E. Ordinance – Amendment to Village Code / Establishing Standards for Construction of Utilities in Public Rights-Of-Way: *Referred to Trustee Palermo*

6. MANAGER’S REPORT

*This is an opportunity for the Village Manager to report on behalf of the Village Staff about matters of interest to the Village.*

7. PUBLIC COMMENTS REGARDING MATTERS NOT ON AGENDA

*This is an opportunity for members of the audience to speak about Village related matters that are not listed on this Agenda.*

8. EXECUTIVE SESSION

*The Board of Trustees may decide, by a roll call vote, to convene in executive session if there are matters to discuss confidentially, in accordance with the Open Meetings Act.*

- A. Closed Session – Purchase, Sale or Lease of Real Property

9. TRUSTEE COMMENTS

*The Board of Trustees may wish to comment on any matters.*

10. ADJOURNMENT

The Village of La Grange is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions, regarding the accessibility of the meeting or the Village’s facilities, should contact the Village’s ADA Coordinator at (708) 579-2315 promptly to allow the Village to make reasonable accommodations for those persons.

**OMNIBUS VOTE**

VILLAGE OF LA GRANGE  
Public Works Department

**BOARD REPORT**

TO: Village President, Village Clerk  
Board of Trustees, and Village Attorney

FROM: Robert Pilipiszyn, Village Manager  
Ken Watkins, Director of Public Works

DATE: September 24, 2007

RE: **AWARD OF CONTRACT - CENTRAL BUSINESS DISTRICT  
PAVER REHABILITATION PROJECT**

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The FY 2007-08 Village budget provides funds to reset brick paver panels in the Central Business District (CBD) which have settled over time in an uneven pattern, thus creating trip hazards for pedestrians. In order to stabilize the panels and eliminate trip hazards, the bricks will be removed and reset into a poured concrete base. Last fiscal year, approximately 6,500 square feet of paver panels were rehabilitated at a cost of \$80,600. We have budgeted \$90,000 this fiscal year to complete the remaining panels identified as being trip hazards.

To keep the project cost as low as possible, we order and supply the brick material to the contractor awarded the installation contract. At its regular meeting on August 27, the Village Board authorized the purchase of approximately 6,000 square feet of new brick pavers to complete Phase II of this rehabilitation project at a total cost of \$16,084. The brick material has since been ordered. We anticipate delivery in two weeks.

Proposals were solicited from contractors known to be capable of completing this type of work. The contractors were asked to cost-out their proposals on a unit price basis. Based on our experience last year, we also specified a unit price cost for the partial removal of the concrete base which supports the pedestrian oriented streetlight. These streetlights are typically located in the middle of the paver panel.

Below is a tabulation of the proposals received for this rehabilitation project.

<b>VENDOR/LOCATION</b>	<b>Sq. Ft. Installation</b>	<b>Per Unit Concrete Removal</b>
Midwest Brickpaving/Antioch, IL	\$10.60	\$260
Prairie Path Pavers/La Grange, IL	\$15.21	\$250
LPS Pavement/Oswego, IL	\$17.25	\$300

4-A

The low bid was submitted by Midwest Brickpaving, Inc. Because we are unfamiliar with this firm, we made a thorough check of their references. All references gave Midwest Brickpaving an above average rating with no deficiencies noted.

As noted above, we have a project budget of \$90,000 for this fiscal year. The cost of the brick material was \$16,084, leaving us a balance of \$73,916 for installation. Because the panels are not uniform in size, we estimate replacing between 45-50 paver panels.

Although there are sufficient funds allocated in the Capital Projects Fund for this expense, we estimate 20-25 paver panels that still require attention. This is a function of multi-year budget forecasting, modest inflation and panels that were in good condition at the time of inspection but have since settled or shifted due to geo-thermal expansion. Consequently, this maintenance activity will be programmed for another fiscal year.

We recommend that the Village Board award the Central Business District Paver Rehabilitation Project contract to Midwest Brickpaving Company in an amount not to exceed \$73,900.

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**VILLAGE OF LA GRANGE**

Disbursement Approval by Fund

August 27, 2007

Consolidated Voucher 070827

<u>Fund No.</u>	<u>Fund Name</u>	<u>08/27/07 Voucher</u>	<u>08/24/07 Payroll</u>	<u>Total</u>
01	General	81,997.40	222,731.55	304,728.95
21	Motor Fuel Tax			0.00
22	Foreign Fire Insurance Tax	66.93		66.93
23	TIF	4,575.27		4,575.27
24	ETSB	4,326.74		4,326.74
40	Capital Projects			0.00
50	Water	1,600.58	33,714.16	35,314.74
51	Parking	26,895.16	19,935.77	46,830.93
60	Equipment Replacement			0.00
70	Police Pension			0.00
75	Firefighters' Pension	289.50		289.50
80	Sewer	6,446.59	7,103.39	13,549.98
90	Debt Service			0.00
91	SSA 4A Debt Service			0.00
93	SAA 269			0.00
94	SAA 270			0.00
		<u>126,198.17</u>	<u>283,484.87</u>	<u>409,683.04</u>

We the undersigned Manager and Clerk of the Village of La Grange hereby certify that, to the best of our knowledge and belief, the foregoing items are true and proper charges against the Village and hereby approve their payment.

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Village Manager

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Village Clerk

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President

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Trustee

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**VILLAGE OF LA GRANGE**

Disbursement Approval by Fund

September 10, 2007

Consolidated Voucher 070910

<u>Fund No.</u>	<u>Fund Name</u>	<u>09/10/07 Voucher</u>	<u>09/07/07 Payroll</u>	<u>Total</u>
01	General	145,125.50	232,025.60	377,151.10
21	Motor Fuel Tax			0.00
22	Foreign Fire Insurance Tax	559.97		559.97
23	TIF			0.00
24	ETSB	5,051.64		5,051.64
40	Capital Projects	242,744.39		242,744.39
50	Water	15,083.16	32,532.29	47,615.45
51	Parking	5,865.44	19,962.63	25,828.07
60	Equipment Replacement	9,456.71		9,456.71
70	Police Pension			0.00
75	Firefighters' Pension			0.00
80	Sewer	11,522.12	7,233.71	18,755.83
90	Debt Service			0.00
91	SSA 4A Debt Service			0.00
93	SAA 269			0.00
94	SAA 270			0.00
		<u>435,408.93</u>	<u>291,754.23</u>	<u>727,163.16</u>

We the undersigned Manager and Clerk of the Village of La Grange hereby certify that, to the best of our knowledge and belief, the foregoing items are true and proper charges against the Village and hereby approve their payment.

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Village Manager

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Village Clerk

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President

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Trustee

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**VILLAGE OF LA GRANGE**

Disbursement Approval by Fund

September 24, 2007

Consolidated Voucher 070924

<u>Fund No.</u>	<u>Fund Name</u>	<u>09/24/07 Voucher</u>	<u>09/21/07 Payroll</u>	<u>Total</u>
01	General	80,922.44	231,079.00	312,001.44
21	Motor Fuel Tax			0.00
22	Foreign Fire Insurance Tax	729.87		729.87
23	TIF	3,979.15		3,979.15
24	ETSB			0.00
40	Capital Projects	19,999.69		19,999.69
50	Water	131,620.06	32,899.79	164,519.85
51	Parking	3,095.13	19,841.61	22,936.74
60	Equipment Replacement	34,525.28		34,525.28
70	Police Pension			0.00
75	Firefighters' Pension			0.00
80	Sewer	606.71	7,314.59	7,921.30
90	Debt Service			0.00
91	SSA 4A Debt Service			0.00
93	SAA 269			0.00
94	SAA 270			0.00
		<u>275,478.33</u>	<u>291,134.99</u>	<u>566,613.32</u>

We the undersigned Manager and Clerk of the Village of La Grange hereby certify that, to the best of our knowledge and belief, the foregoing items are true and proper charges against the Village and hereby approve their payment.

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Village Manager

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Village Clerk

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President

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MINUTES

VILLAGE OF LA GRANGE  
BOARD OF TRUSTEES REGULAR MEETING  
Village Hall Auditorium  
53 South La Grange Road  
La Grange, IL 60525

Monday, August 27, 2007 - 7:30 p.m.

1. CALL TO ORDER AND ROLL CALL

The Board of Trustees of the Village of La Grange regular meeting was called to order at 7:30 p.m. by President Asperger. On roll call, as read by Village Clerk Robert Milne, the following were present:

PRESENT: Trustees Horvath, Kuchler, Langan, Livingston, Palermo and Wolf with President Asperger presiding.

ABSENT: None

OTHERS: Village Manager Robert Pilipiszyn  
Assistant Village Manager Andrianna Peterson  
Village Attorney Mark Burkland  
Community Development Director Patrick Benjamin  
Assistant Community Development Director Angela Mesaros  
Finance Director Lou Cipparrone  
Public Works Director Ken Watkins  
Assistant Public Works Director Mike Bojovic  
Police Chief Mike Holub  
Fire Chief David Fleege  
Doings Reporter Ken Knutson  
Suburban Life Reporter Joe Sinopoli

2. PRESIDENT'S REPORT

President Asperger extended a thank you to staff for their outstanding performance during the recent weather related storms. Recognition was given to Ken Watkins and Mike Bojovic in the Department of Public Works for their response in helping Village residents and those in surrounding communities. Village Forester Don Wachter was also recognized for responding to numerous citizen inquires concerning cicadas and itch mites.

4-E

Special thanks were given to the La Grange Business Association for their summer festivals along with the La Grange Garden Club for their beautification efforts throughout the Village.

President Asperger commented on the decision made by the Park District to sell real estate explaining that the Park District is its own entity and is governed by the Park District Board. Clarification was given as to the Village's role in evaluating the proposed development and land use aspects scheduled for review by the Plan Commission on Tuesday, September 11 at 7:30 in the Village Hall Auditorium. President Asperger encouraged the public to attend and participate.

Response to the refuse collection solid waste survey has been excellent with over 1,200 surveys returned the majority in favor of the current volume based program. The Environmental Quality Control Commission has noted its support for the current program which encourages recycling. Staff has been directed to proceed with contract renewals with Allied Waste, to reach an agreement to be presented to the Village Board for consideration at a future Village Board meeting.

The La Grange Area Department of Special Education is celebrating 50 years of serving students with disabilities and is extending an invitation to residents to participate in a fundraiser anniversary dinner to be held at the La Grange Country Club on October 17.

A. Recognition – Former Village President Thomas F. Brown

President Asperger posthumously recognized former Village President Thomas F. Brown for his dedication and service as a Village Trustee from 1968 to 1973 and as Village President from 1973 to 1977. Helen Sauer Brown, Tom's wife and numerous members of his family were present to receive a plaque honoring his memory.

B. Proclamation – Community Diversity Group 16<sup>th</sup> Annual Race Unity

President Asperger proclaimed Sunday, September 9, 2007 as Race Unity Day and indicated that the 16<sup>th</sup> Annual Rally would be held in the Village Hall Auditorium beginning at 3:00 p.m. President Asperger noted this as an annual event for all to gather and celebrate diversity in the community. Trustee Langan moved to approve the Proclamation, seconded by Trustee Livingston. Approved by unanimous voice vote.

C. Appointment – Zoning Board of Appeals

President Asperger submitted the appointment of Rose Naseef to serve on the Zoning Board of Appeals for a term to expire in 2009. Trustee Langan moved to approve the appointments, seconded by Trustee Livingston. Approved by unanimous voice vote.

4-E.1

D. Appointments – Economic Development Advisory Committee

President Asperger submitted the reappointment of Taylor Jaeger and Roger Laven, to serve on the Economic Development Advisory Committee for a term to expire in 2008; Steve Palmer for a term to expire in 2009; and new appointment of Jeff Nowak and Peter O'Connor for a term to expire in 2010. Trustee Langan moved to approve the appointments, seconded by Trustee Horvath. Approved by unanimous voice vote.

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

Geoff Neustadt expressed his gratitude on behalf of his entire family for honoring former Village President Tom Brown.

Marie Blankenship, 141 N. La Grange Road expressed concerns relevant to a code of ethics ruling in respect to the dealings with the Rich Port YMCA and the Park District officials. President Asperger suggested a telephone conversation with the Village Manager and Village Attorney to explain and clarify any ethics concerns and questions she may have.

Ms. Blankenship also indicated her belief that the intent of the Comprehensive Plan is to maintain green space. President Asperger noted that issues related to real estate owned by the Park District are not under the jurisdiction of the Village Board.

Tim Trompeter, 318 S. Ashland indicated he represents Steven and Barbara Wolf in regards to their request for a variation of maximum building coverage and would be available to answer any questions.

Pastor Debra Williams referenced the proclamation for race unity and requested future validation on the progress of diversity throughout the year. President Asperger responded that Village wide activities are shared for the good of the entire community.

Jim Walls, 217 S. Ashland as a neighbour of Steven and Barbara Wolf noted his approval of their request for a variation of maximum building coverage.

4. OMNIBUS AGENDA AND VOTE

- A. Ordinance (#O-07-22)– Variation – Rear Yard / Eric and Christine Wiiken, 56 N. Waiola Avenue
- B. Ordinance (#O-07-23) – Special Use / Site Plan Approval to Allow Personal Training – Physical Fitness Facility in the C-1 Central Commercial District, 26 S. La Grange Road (Lower Level), Peak Performance, LLC
- C. Purchase – Public Works Department – Replacement of Brush Chipper (Vermeer Midwest, Aurora, Illinois \$31,000)

4-E.2

- D. Award of Contract – Water System Leak Detection Survey (ME Simpson, Valparaiso, Indiana \$11,840)
- E. Purchase – Materials / Central Business District Paver Rehabilitation Project (Unilock Paver, Aurora, Illinois \$16,084)
- F. Purchase – Conversion / Upgrade of Existing Holmatro Rescue Extrication Equipment (Environmental Safety Group, Bolingbrook, Illinois \$10,556.50)
- G. Award of Contract – Cossitt Avenue Streetlight Installation Project (Meade Electric, Mc Cook, Illinois \$11,370.87)
- H. Ordinance (#O-07-24) – Disposal of Surplus Property
- I. Consolidated Voucher 070723 - \$995,263.16
- J. Consolidated Voucher 070813 - \$1,419,601.10
- K. Minutes of the Village of La Grange Board of Trustees Regular Meeting, Monday, July 9, 2007

It was moved by Trustee Langan to approve items A, B, C, D, E, F, G, H, I, J and K of the Omnibus, seconded by Trustee Horvath. Approved by roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo, Wolf and President Asperger  
Nays: None  
Absent: None

5. CURRENT BUSINESS

- A. Special Event – La Grange Business Association West End Art Festival / Elephants Under The Big Top: Referred to Trustee Livingston

Trustee Livingston stated that the Village has received a request from the La Grange Business Association to conduct the 12<sup>th</sup> annual “West End Art Festival” which will begin with “Elephants Under the Big Top” on September 7, 8 and 9, 2007.

Trustee Livingston explained that it is necessary for the Village to formally approve the temporary closure of Burlington Avenue and portions of Stone and Waiola Avenues for the outdoor display and to waive restrictions for the outdoor display and sale of goods and services in the C-2 Zoning District.

It was moved by Trustee Livingston that the Village Board authorize the La Grange Business Association to utilize Burlington Avenue from Waiola Avenue

4-E.3

to Brainard Avenue for “Elephants Under the Big Top” and the “West End Art Festival” on September 7, 8 and 9, 2007; that restrictions prohibiting outdoor display and sale of goods and services be waived in conjunction with this event; and that all conditions be satisfied, seconded by Trustee Langan. Approved by roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo, Wolf and President Asperger  
Nays: None  
Absent: None

- B. Ordinance (#O-07-25) – An Amendment to the Agreement for the Demolition of the Professional Office Building – 5101 South Willow Springs Road, La Grange Memorial Hospital: Referred to Trustee Horvath

Trustee Horvath summarized the history relevant to the Village entering into an agreement with Adventist Health System, Inc., the entity which owns La Grange Memorial Hospital and the terms for the demolition of the professional office building. Trustee Horvath explained several changes relevant to the sequence of events for the relocation of physicians and dentists in order to proceed with the demolition as was implemented in the planned unit development amendment previously approved by the Board.

Trustee Horvath noted that Ed Gervain, Chief Operating Officer of the La Grange Memorial Hospital is in attendance to answer any questions the Board may have.

Trustee Horvath moved to approve the ordinance amending the demolition agreement for the professional office building dated June 6, 2003, to reflect a new timetable with all other aspects of the Ordinance adopted in March 2003 to remain, seconded by Trustee Wolf.

Approved by a roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo and Wolf  
Nays: None  
Absent: None

- C. Ordinance (#O-07-26) Maximum Lot Coverage – Single Family Zoning Districts: Referred to Trustee Langan

Trustee Langan explained that on July 9, 2007 the Village Board determined a need for further clarification and discussion regarding maximum lot coverage requirements in order to explore analysis relating to incentives for detached garages and front porches. Trustee Langan noted that information was provided to the Village Board in a Memorandum on August 9, 2007. Trustee Langan

4-E.4

explained that the Plan Commission had unanimously voted to recommend 45% lot coverage with allowances.

It was moved by Trustee Langan to approve the ordinance adopting maximum lot coverage of 45% in all residential districts with allowances for detached garages and front porches in the R-3, R-4 and R-5 zoning districts, seconded by Trustee Livingston.

Discussion ensued. Trustees concurred that the additional information provided by staff and extra time to review was beneficial and clarified their concerns. Approved by roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo and Wolf  
Nays: None  
Absent: None

D. Ordinance – Variation Maximum Building Coverage / Steven and Barbara Wolf, 213 S. Ashland Avenue: Referred to Trustee Horvath

Trustee Wolf stated that she would recuse herself from this item, due to her ownership of this property and exited from the meeting.

Trustee Horvath noted that the variation for maximum building coverage for Barbara and Steven Wolf was denied by the Zoning Board of Appeals with three ayes and three nays, at least four ayes are required to decide in favor of any application.

Trustee Horvath discussed the fact that Zoning Board members determined this application did not show a particular hardship, the application did not satisfy the standards of a variation and therefore, the Zoning Board felt that they must uphold the intent of the Zoning Code.

Trustee Horvath stated that in accordance with State Statute, the approval of any proposed variation which fails to receive the approval of the Board of Appeals will not be passed except by the favorable vote of two-thirds majority vote by roll call of all Trustees (four out of six Trustees) currently holding office.

Trustee Horvath believes it is a reasonable request and noted his favor for this variation. Trustee Horvath feels this project does meet the standard for minimum variation and the design is compatible with the neighbourhood.

It was moved by Trustee Horvath to approve the ordinance for a variation of maximum building coverage for Steven and Barbara Wolf at 213 South Ashland Avenue, seconded by Trustee Palermo.

4-E15

As a newly elected member of the Village Board, Trustee Kuchler feels he should support the Zoning Board of Appeals decision to deny the request for a variation.

Trustee Palermo expressed his favor for the variation and believes it would improve the functionality of the house.

Trustee Livingston believes the request for a variation meets the minimum standard and should be approved.

Trustee Langan supports the rulings of the Zoning Board of Appeals to deny the variation.

President Asperger noted it had been moved and seconded to approve the variation and explained that a yes vote would be to approve the ordinance authorizing the variation and a no vote would be to concur with the recommendation of the Zoning Board of Appeals to deny the request for a variation. Motion to approve the variation fails by a 3 to 2 vote.

Ayes:	Trustees Horvath, Livingston, and Palermo
Nays:	Trustees Kuchler and Langan
Absent:	None
Recuse:	Trustee Wolf

#### 6. MANAGER'S REPORT

Village Manager Robert Pilipiszyn announced that the Village has been notified by the Des Plaines Valley Mosquito Abatement District that they will be spraying as an additional means to control adult mosquito populations.

Manager Pilipiszyn stated that due to the recent weather related storms the Public Works Department will provide continuous pick-up of branches and storm debris in conjunction with the regular monthly brush pick-up for the next two weeks.

With the school year beginning, Manager Pilipiszyn reminded residents to drive safely using special caution in and around schools within the Ogden Avenue corridor due to the resurfacing project.

Manager Pilipiszyn shared findings and recommendations which had been previewed with the Village Board on drainage requirements and enforcement. The preliminary review process for new single family homes and large additions will also include elevations of adjacent properties and a site visit will be performed prior to issuing a permit. These changes will help to explore neighborhood drainage issues and provide opportunities to resolve them at the builder's expense. The review process and follow-up on drainage issues will encompass the Village Engineer, Village staff and the builder.

4-E.6

Transitioning the use of "Flow-Wells," which provide for the slow release of detained water, will be implemented and evaluated for effectiveness. Expanding engineering inspectional services will be determined and the applicant to incur the additional cost.

Village Manager Pilipiszyn added that a similar review of construction site management is being conducted by staff and a report is expected to be presented to the Village Board in the near future.

Trustee Horvath requested an update on an analysis of school safety and Manager Pilipiszyn indicated that while still under review many enhancements have been implemented or are in progress including, but not limited to refreshed pavement markings; the establishment of a 20 mile per hour school speed zone in the Ogden Avenue Corridor; and grant application status for pedestrian crossing signal visual displays.

7. PUBLIC COMMENTS REGARDING MATTERS NOT ON AGENDA

Steve Palmer, Palmer Place Restaurant thanked the Village Board for memorializing Tom Brown noting he was a hero who earned the title honorable. Mr. Palmer inquired if a memorial plaque could be exhibited in the Village Hall. President Asperger indicated that the Village has numerous residents who have dedicated their time and talents and it may be difficult not to inadvertently omit someone.

Carrie Prystalski, 517 S. 10<sup>th</sup> Avenue expressed concerns related to itch mites and suggested methods of control. President Asperger explained that Cook County is researching the subject and the Village will proceed under their direction.

Marie Blankenship, 141 N. La Grange Road noted her concerns related to drainage in the commercial district as it relates to the redevelopment of the Rich Port YMCA. President Asperger explained that staff and engineers will critically review all drainage issues and encouraged residents to participate in the Plan Commission process.

Tim Trompeter, 318 S. Ashland requested clarification regarding the percentage of building coverage related to the Wolf variation and Village Manager Pilipiszyn responded.

President Asperger noted receipt of residential complaints and inconvenience related to the construction of the new La Grange Public Library. President Asperger stated that the Village has attempted to work with the Library Board to resolve these issues.

8. EXECUTIVE SESSION

9. TRUSTEE COMMENTS

Trustee Palermo thanked residents who have volunteered to serve on various boards and commissions. Trustee Palermo believes additional communication should be provided to

4-E.7

allow any resident who may be interested in serving. President Asperger concurred however indicated that La Grange is very fortunate in that residents step up to volunteer and do not have to be solicited.

Trustee Kuchler encouraged school safety and requested residents to report any deficiencies.

Trustee Langan requested Village Attorney Burkland to offer advice relating to potential conflicts of interest and disclosure. Attorney Burkland responded that Village staff consult with Holland and Knight LLP and are very diligent in remaining impartial and without bias. Attorney Burkland offered to prepare guidelines for reference.

Trustee Horvath commented on the need to address building coverage in order to preserve the historic homes. President Asperger suggested a future workshop session would be in order.

10. ADJOURNMENT

At 9:20 p.m. it was moved by Trustee Langan and seconded by Trustee Horvath that the Village Board adjourn. Motion carried by unanimous voice vote.

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Elizabeth M. Asperger, Village President

ATTEST:

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Robert N. Milne, Village Clerk

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Approved Date

4-E.8

**CURRENT BUSINESS**

VILLAGE OF LA GRANGE  
Community Development Department

**BOARD REPORT**

TO: Village President, Village Clerk  
Board of Trustees and Village Attorney

FROM: Robert Pilipiszyn, Village Manager  
Patrick D. Benjamin, Community Development Director  
Angela M. Mesaros, Assistant Community Development Director

DATE: September 24, 2007

RE: **ORDINANCE - VARIATION - MAXIMUM BUILDING COVERAGE /HERB SCHEPEL, 100 SOUTH ASHLAND**

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Herb Schepel, owner of the property at 100 South Ashland Avenue, has applied for a variation from maximum building coverage requirements to replace an existing one-car detached garage with a new 23 ft. by 19 ft. (437 sq. ft.) two-car detached garage. The subject property is located on a corner lot in the R-4 Single Family Residential District. The property in question is 62 ft. wide by 124 ft. deep, which is larger than typical residential lots that measure 50 ft. wide.

Maximum Building Coverage for this property is 35% (2,701.65 square feet). Construction of the proposed detached garage would increase building coverage to 2,749.56 sq. ft. or 35.6%. With the proposed garage, the property would exceed the Maximum Building Coverage by 2%. The Zoning Code allows the increase of the building coverage by no more than 20%. The requested variation falls within the authorized limits of the Zoning Code.

In 2003, the petitioner constructed an addition to the property. The addition was designed to allow adequate square footage to construct a two-car detached garage. However, the survey used at that time incorrectly indicated that the subject lot was 64 feet wide. When a new plat of survey was prepared for construction of the garage, it revealed that the lot is actually only 62 feet wide (two feet narrower). On the smaller lot, the proposed garage exceeds maximum building coverage standards.

Staff has reviewed the land use and Sidwell maps for this property. Both maps show the petitioner's property and all other lots from Kensington to La Grange Road along the south side of Cossitt Avenue as 64 ft. wide. We think that the incorrect plat of survey could have been based on these maps instead of field measurements.

On August 16, 2007, the Zoning Board of Appeals held a public hearing on this matter and voted unanimously, five (5) ayes and zero (0) nays with one (1) Commissioner absent, to recommend that the variation be granted for a detached garage.

5-A

In the past, the Village has granted variations for two-car garages that are a maximum of 440 square feet as the minimum variation of zoning requirements necessary. Commissioners unanimously recommended approval of the two-car garage, because this lot satisfies the standards for unique physical condition, was not self created and the proposed garage meets the minimum size based on today's standards and previous variation cases.

Staff has prepared the attached ordinance authorizing the variation for your consideration.

5-A.1

ORDINANCE NO. O-07-

AN ORDINANCE ALLOWING ZONING VARIATION  
OF THE VILLAGE OF LA GRANGE

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook, State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, Herb Schepel, owner of the property commonly known as 100 South Ashland, La Grange, Illinois, and legally described as follows:

Lot 1 in Block 15 in La Grange, a Subdivision of the East ½ of the Southwest ¼ and part of the Northwest ¼, lying South of the Chicago, Burlington and Quincy Railroad in Section 4, Township 38 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

has applied for variation from Paragraph 3-110E1 (Maximum Building Coverage) of Chapter 154 of the La Grange Code of Ordinances in order to construct a detached garage on the above referenced property. The Zoning Board of Appeals, as required by law, has conducted a duly noticed public hearing on this matter on August 16, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1: A variation of 2% from Paragraph 3-110E1 (Maximum Building Coverage) of Chapter 154 of the La Grange Code of Ordinances, to construct a 19 ft. by 23 ft. detached garage, be hereby granted to the owner of the above-referenced property in conformance with the plans submitted to the Zoning Board of Appeals.

SECTION 2: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

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

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

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

5-A.2

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, VILLAGE PRESIDENT

ATTEST:

\_\_\_\_\_  
Robert N. Milne, VILLAGE CLERK

5-A.3

**FINDINGS OF FACT**

ZONING BOARD OF APPEALS  
OF THE  
VILLAGE OF LA GRANGE

President Asperger and  
Board of Trustees

August 16, 2007

**RE: ZONING CASE #557: VARIATION – Herb Schepel – 100 S. Ashland, to consider a zoning variation from Paragraph 3-110E1 (Maximum Building Coverage) to authorize the construction of a detached garage within the R-4 Single Family Residential District.**

The Zoning Board of Appeals transmits for your consideration its recommendations for a request of zoning variation necessary to construct a detached garage on the property at 100 South Ashland Avenue.

**I. THE SUBJECT PROPERTY:**

The property in question is a single family residential lot with a 62 foot width and a depth of approximately 124 ft.

**II. CHARACTERISTICS OF THE SURROUNDING AREA:**

The subject property is located in the R-4 Single Family Residential District.

**III. VARIATIONS SOUGHT:**

The applicant desires a variation from Paragraph 3-110E1 (Maximum Building Coverage) of the La Grange Zoning Code. The applicant wishes to exceed the allowable building coverage by 2%. At the public hearing, the applicant requested a variation to allow for the construction of a detached garage at the subject property. Subparagraph 14-303E1(c) (Authorized Variations) allows the increase of the maximum allowable building coverage by no more than 20%. The requested variation falls within the authorized limits of the zoning code.

**IV. THE PUBLIC HEARING:**

After due notice, as is required by law, (including legal publication, posting at the subject property and courtesy notices to owners within 250 feet of the subject property) the Zoning Board of Appeals held a public hearing on the proposed variation in the La Grange Village Hall Auditorium on August 16, 2007. Present were Commissioners Nancy Pierson, Charles Benson, Jr., Nathaniel Pappalardo, (arrived 7:40 p.m.), Kathy Schwappach and Chairperson Ellen Brewin presiding. Also present was Staff Liaison, Angela Mesaros and Village Board Trustee James Palermo. Testimony was given under

5-A.4

oath by the applicants. No objectors appeared at the hearing and no written objections have been filed to the proposed variation.

Chairperson Brewin swore in Herb Schepel, owner of the subject property, 100 South Ashland Avenue, and Tim Trompeter, Architect, 318 South Ashland, who presented the application and answered questions from the Commissioners:

- Mr. Schepel stated that the hardship is that he cannot build a two car garage because his property exceeds maximum building coverage. The addition, designed in 2003, was based on a plat of survey that was incorrect. A new survey for the new garage revealed that the lot is actually smaller. When he planned the addition, he set aside enough square footage for the new garage based on the larger lot.
- Most homes in La Grange have a two car garage.
- The two car garage design was based on the most recent survey at that time.
- The plat survey was beyond anyone's control except the survey company.
- It is a necessity to park two cars in a garage with the harsh winters. The garage size proposed is small, 437 square feet, which is the minimum size. Mr. Schepel submitted Exhibit A, a picture and diagram, to show the garage design matches the house and the neighborhood character.
- Mr. Schepel submitted Exhibit B, which is a petition from his neighbors in support of the application.

Chairperson Brewin solicited questions from the Commissioners:

- Commissioner Pierson asked why he did not get a new survey with the addition and did with the garage. Answer: The survey has to be current for building permits. When they applied for the addition, their survey was current because they had not done any work previously. However, with the new addition, the survey would not have been current for the garage application.
- Chairperson Brewin asked why the garage needed the extra twenty-three feet length when a typical garage is twenty-two feet long. Answer: The garage is only nineteen feet wide in order to keep the setback between the house and the garage at ten feet and therefore, they need the additional one foot depth for adequate storage.

5-A.5

- Commissioner Pierson asked about the space between the garage and house where there is pavement. Answer: This will become pavers or green space.
- Commissioner Pierson asked about the second story. Answer: The height is for architectural reasons and the space will be used for storage.

Chairperson Brewin solicited questions and comments from the audience:

- Thomas Piette, 209 West Cossitt Avenue, stated that he faces the northern section of the house almost directly across the street. He is in support of this application and feels that it is in keeping with the neighborhood.
- Jack Serrano, 104 South Ashland, lives next door to the project to the south, stated that he agrees that this variation should be approved. The garage will improve the aesthetics on the north side of the house.
- Patricia Walker, 64 South Ashland, directly across the street, stated that she welcomes this proposed garage.

*Under the provisions of the Zoning Ordinance, no variation shall be granted unless the applicant establishes that carrying out the strict letter of the provisions of this code would create a particular hardship or practical difficulty. Such a showing shall require proof that the variation sought satisfies certain conditions. The following facts were found to be evident:*

1. Unique Physical Condition:

This zoning lot is somewhat larger than typical lots in the R-4 Single Family Zoning District. The lot measures approximately 62 feet wide by 124.28 feet deep (7,719 sq. ft.). Typical lots measure 50 ft. wide.

2. Not Self-Created:

In 2003, the petitioner constructed an addition to the property. At that time, the petitioner had designed the addition to allow adequate square footage to construct a two-car garage in the future. However, the size of the addition was based on an incorrect survey, which indicated that the property was 64 ft. wide. When the new survey was drawn, the petitioner learned that the lot measures approximately 62 ft. wide, (two feet narrower). On the smaller lot, a two car garage would exceed allowable building coverage.

5-A.6

3. Denied Substantial Rights:

The petitioner wishes to enjoy the same rights as the neighbors and other village residents. A two-car garage is a right enjoyed by many residents in La Grange for automobiles and storage. Also, the Zoning Code requires a minimum of two parking spaces for each single family residence.

4. Not Merely Special Privilege:

The petitioner is asking for a 19 ft. by 23 ft. (437 sq. ft.) two car detached garage. The proposed garage would be smaller than the maximum allowable gross floor area, 484 square feet, for a garage on a smaller/standard zoning lot. On lots similar in size to the subject property, a 600 sq. ft. three car garage would be permitted.

5. Code and Plan Purposes:

The Zoning Code requires two parking spaces for each single family residence, and the Village does not allow overnight parking on the street. Therefore, the requested variation would allow a detached garage in which to park two vehicles.

6. Essential Character of the Area:

This home is located within the Historic District of the Village, and the petitioner believes that the requested variations would not adversely affect the character of the neighborhood.

7. No Other Remedy:

Currently, the property has two parking spaces; one in the garage and another uncovered, paved parking area in front of the garage. According to the petitioner, a variation is the only possible course of action to park two vehicles in an enclosed structure on the lot. One remedy would be to construct a carport. However, this option would not meet the maximum allowable building coverage requirements.

**V. FINDINGS AND RECOMMENDATION:**

- Chairperson Brewin stated that the surveyor is somewhat like the owner's agent. These types of mistakes are in no way within the purview of the Village. She does not know if the State Statute gives the Zoning Board the authority to interfere.

5-A.7

- Chairperson Brewin further stated that the applicant has a legal remedy against the surveyor under State law. Mr. Trompeter stated that the homeowner takes the information from the surveyor in good faith and it is beyond the capability of the homeowner to question and to do field measurements. Mr. Schepel stated that there is no remedy from the surveyor that would allow him to construct a two car garage.
- Commissioner Pappalardo stated that the two feet is also missing from the adjacent lot in the Sidwell maps. He is not sure where that two feet was lost.
- Commissioner Benson stated that maybe the surveyor based the plat of survey on the Sidwell map. The corresponding lots on the Sidwell maps are all sixty four feet wide as well. It could have been that the Village had something to do with this.
- Commissioner Pappalardo stated that the proposed garage is in a location that matches all others in the area and that the building coverage question is only related to the garage area. He feels that this is compatible with the area.
- Commissioner Pappalardo stated that this is an unusual condition. Somehow, two feet was lost, perhaps into the Cossitt right of way. It is an unfortunate circumstance, but it has led to a hardship. At one time, sixty-four feet was the width of the lot. It was considered a sixty-four foot lot and so de facto, the lot should be sixty-four feet and then there would be no need for a variation.
- Chairperson Brewin stated that she had not thought about this issue in those terms and that given this information that is a unique situation.
- Commissioner Pappalardo stated that the requested variation is not a large area. It is the equivalent of seven feet by seven feet.

There being no further questions or comments from the audience or the Commissioners, a motion was made by Commissioner Benson and seconded by Commissioner Pappalardo that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the application submitted with ZBA Case #557.

Motion Carried by a roll call vote (5/0/0).

AYE: Pappalardo, Benson, Pierson, Schwappach and Brewin  
NAY: None.  
ABSENT: Brenson.

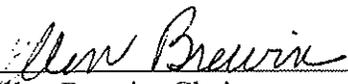
5-14.8

FF – ZBA Case #557  
100 South Ashland Avenue  
Variation – Maximum Building Coverage  
August 16, 2007 – Page 6

BE IT THEREFORE RESOLVED that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the variation from Paragraph 3-110E1 (Maximum Building Coverage) to allow construction of a detached garage at 100 South Ashland.

Respectfully submitted:

Zoning Board of Appeals of the  
Village of La Grange

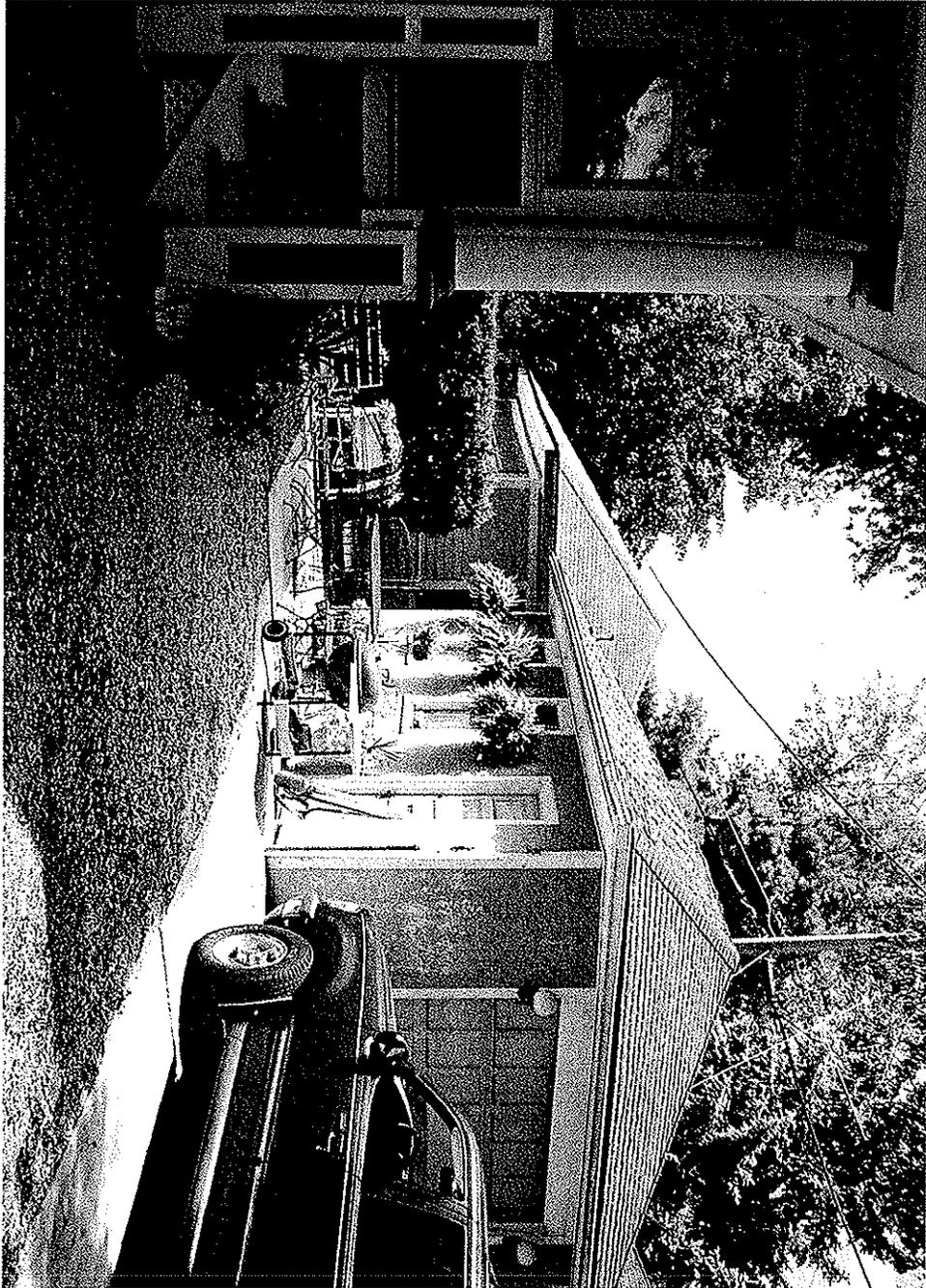
BY:   
Ellen Brewin, Chairperson

5-A.9

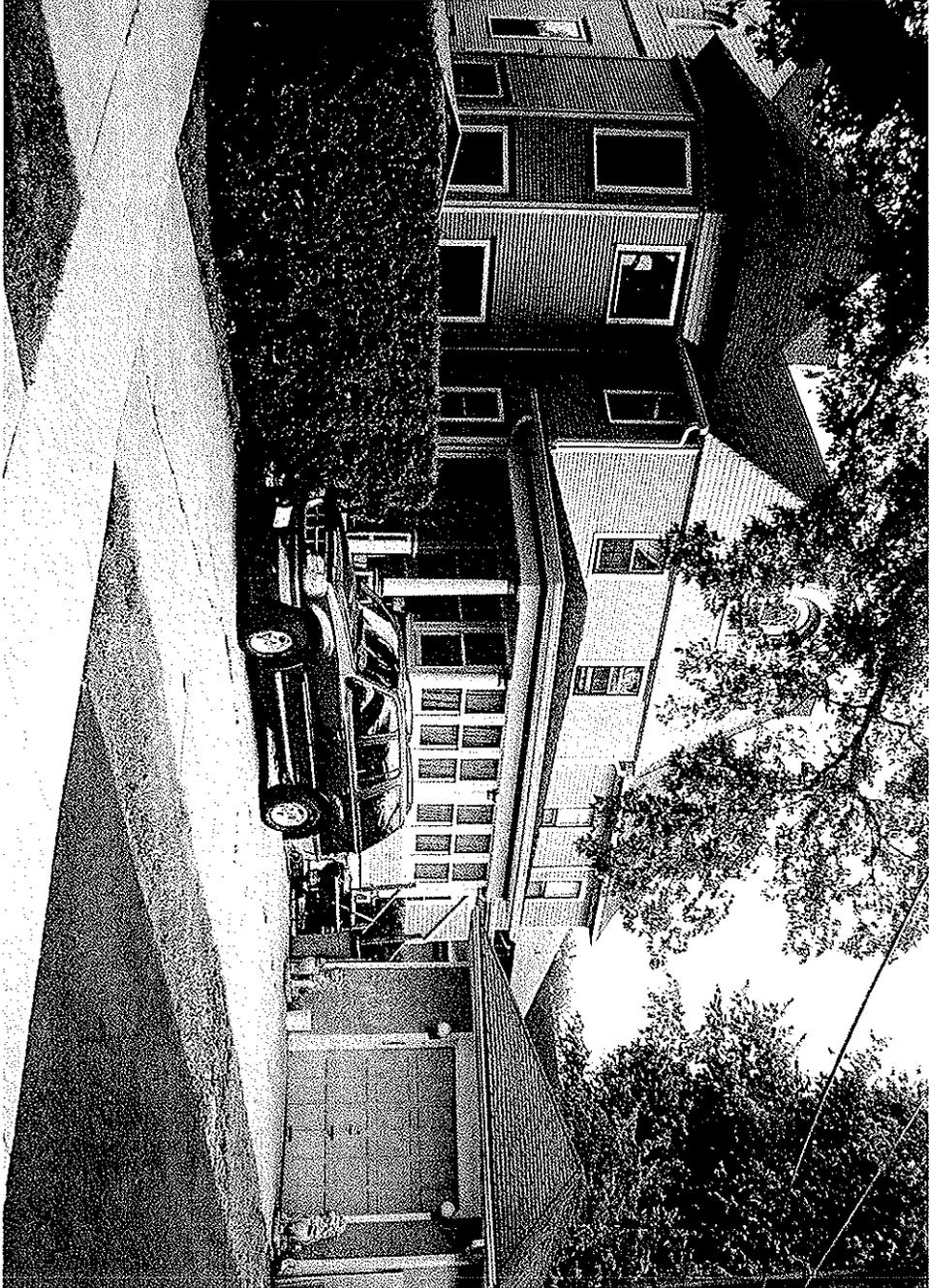
Exhibit A  
8-16-07  
ZBA #557



5-A.10



5-A.11

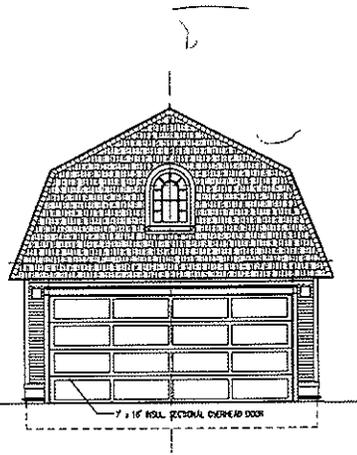


5-A.12



5-A.13

EXHIBIT A  
8-16-07  
ZBA #557

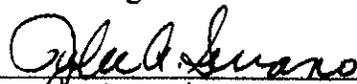
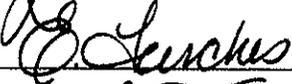
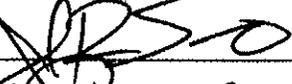
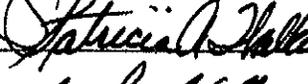
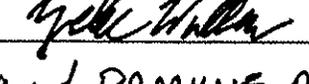
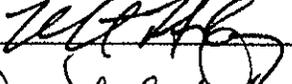
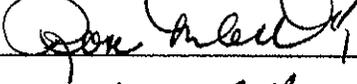
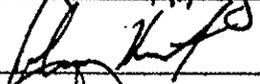
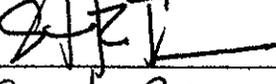
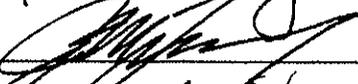


NORTH ELEVATION  
VF - 1-2

5-A.14

## Ex. B.

As neighbors of the property at 100 S Ashland Ave, La Grange, IL, we have reviewed the proposed garage plans. We are in agreement with and have no objection to the request for a variance to exceed allowable building lot coverage by 0.62%.

Name	Address	Signature	Date
Julie Serrano	104 S. Ashland		8/12/07
ERIKA TURCKES	110 S. ASHLAND		8.12.07
JACK SERRANO	104 S. ASHLAND		8/12/07
Patricia Walker	64 So. Ashland		8/12/07
Yoko Walker	64 So. ASHLAND		8/12/07
Ramune Rita Kelecius	117 S. Ashland	RAMUNE RITA KELECIUS	8/12/07
ROBERT L. ASHBY	121 S. ASHLAND		8/12/07
Rose Ashby	121 S. Ashland		8/12/07
Beth Vymyslicky	118 S. Ashland	B. Vymyslicky	8-12-07
Debbie Baumgardner	301 W. Cossitt	LA Grange	8-12-07
Cliff Adley	103 S. Kensington - LaGrange		8/12/07
Marsha Kurtz	105 S. Catherine Ave	Marsha Kurtz	8/12/07
John Kurtz	105 S. Catherine Ave		8-12-07
THOMAS PIETZ	209 W. Cossitt Ave		8/12/2007
PATRICK DEANE	101 So Catherine Ave	Patrick Deane	8/13/2007
STEVEN TRUCKES	118 S. ASHLAND AVE		8/13/2007
Caroleyn Rodgers	119 S. Ashland Ave	Caroleyn Rodgers	8/13/07
MARIN RODGERS	119 S. ASHLAND AVE	Marilyn Rodgers	8/13/07
Jim McIVERNEY	114 S. ASHLAND AVE		8/13/07
Ellen Kunkle	116 S Madison	Ellen Kunkle	8/13/07
Tim Kerwin	19 S. Catherine	Jim Kerwin	8/14/07

5-A.15

## STAFF REPORT

**CASE: ZBA #557 - Herb Schepel, 100 S. Ashland - Maximum Building Coverage**

### **BACKGROUND**

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

Herb Schepel, owner of the subject property at 100 S. Ashland wishes to replace a one-car detached garage with a two-car detached garage. Maximum Building Coverage for this property is 2,701.65 square feet or 35%. Currently the house and existing garage cover 2,599.91 square feet or 34% of the lot. The proposed detached garage would increase building coverage to 2,749.56 sq. ft. or 35.6% of the lot (47.91 square feet).

With the proposed addition, the property would exceed the Maximum Building Coverage of 35% set forth in Paragraph 3-110E1 by 2%. Subparagraph 14-303E1(c) (Authorized Variations) allows the increase of the maximum allowable building coverage by no more than 20%. The requested variation falls within the authorized limits of the Zoning Code.

### **VARIATION STANDARDS**

In considering a variation, be guided by the General Standard as outlined in our Zoning Code that "No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection."

**Unique Physical Condition** - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

This zoning lot is somewhat larger than typical lots in the R-4 Single Family Zoning District. The lot measures approximately 62 feet wide by 124.28 feet deep (7,719 sq. ft.). Typical lots measure 50 ft. wide.

**Not Self-Created** - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

5-A.16

In 2003, the petitioner constructed an addition to the property. At that time, the petitioner had designed the addition to allow adequate square footage to construct a two-car garage in the future. However, the size of the addition was based on an incorrect survey, which indicated that the property was 64 ft. wide. When the new survey was drawn, the petitioner learned that the lot measures approximately 62 ft. wide, (two feet narrower). On the smaller lot, a two car garage would exceed allowable building coverage.

**Denied Substantial Rights** - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

The petitioner wishes to enjoy the same rights as the neighbors and other village residents. A two-car garage is a right enjoyed by many residents in La Grange for automobiles and storage. Also, the Zoning Code requires a minimum of two parking spaces for each single family residence.

**Not Merely Special Privilege** - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

The petitioner is asking for a 19 ft. by 23 ft. (437 sq. ft.) two car detached garage. The proposed garage would be smaller than the maximum allowable gross floor area, 484 square feet, for a garage on a smaller/standard zoning lot. On lots similar in size to the petitioner's, a 600 sq. ft. three car garage would be permitted.

**Code and Plan Purposes** - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

The Zoning Code requires two parking spaces for each single family residence, and the Village does not allow overnight parking on the street. Therefore, the requested variation would allow a detached garage in which to park two vehicles.

5-A.17

**Essential Character of the Area** - *"The variation would not result in a use or development on the subject property that:*

- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. Would unduly increase the danger of flood or fire; or*
- e. Would unduly tax public utilities and facilitates in the area; or*
- f. Would endanger the public health or safety."*

This home is located within the Historic District of the Village, and the petitioner believes that the requested variations would not adversely affect the character of the neighborhood.

**No Other Remedy** - *"There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."*

Currently, the property has two parking spaces; one in the garage and another uncovered, paved parking area in front of the garage. According to the petitioner, a variation is the only possible course of action to park two vehicles in an enclosed structure on the lot. One remedy would be to construct a carport. However, this option would not meet the maximum allowable building coverage requirements.

5-14-18



SSITT

COSSITT

124.5	
1	64
2	50
3 -009	"
4 -010	"
5 -011	75
6 -012	50
7 -013	75
8 -014	"
9 -015	"
10 -016	"
11 -017	50
124.18	

66  
AVE.  
Catherine

124.5	124.5	66
22 -001	1 -011	64 ← 100
21 -002	2 -012	50
20 -003	3 -013	"
19 -004	4 -014	"
18 -005	5 -015	"
17 -006	6 -016	"
16 -020	7 -017	"
15	8	"
14	9	"
13	10	"
12	11	50
124.18	124.18	
248.36		

66  
AVE.  
Ashland

124.5	124.5	66
22 -001	1	64
21 -002	2 -011	50
20 -003	3	"
19 -004	4 -012	"
18 -005	5 -013	"
17 -006	6 -014	"
16 -007	7 -015	"
15 -008	8 -016	"
14 -009	9 -017	"
13	10 -018	"
12 -010	11	50
124.18	124.18	

66  
AVE.

.M

Elm

1	44
2	50
3 -007	250
4	"
5	"
6 -008	"
7 -009	"

44	22 -001	1 -013	44
50	21 -002	2 -014	50
"	20 -003	3 -015	"
25	19 -004	4 -016	"
75	18 -023	5	90
"	17 -007	6 -017	"
"	16 -008	7 -018	"

44	22 -001	1 -011	44
50	21 -002	2 -012	50
"	20 -003	3 -013	"
"	19 -004	4 -014	"
75	18 -005	5 -015	"
"	17	6 -016	"
75	16 -006	7 -017	"

Madison

5-A, 20

APPLICATION FOR ZONING VARIATION

Application # 557  
Date Filed: 7/13/07  
UARCO # 83647

TO THE PRESIDENT AND BOARD OF TRUSTEES  
VILLAGE OF LA GRANGE, ILLINOIS

(please type or print)

Application is hereby made by Herb Schepel

Address: 100 S. Ashland Ave Phone: 354-0806

Owner of property located at: Same

Permanent Real Estate Index No: 18-04-305-011-0000

Present Zoning Classification: R4 Present Use: Single Family

Ordinance Provision for Variation from Article # 3-110E2 of Zoning Ordinance, to wit: maximum building coverage

A. Minimum Variation of Zoning requirement necessary to permit the proposed use, construction, or development:

47.91 square feet (0.62%)

B. The purpose therefor, is to replace a one car garage with a two car garage

C. The specific feature(s) of the proposed use, construction, or development that require a variation:

We have learned that the survey on which our original plans were based, was incorrect. Our new survey for the garage permit puts our lot coverage 47.91 sq ft over the limit.

5-A.21

PLAT OF SURVEY must be submitted with application. The plat should show any existing buildings on the petitioned property as well as any existing buildings on property immediately adjacent. It should also show any proposed new construction in connection with the variation, including landscaping, fencing, etc.

1. General Standard. The Petitioner must list below **FACTS AND REASONS** substantially supporting each of the following conclusions or the petition for variation cannot be granted. (if necessary, use additional page)

a. State **practical difficulty** or **particular hardship** created for you in carrying out the strict letter of the zoning regulations, to wit: under zoning regulations, we can not build a two car garage due to an incorrect survey.

b. A reasonable return or use of your property is not possible under the existing regulations, because: most home owners in Le Grange own 2 cars and most comparable homes have a 2 car garage.

c. Your situation is unique (not applicable to other properties within that zoning district or area) in the following respect(s): We based a 2 car garage on what was at the time the most recent survey (the flawed one). A subsequent survey for the garage permit showed our lot to be 2 (two) feet narrower, which puts us over maximum lot coverage.

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

The most recent addition to our home was based on the flawed survey. If that survey had been correct, we would have designed our addition to allow for a two car garage.

5-A-22

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid

The flawed survey was beyond anyone's control except for the survey company.

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Most homes in LaGrange on a 60 foot plus corner lot have a two car garage.

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

Parking 2 cars in a garage is not a special privilege. With our harsh winters, it is a necessity.

6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

We just want a garage large enough for 2 cars and miscellaneous yard maintenance equipment. The 19 foot width in our plan is narrow for a two car garage, but functional.

5-A.23

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

- (a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or
- (b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or
- (c) Would substantially increase congestion in the public streets due to traffic or parking; or
- (d) Would unduly increase the danger of flood or fire; or
- (e) Would unduly tax public utilities and facilities in the area; or
- (f) Would endanger the public health or safety.

We believe there would be no adverse effect to any of the above items by allowing us to build a 2 car garage.

8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

We respectfully request an additional 47.91 square feet to build a reasonable 2 car detached garage that exceeds the maximum lot coverage by less than 1% (0.62%). There is no other practical alternative.

**NOTICE:** This application must be filed with the office of the Community Development Director, accompanied by necessary data called for above and the required filing fee of Five Hundred Dollars (\$500.00).

The above minimum fee shall be payable at the time of the filing of such request. It is also understood that the applicant shall reimburse the Village any additional costs over and above these minimums which are incurred by the Village, including but not limited to the following:

- (a) Legal Publication (direct cost);
- (b) Recording Secretarial Services (direct cost);
- (c) Court Reporter (direct cost);

5-A, 24

- (d) Administrative Review and Preparation (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (e) Document Preparation and Review (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation, and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost); and
- (j) Postage Costs (direct cost).

Such additional costs shall be paid by the applicant prior to the Board of Trustees making a decision regarding the request.

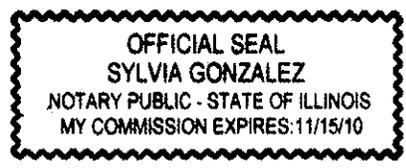
I, the undersigned, do hereby certify that I am the owner, or contract purchaser (**Evidence of title or other interest you have in the subject property, date of acquisition of such interest, and the specific nature of such interest must be submitted with application.**) and do hereby certify that the above statements are true and correct to the best of my knowledge.

[Signature] 1005 Ashland Ave  
 (Signature of Owner or Contract Purchaser) (Address)

La Grange, IL 60525  
 (City) (State) (Zip Code)

Subscribed and sworn to before me this 13 day of July, 2007.

[Signature]  
 (Notary Public) (Seal)



5-A-25

Enclosures: Surveys, pictures

**(FOR VILLAGE USE ONLY)**

- 1. Filed with Office of the Community Development Director: July 13, 2007.
- 2. Transmitted to Zoning Board of Appeals at their meeting held:  
August 16, 2007
- 3. Continuation (if any): \_\_\_\_\_
- 4. Notice of hearing published in: \_\_\_\_\_ on: \_\_\_\_\_
- 5. Findings and Recommendation of Zoning Board of Appeals referred to Village Board at Meeting of:  
\_\_\_\_\_
- 6. Final Action of Village Board for adoption of amending ordinances or denial of applicant's request at meeting held: \_\_\_\_\_
- 7. Payment of expenses satisfied: \_\_\_\_\_

Conditions Imposed:

5-A.26

**LEGEND**

- ⊙ MONUMENT FOUND
- MONUMENT SET
- (50.0') RECORD DIMENSION
- PUB. PUBLIC UTILITY BASEMENT
- DE. DRAINAGE BASEMENT
- ROW. RIGHT OF WAY
- IP. IRON PIPE
- WF. WOOD FENCE
- CP. CONCRETE PORCH
- CM. CONCRETE WALK

NELSON SURVEYORS, LLC.

NELSON SURVEYORS, LLC.  
13300 SOUTH DIVISION STREET  
(ROUTE 59) SUITE D-1  
PLAINFIELD, ILLINOIS 60544

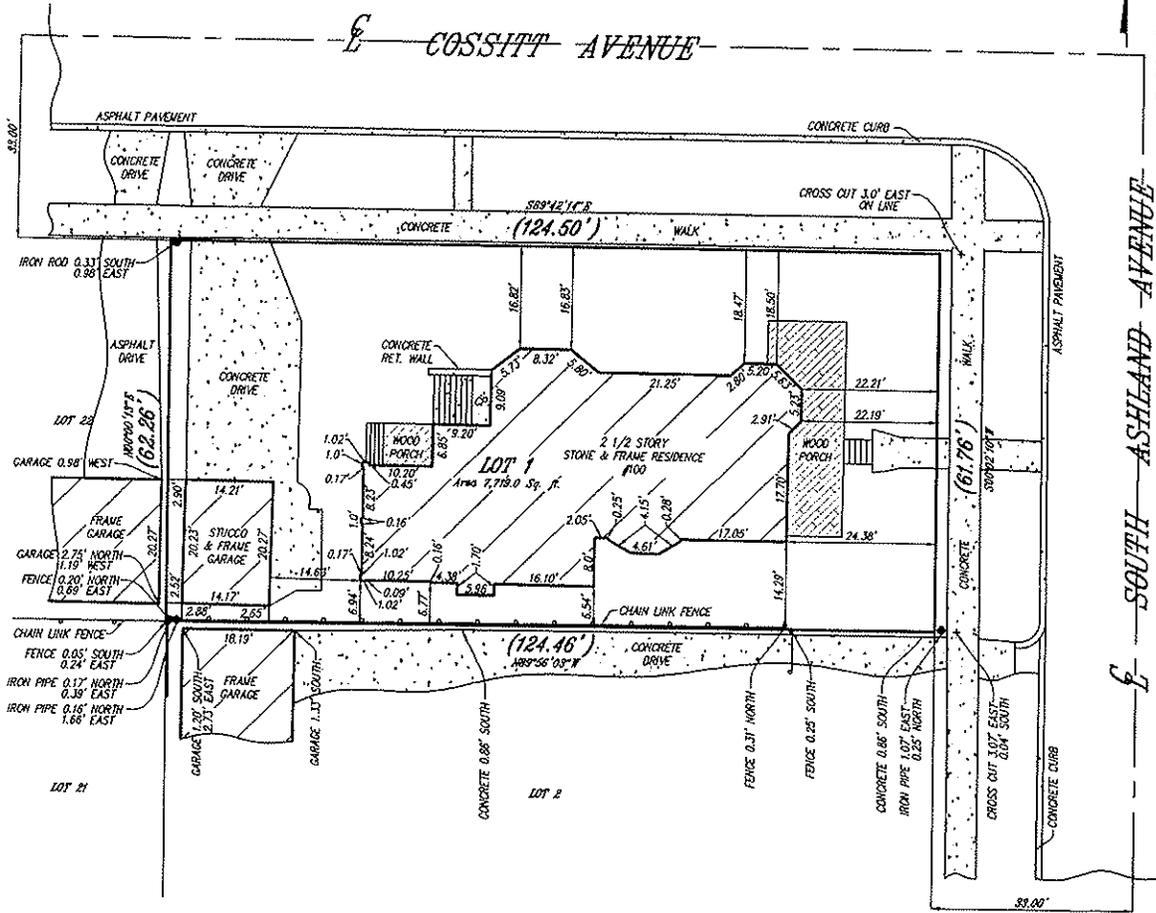
**PLAT OF SURVEY**

LOT 1 IN BLOCK 15 IN LAGRANGE, A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 AND PART OF THE NORTHWEST 1/4, LYING SOUTH OF THE CHICAGO, BURLINGTON AND QUINCY RAILROAD, IN SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

(815) 436-8520  
(815) 436-8524  
(815) 436-8528 FAX

COMMON ADDRESS: 100 SOUTH ASHLAND AVENUE

BASIS OF BEARINGS = NORTH LINE OF BLOCK 15 IN LAGRANGE SUBDIVISION = S89°42'14"E (ASSUMED)



MY LICENSE EXPIRES NOVEMBER 30, 2008

**NOTES:**  
THIS COPY NOT VALID WITHOUT EMBOSSED SEAL.  
ALL DISTANCES ARE IN FEET AND DECIMAL PARTS THEREOF.  
BUILDING LINES AND EASEMENTS ARE SHOWN ONLY WHERE THEY ARE SO RECORDED IN THE MAPS. COMPARE THE LEGAL DESCRIPTION, BUILDING LINES, AND EASEMENTS AS SHOWN HEREON WITH YOUR DEED OR TITLE POLICY.  
CONSULT THE LOCAL AUTHORITIES FOR ADDITIONAL SETBACK LINES AND RESTRICTIONS NOT SHOWN HEREON. COMPARE ALL POINTS PRIOR TO CONSTRUCTION AND REPORT ANY DISCREPANCIES AT ONCE.  
DO NOT ASSUME DISTANCES FROM SCALED MEASUREMENTS MADE HEREON.

STATE OF ILLINOIS) SS.  
COUNTY OF WILL)

I, MICHAEL J. NELSON, AN ILLINOIS PROFESSIONAL LAND SURVEYOR DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY DESCRIBED ABOVE, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY, ALL MEASUREMENTS BEING CORRECTED TO THE STANDARD AT 68 DEGREES FAHRENHEIT.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

PLAINFIELD, ILLINOIS, APRIL 13, 2007

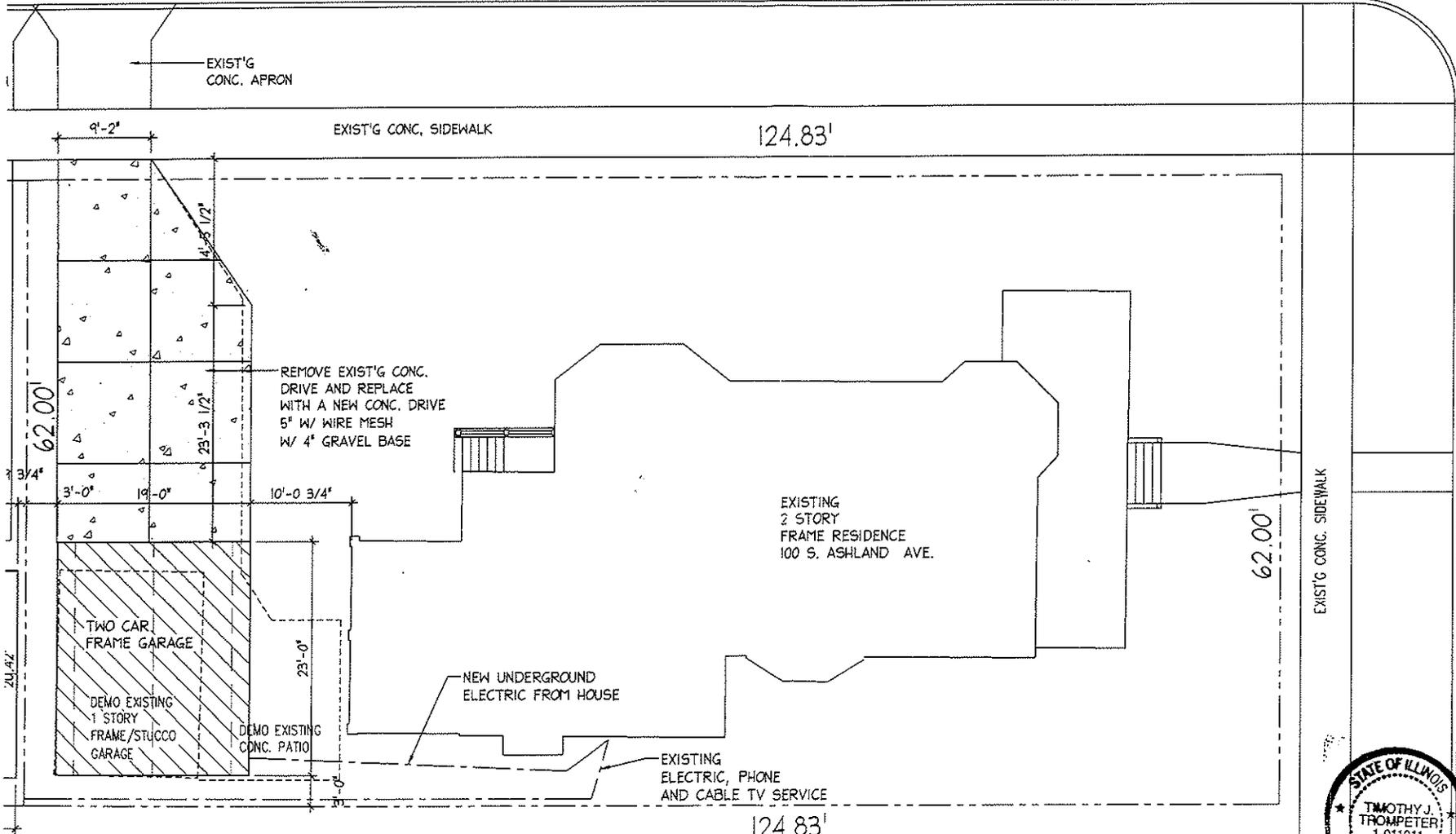
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-3095  
PROFESSIONAL DESIGN FIRM LICENSE NO. 181.004838 EXPIRES 04/30/2008

PREPARED FOR:	HERB SCHEPPEL
DATE:	APRIL 13, 2007
SCALE: 1" = 20'	DRAWN BY: M.J.N.
JOB# 07-56	FLD. BK/PG 64-65

5-17-27

COSSITT AVE.

5-A-28



EXIST'G CONC. APRON

EXIST'G CONC. SIDEWALK

124.83'

REMOVE EXIST'G CONC. DRIVE AND REPLACE WITH A NEW CONC. DRIVE 5" W/ WIRE MESH W/ 4" GRAVEL BASE

EXISTING 2 STORY FRAME RESIDENCE 100 S. ASHLAND AVE.

TWO CAR FRAME GARAGE

DEMO EXISTING 1 STORY FRAME/STUCCO GARAGE

DEMO EXISTING CONC. PATIO

NEW UNDERGROUND ELECTRIC FROM HOUSE

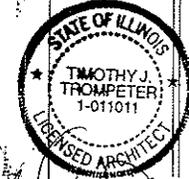
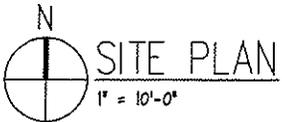
EXISTING ELECTRIC, PHONE AND CABLE TV SERVICE

124.83'

62.00'

EXIST'G CONC. SIDEWALK

S. ASHLAND AVE.



*Handwritten signature and initials*

TIMOTHY J. TROMPETER - ARCHITECT  
 TIMOTHY J. TROMPETER A.I.A.  
 318 S. ASHLAND AVE.  
 LA GRANGE, IL 60525  
 (708) 952-7446

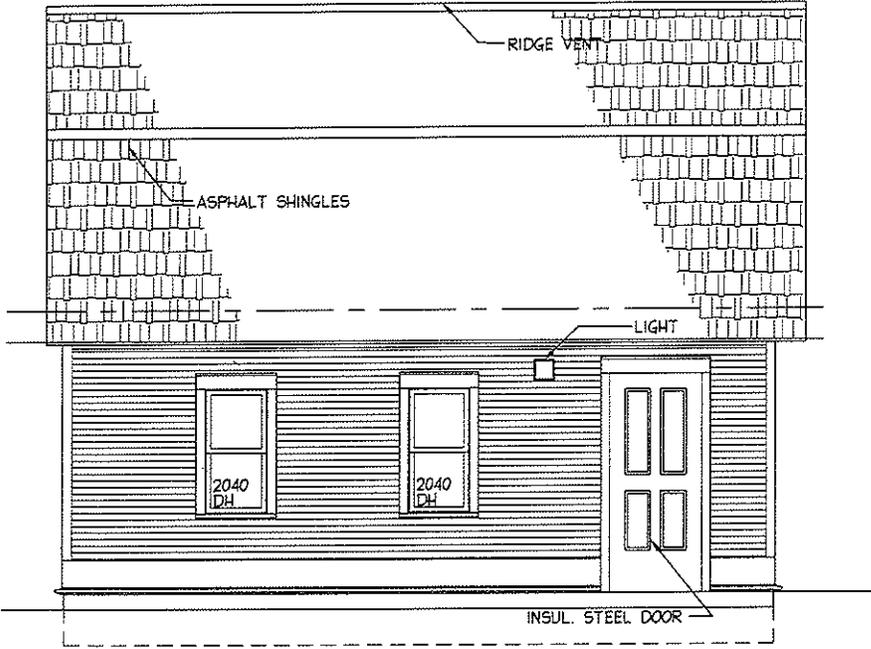


NEW GARAGE FOR:  
 KATHI DEANE & HERB SCHEPPEL  
 100 S. ASHLAND AVE.  
 LA GRANGE, IL 60525  
 (708) 584-0868

A1  
 05/31/07  
 OF 6

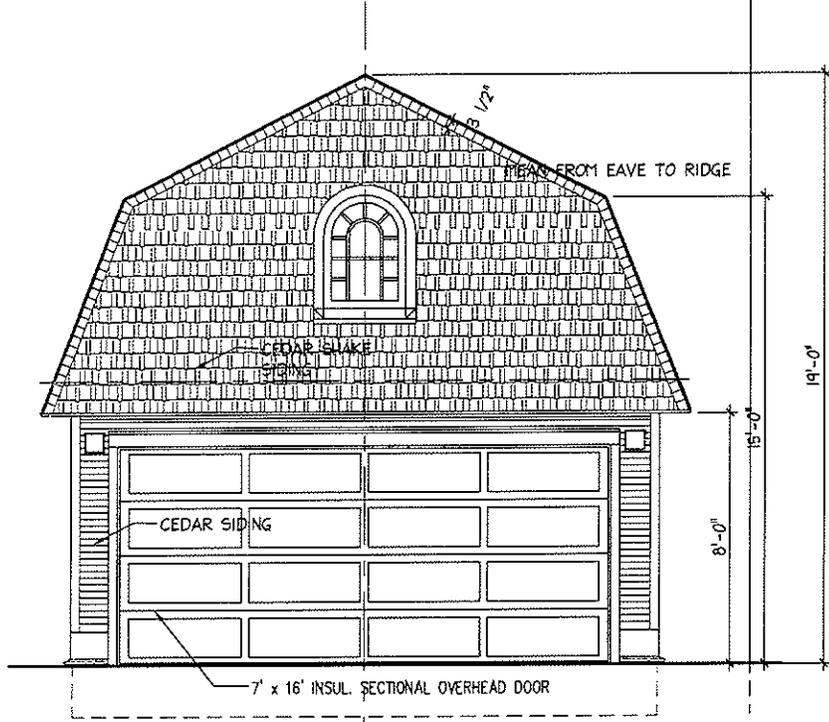
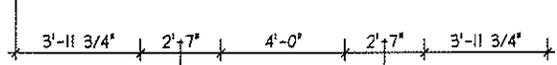


5-A-130



### EAST ELEVATION

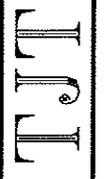
1/4" = 1'-0" WEST ELEVATION SIMILAR



### NORTH ELEVATION

1/4" = 1'-0"

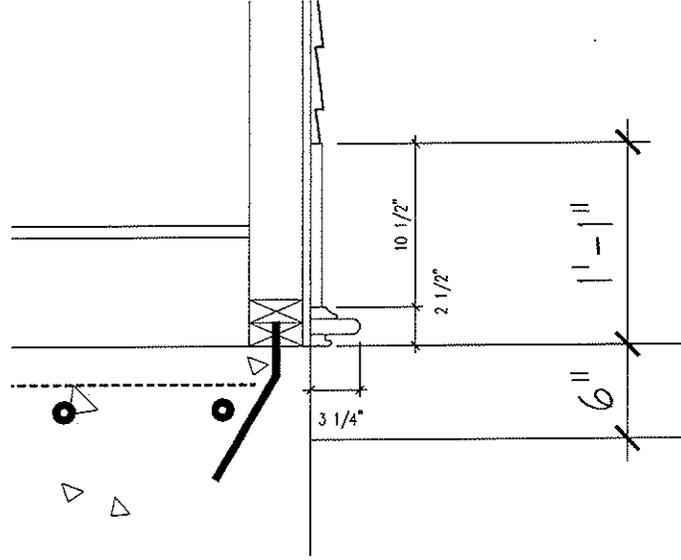
TIMOTHY J. TROMPETER - ARCHITECT  
 TIMOTHY J. TROMPETER A.I.A.  
 918 S. ASHLAND AVE.  
 LA GRANGE, IL. 60525  
 (708) 352-7446



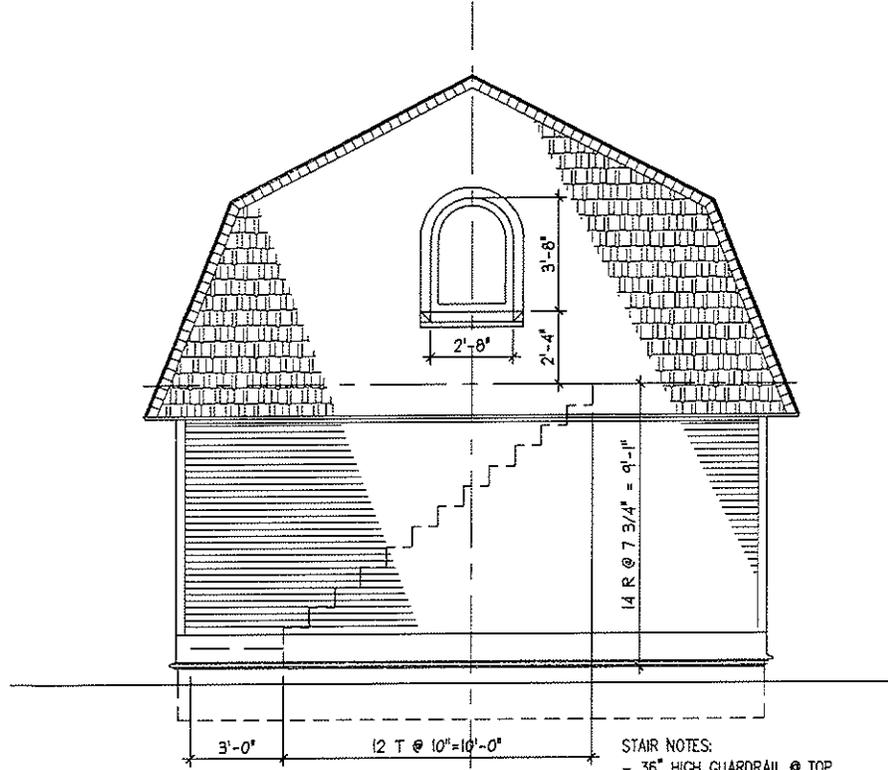
NEW GARAGE FOR:  
 KATHI DEANE & HERB SCHEPPEL  
 100 S. ASHLAND AVE.  
 LA GRANGE, IL. 60525  
 (708) 354-0866

**A3**  
 05/31/07  
 OF 6

5-7-31



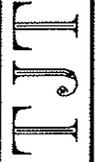
① WATER TABLE DETAIL  
 1- 1/2" = 1'-0"



SOUTH ELEVATION  
 1/4" = 1'-0"

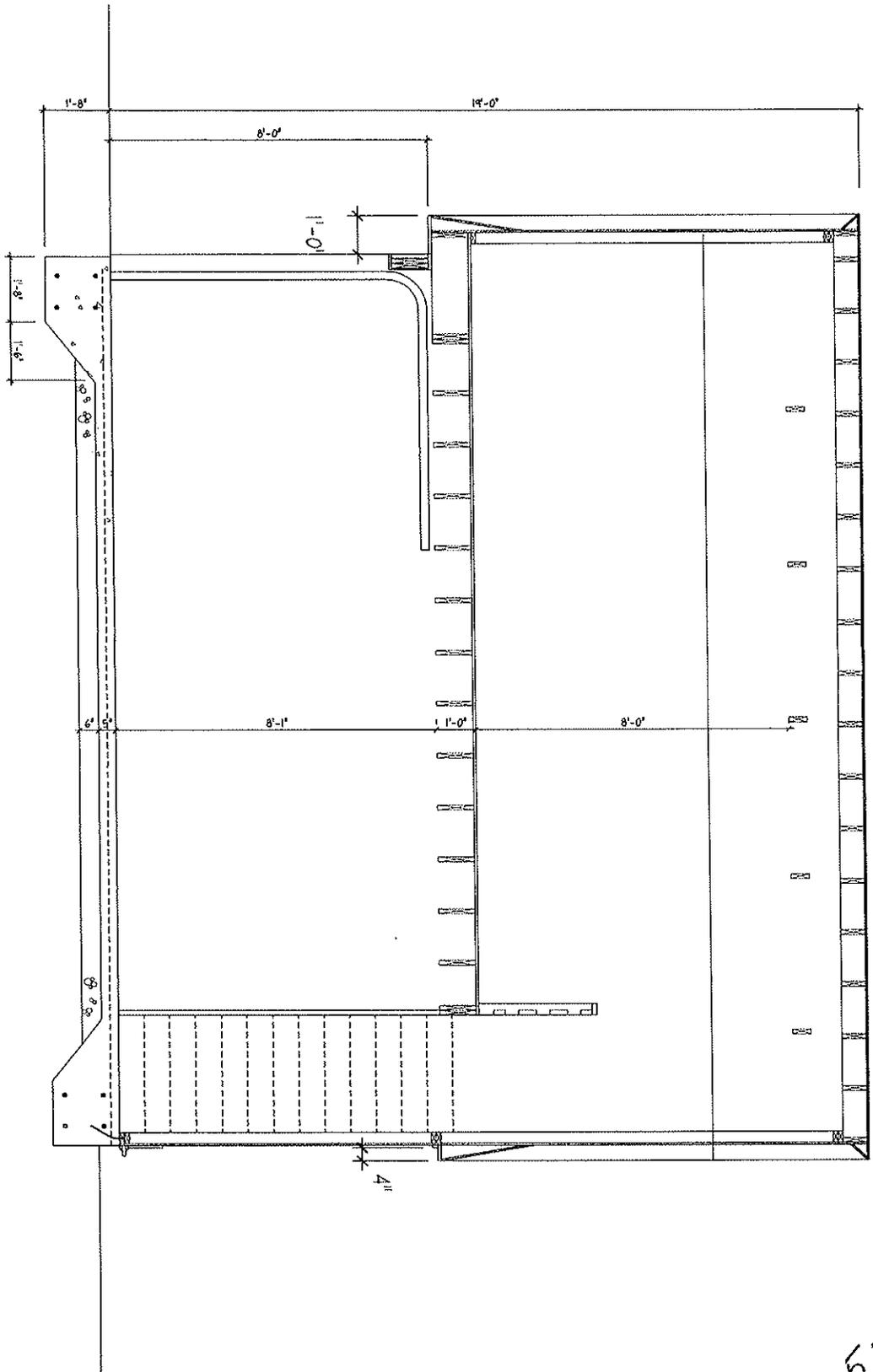
STAIR NOTES:  
 - 36" HIGH GUARDRAIL @ TOP

TIMOTHY J. TROMPETER - ARCHITECT  
 TIMOTHY J. TROMPETER A.I.A.  
 918 S. ASHLAND AVE.  
 LA GRANGE, IL 60526  
 (708) 952-7446



NEW GARAGE FOR:  
 KATHI DEANE & HERB SCHEPEL  
 100 S. ASHLAND AVE.  
 LA GRANGE, IL, 60526  
 (708) 354-0806

SECTION LOOKING EAST  
3/8" = 1'-0"



5-A.32

A6  
05/31/07  
OF 6

NEW GARAGE FOR:  
KATHI DEANE & HERB SCHEPEL  
100 S. ASHLAND AVE.  
LA GRANGE, IL, 60525  
(708) 354-0806

TJT

TIMOTHY J. TROMPETER - ARCHITECT  
TIMOTHY J. TROMPETER A.I.A.  
318 S. ASHLAND AVE.  
LA GRANGE, IL, 60525  
(708) 352-7446

VILLAGE OF LA GRANGE  
Community Development Department

**BOARD REPORT**

TO: Village President, Village Clerk  
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Patrick D. Benjamin, Community Development Director  
Angela M. Mesaros, Assistant Community Development Director

DATE: September 24, 2007

RE: **ORDINANCE - VARIATION - REQUIRED FRONT YARD AND MAXIMUM BUILDING COVERAGE/ HEATHER AND JEFF YUKNIS, 320 SOUTH ASHLAND AVENUE.**

---

Heather and Jeff Yuknis, owners of the property at 320 South Ashland Avenue, have applied for variations from Front Yard and Maximum Building Coverage requirements to allow the construction of a front porch. The subject property is located in the R-4 Single Family Residential District and within the Historic District. The property in question is typical of lots in the surrounding area.

Construction of the proposed eight foot deep front porch would encroach into the adjusted front yard setback of 25 feet by 10.33 feet. Subsection 14-303E1 (a) of the Zoning Code allows the reduction of any required yard and setback by variance. The requested variation falls within the authorized limits of the Zoning Code.

In addition, with the proposed front porch, the property would exceed the maximum building coverage requirements of 30% or 1,854 square feet by 115 square feet or 6%. Subsection 14-303E1 (c) of the Zoning Code allows an increase in maximum building coverage by no more than 20%. The requested variation falls within the authorized limits of the Zoning Code.

The petitioners believe that adding a front porch would improve the aesthetics of the property and be consistent with vintage houses in the immediate neighborhood. The proposed porch would match the average setback of the two homes directly adjacent to the subject property. In addition, twenty out of twenty-four houses on their block have front porches.

On August 16, 2007, the Zoning Board of Appeals held a public hearing on this matter (see Findings of Fact). At the public hearing, the petitioners presented the application. The Zoning Board members felt that the variations should be discussed and voted on separately, because they are two separate issues -- required front yard and maximum building coverage:

5-B

- The Zoning Board of Appeals voted unanimously, five (5) ayes and zero (0) nays with one (1) Commissioner absent, to recommend that the variation be granted for required front yard, with the condition that the applicants engage in a covenant with the village that the front porch never be enclosed.
- The motion to recommend that the variation for maximum building coverage as requested failed three (3) ayes and two (2) nays. Pursuant to Subsection 13-102D of the Zoning Code, at least four aye votes are required to decide in favor of any application.

Those Zoning Board members voting in favor of the variations stated that they felt the design would be sensitive to the historic character of the neighborhood, the front porch is not excessively large, and the building coverage request is minimal.

The members recommending denial for maximum building coverage felt that a zoning variation should not be recommended based on design. While the Commissioners may have supported the concept of the proposal, the application does not meet the standards required for a variation. They cited the following facts: (1) The Zoning Board generally has not recommended a variance for a porch unless the property had a pre-existing porch. (2) While many historic homes in La Grange have front porches, Dutch Colonial homes such as the petitioners' do not consistently have front porches. (3) This property is situated on a typical lot; therefore, it does not meet the unique physical conditions.

If you concur with the recommendation of the Zoning Board of Appeals to deny the request for maximum building coverage, then a motion to deny the variation is in order. No resolution or ordinance memorializing such action is necessary. Conversely, should you choose to grant the variation(s), a motion to approve the attached ordinance(s) authorizing the variation(s) would be appropriate.

Please note that in accordance with State Statute, the approval of any proposed variation which fails to receive the approval of the Board of Appeals will not be passed except by the favorable vote of two-thirds (2/3) majority vote for the maximum building coverage variation by roll call of all Trustees currently holding office (four out of six Trustees).

Staff has prepared the attached ordinances authorizing the variation for your consideration.

5-B.1

ORDINANCE NO. O-07-

AN ORDINANCE ALLOWING ZONING VARIATION  
OF THE VILLAGE OF LA GRANGE

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook, State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, Heather and Jeff Yuknis, owners of the property commonly known as 320 South Ashland, La Grange, Illinois, and legally described as follows:

Lot 6 in Block 7 in La Grange Subdivision, being a subdivision of the East ½ of the southwest ¼ and that part of the northwest ¼ lying south of the Chicago, Burlington and Quincy Railroad, in Section 4, Township 38 North, Range 12 East of the Third Principal Meridian, according to the plat thereof recorded November 11, 1873, as Document.

have applied for variation from Paragraph 3-110C1 (Required Front Yard) of Chapter 154 of the La Grange Code of Ordinances in order to construct a 8 ft. by 28.75 ft. open front porch on the above referenced property. The Zoning Board of Appeals, as required by law, has conducted a duly noticed public hearing on this matter on August 16, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1: A variation of 10.33 ft. from Paragraph 3-110C1 (Required Front Yard) of Chapter 154 of the La Grange Code of Ordinances, to construct a front porch, be hereby granted to the owner of the above-referenced property in conformance with the plans submitted to the Zoning Board of Appeals subject to the following condition:

1. The owners of the property engage in a covenant with the Village that the front porch never be enclosed.

SECTION 2: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

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

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

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

5-B.2

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, VILLAGE PRESIDENT

ATTEST:

\_\_\_\_\_  
Robert N. Milne, VILLAGE CLERK

5-B.3

ORDINANCE NO. O-07-

AN ORDINANCE ALLOWING ZONING VARIATION  
OF THE VILLAGE OF LA GRANGE

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook, State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, Heather and Jeff Yuknis, owners of the property commonly known as 320 South Ashland, La Grange, Illinois, and legally described as follows:

Lot 6 in Block 7 in La Grange Subdivision, being a subdivision of the East ½ of the southwest ¼ and that part of the northwest ¼ lying south of the Chicago, Burlington and Quincy Railroad, in Section 4, Township 38 North, Range 12 East of the Third Principal Meridian, according to the plat thereof recorded November 11, 1873, as Document.

have applied for variation from Paragraph 3-110E1 (Maximum Building Coverage) of Chapter 154 of the La Grange Code of Ordinances in order to construct a 8 ft. by 28.75 ft. open front porch on the above referenced property. The Zoning Board of Appeals, as required by law, has conducted a duly noticed public hearing on this matter on August 16, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1: A variation of 6% from Paragraph 3-110E1 (Maximum Building Coverage) of Chapter 154 of the La Grange Code of Ordinances, to construct a front porch, be hereby granted to the owner of the above-referenced property in conformance with the plans submitted to the Zoning Board of Appeals subject to the following condition:

1. The owners of the property engage in a covenant with the Village that the front porch never be enclosed.

SECTION 2: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

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

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

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

5-B.4

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, VILLAGE PRESIDENT

**ATTEST:**

\_\_\_\_\_  
Robert N. Milne, VILLAGE CLERK

5-13.5

**FINDINGS OF FACT**

ZONING BOARD OF APPEALS  
OF THE  
VILLAGE OF LA GRANGE

President Asperger and  
Board of Trustees

August 16, 2007

**RE: ZONING CASE #558: VARIATION – Heather & Jeff Yuknis – 320 S. Ashland, to consider zoning variations from Paragraph 3-110C1 (Required Front Yard) and Paragraph 3-110E1 (Maximum Building Coverage) to authorize the construction of a covered front porch within the R-4 Single Family Residential District.**

The Zoning Board of Appeals transmits for your consideration its recommendations for a request of zoning variation necessary to construct a covered front porch on the property at 320 South Ashland Avenue.

**I. THE SUBJECT PROPERTY:**

The property in question is a single family residential lot with a 50 foot width and a depth of 123.61 feet.

**II. CHARACTERISTICS OF THE SURROUNDING AREA:**

The subject property is located in the R-4 Single Family Residential District.

**III. VARIATIONS SOUGHT:**

The applicant desires variations from Paragraph 3-110C1 (Required Front Yard) and Paragraph 3-110E1 (Maximum Building Coverage) of the La Grange Zoning Code. The proposed porch would encroach into the required yard by 10.33 feet. Subparagraph 14-303E1 (a) authorized variations allows the reduction of any required yard. The applicant wishes to exceed the allowable building coverage by 6%. Subparagraph 14-303E1(c) (Authorized Variations) allows the increase of the maximum allowable building coverage by no more than 20%. The requested variations fall within the authorized limits of the Zoning Code.

**IV. THE PUBLIC HEARING:**

After due notice, as is required by law, (including legal publication, posting at the subject property and courtesy notices to owners within 250 feet of the subject property) the Zoning Board of Appeals held a public hearing on the proposed variation in the La Grange Village Hall Auditorium on August 16, 2007. Present were Commissioners Nancy Pierson, Charles Benson, Jr., Nathaniel Pappalardo (arrived at 7:40 p.m.), Kathy

5-B.6

FF – ZBA Case #558  
320 South Ashland Avenue  
Variation – Maximum Building Coverage & Required Front Yard  
August 16, 2007 – Page 2

Schwappach and Chairperson Ellen Brewin presiding. Also present was Staff Liaison, Angela Mesaros and Village Board Trustee James Palermo. Testimony was given under oath by the applicants. No objectors appeared at the hearing and no written objections have been filed to the proposed variation.

Chairperson Brewin swore in Jeff and Heather Yuknis, owners of the subject property, 320 South Ashland Avenue, and Tim Trompeter, Architect, 318 South Ashland, who presented the application and answered questions from the Commissioners:

- The Applicant stated that they moved to this area this past February and would like the ability to enhance their façade and match their house with the neighborhood. They propose to construct a covered, permanently open front porch.
- They are asking to match the average setback of the two homes directly adjacent to them. They have spoken to their neighbors and no one has objected. They say that the building coverage is the result of a previous addition to the house.
- Twenty out of twenty-four houses on their block have front porches. This porch would enhance the character of their house and the neighborhood.
- Their intent is to create a covenant with the Village that would require this porch to remain open.

Chairperson Brewin solicited questions from the Commissioners:

- Chairperson Brewin asked if they had any evidence or pictures of previous front porches on this house. Answer: No.
- Commissioner Pierson asked if they were changing the façade, the upper area. Answer: They propose only a one-story porch and the design looks better with the type of roof proposed than a flat roof.

Chairperson Brewin solicited questions and comments from the audience:

- David Carlson, 324 South Ashland, stated that he agrees with the aesthetic benefits to this front porch and it would be great for the neighborhood.

*Under the provisions of the Zoning Ordinance, no variation shall be granted unless the applicant establishes that carrying out the strict letter of the provisions of this code would create a particular hardship or practical difficulty. Such a showing shall require*

5-13.7

*proof that the variation sought satisfies certain conditions. The following facts were found to be evident:*

1. Unique Physical Condition:

This zoning lot is typical of lots between Kensington Avenue and Madison Avenue and from Cossitt Avenue to 47th Street.

2. Not Self-Created:

The previous owner of the property constructed a 515 square foot addition and new detached garage in 2005 and 2006. The newly constructed addition and garage contribute to the petitioner's need for a variation from building coverage.

3. Denied Substantial Rights:

According to the petitioners, twenty out of twenty-four houses on the petitioners' block (83%) have covered front porches. They seek to construct a new façade that is in character with the neighborhood.

4. Not Merely Special Privilege:

Many of the houses on the block have similar front porches that encroach into the required front yard. The petitioners propose a front setback that would meet the average of the two abutting lots.

5. Code and Plan Purposes:

Construction of the front porch would exceed the allowable building coverage and would not meet the required front yard for the R-4 district.

6. Essential Character of the Area:

This home is located within the Historic District of the Village, and the petitioners believe that the requested variations would not adversely affect the character of the neighborhood.

5-13.8

7. No Other Remedy:

The petitioners believe that no other remedy would improve the house while still maintaining the charm and beauty.

**V. FINDINGS AND RECOMMENDATION:**

- Commissioner Pappalardo stated that the variations should be voted for and discussed separately, because they are two separate issues: required front lot and maximum building coverage.

It was moved by Commissioner Pappalardo, seconded by Commissioner Benson that the variations be discussed as two separate items. Motion carried by voice vote.

**Required Front Yard**

- Commissioner Pappalardo stated that the front porch is certainly harmonious with the adjacent properties and several other houses on the block have similar porch alignments. It is compatible with the neighborhood.
- Chairperson Brewin stated that a Dutch Colonial house in La Grange is a transition from Victorian. Some have porches, some have stoops. It is an evolving style. She did a survey of the community and found that half of this style houses had a porch, and half did not.
- Chairperson Brewin stated that this would definitely be an improvement to the house; however, variations should not be based on appearance.

There being no further questions or comments from the audience or the Commissioners, a motion was made by Commissioner Pappalardo and seconded by Commissioner Schwappach that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the application for variation from required front yard submitted with ZBA Case #558.

Motion Carried by a roll call vote (5/0/1).

AYE: Pappalardo, Benson, Pierson, Schwappach and Brewin.  
NAY: None.  
ABSENT: Brenson.

BE IT THEREFORE RESOLVED that the Zoning Board of Appeals recommend approval to the Village Board of Trustees of variation from Paragraph 3-110C1 (Required Front Yard) to allow

5-13.9

construction of a front porch at 320 South Ashland Avenue with the condition that the applicants engage in a covenant with the village that the front porch never be enclosed.

**Maximum Building Coverage**

- Commissioner Pappalardo stated that that the garage seems to meet the standard size, which is a reasonable amenity. Often when a garage is larger it causes the need for a building coverage variation. This is not the case.
- Chairperson Brewin stated that she is still grappling with the uniqueness of this property, even though she likes the design. The building coverage request is minimal.
- Commissioner Pappalardo stated that the front porch is not excessively large. Anything less than eight feet is not really usable. This is a modest footprint.
- Chairperson Brewin stated that the Commissioners would like to stick within the parameters of the Code when dealing with maximum building coverage.

There being no further questions or comments from the audience or the Commissioners, a motion was made by Commissioner Benson and seconded by Commissioner Schwappach that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the application for maximum building coverage submitted with ZBA Case #558.

Motion Failed by a roll call vote (3/2/1).

AYE: Benson, Pierson, and Schwappach.  
NAY: Pappalardo and Brewin.  
ABSENT: Brenson.

BE IT THEREFORE RESOLVED that the Zoning Board of Appeals failed to recommend approval to the Village Board of Trustees of variation from Paragraph 3-110E1 (Maximum Building Coverage) to allow construction of a front porch at 320 South Ashland with the condition that the applicants engage in a covenant with the village that the front porch never be enclosed..

Respectfully submitted:

Zoning Board of Appeals of the  
Village of La Grange

BY: Ellen Brewin  
Ellen Brewin, Chairperson

5-B.10

## STAFF REPORT

### **CASE: ZBA #558 - Heather and Jeff Yuknis, 320 S. Ashland Avenue - Front Yard & Maximum Building Coverage**

#### **BACKGROUND**

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

Heather and Jeff Yuknis, owners of the property at 320 S. Ashland Avenue, wish to construct an 8 ft. by 28.75 ft. (230 sq. ft.) covered front porch. Currently, the petitioner's house is setback 22.67 ft. from the front lot line. With the proposed front porch, the front yard would be 14.67, which is approximately the average of the two adjacent houses (13.18 ft. and 15.58 ft.). The Zoning Code allows reduction of minimum front yard requirement to the average of the setbacks of the two abutting lots. However, the front yard cannot be less than 25 feet. Therefore, the required front yard for this property is 25 ft. minimum. A building permit could not be issued for the proposed front porch.

In order to construct the front porch, the petitioners seek a variation from Paragraph 3-110C1 (Front Yard) of the Zoning Code. The proposed porch would encroach into the required front yard by 10.33 feet. Subparagraph 14-303E1 (a) (Authorized Variations) allows the reduction of any required yard. The requested variation falls within the authorized limits of the Zoning Code.

In addition, with the proposed front porch, this property would exceed the building coverage requirements. Maximum Building Coverage for this lot is 30% or 1,854 square feet. Currently this property covers 1,739 square feet. The porch would increase building coverage to 1,969 square feet or 32%, an excess of 115 square feet or 6%. The petitioners seek a variation from Paragraph 3-110E1 (Maximum Building Coverage) of the Zoning Code in order to construct the porch. Subparagraph 14-303E1(c) (Authorized Variations) allows an increase in maximum allowable building coverage by no more than 20%. The requested variation falls within the authorized limits of the Zoning Code.

#### **VARIATION STANDARDS**

In considering a variation, be guided by the General Standard as outlined in our Zoning Code that "No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection."

**Unique Physical Condition** - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and*

5-B.11

**Staff Evaluation Criteria**  
**ZBA #558 - 320 S. Ashland Avenue**  
**Variation - Required Front Yard /Maximum Building Coverage**  
**Page 2**

*inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

This zoning lot is typical of lots between Kensington Avenue and Madison Avenue and from Cossitt Avenue to 47th Street.

**Not Self-Created** - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

The previous owner of the property constructed a 515 square foot addition and new detached garage in 2005 and 2006. The newly constructed addition and garage contribute to the petitioner's need for a variation from building coverage.

**Denied Substantial Rights** - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

According to the petitioners, twenty out of twenty-four houses on the petitioners' block (83%) have covered front porches. They seek to construct a new façade that is in character with the neighborhood.

**Not Merely Special Privilege** - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

Many of the houses on the block have similar front porches that encroach into the required front yard. The petitioners propose a front setback that would meet the average of the two abutting lots.

**Code and Plan Purposes** - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

Construction of the front porch would exceed the allowable building coverage and would not meet the required front yard for the R-4 district.

5-B.12

**Staff Evaluation Criteria**  
**ZBA #558 - 320 S. Ashland Avenue**  
**Variation - Required Front Yard /Maximum Building Coverage**  
**Page 3**

**Essential Character of the Area** - *"The variation would not result in a use or development on the subject property that:*

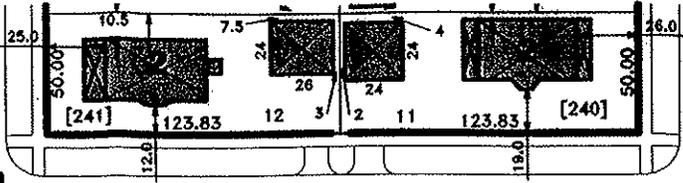
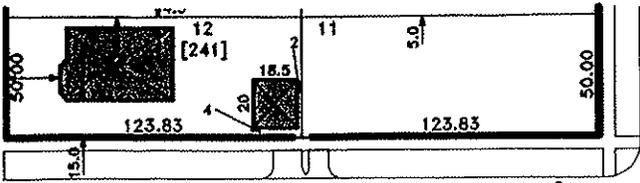
- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. Would unduly increase the danger of flood or fire; or*
- e. Would unduly tax public utilities and facilitates in the area; or*
- f. Would endanger the public health or safety."*

This home is located within the Historic District of the Village, and the petitioners believe that the requested variations would not adversely affect the character of the neighborhood.

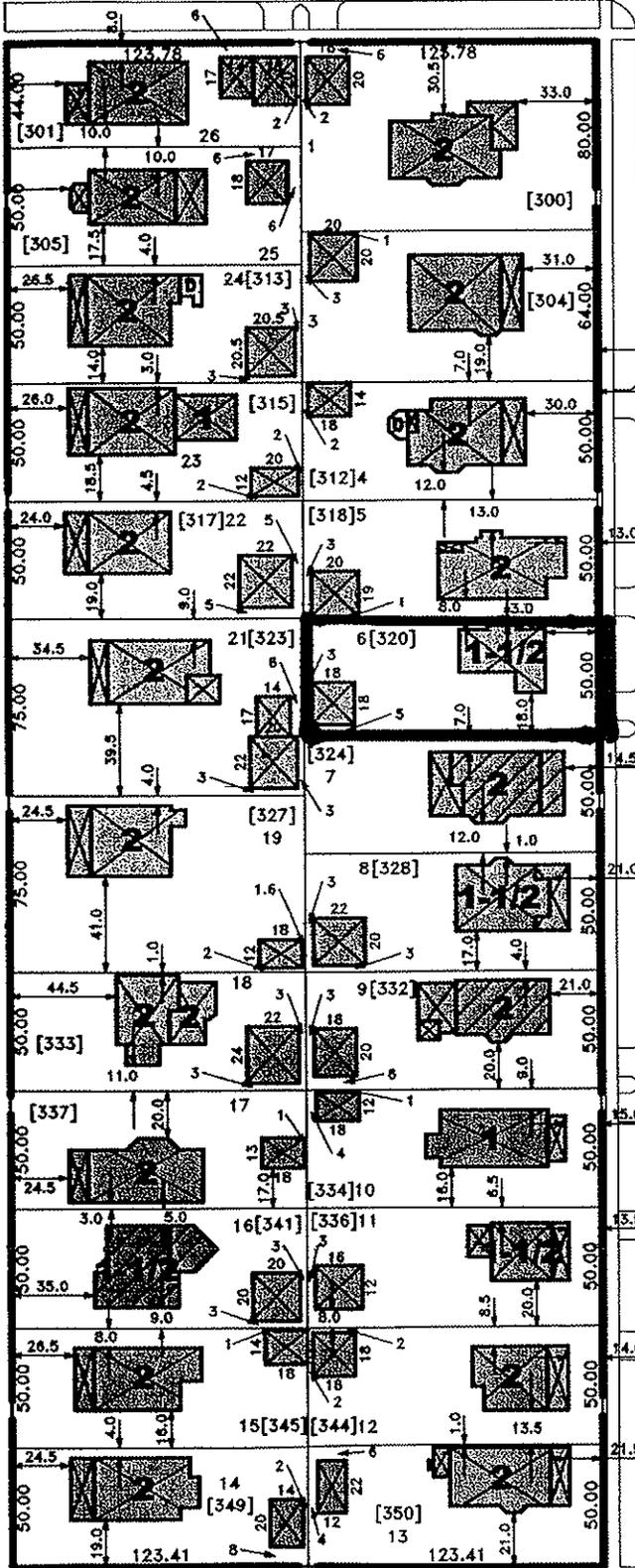
**No Other Remedy** - *"There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."*

The petitioners believe that no other remedy would improve the house while still maintaining the charm and beauty.

5-13-13

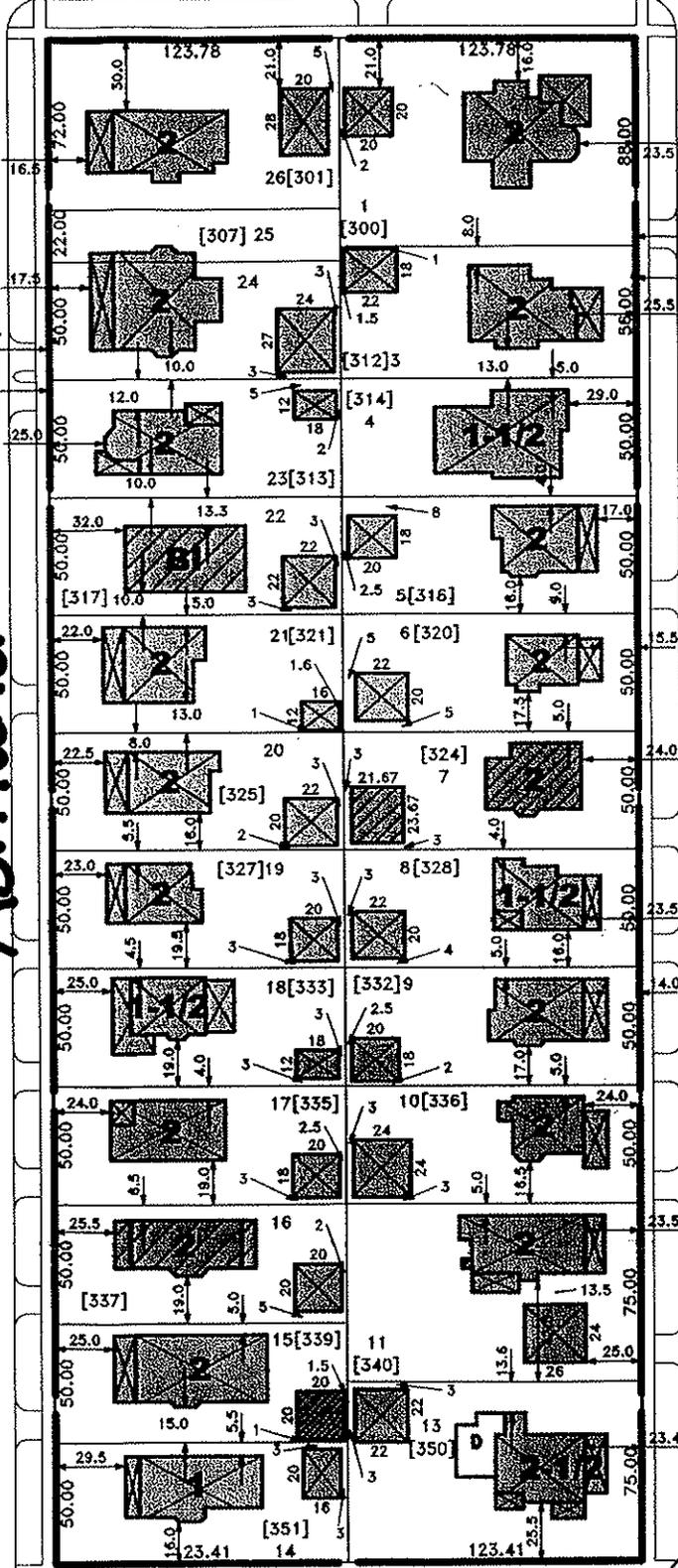


Maple



Maple

Ashland



Maple

Ashland

Goodman

B-14

15-003	8-010	"
14-004	9-011	"
13-005	10-012	"
12-006	11-013	50
123.83	123.83	

" 15-009	8-019	"
" 14-010	9-020	"
" 13-011	10-021	"
50 12-012	11-022	50
123.83	123.83	

" 15-007	8-018	"
" 14-008	9-019	"
" 13-009	10-020	"
50 12-010	11-021	50
123.83	123.83	

# MAPLE

123.78	123.78	
26-001	1-014	44
25-002	2-015	50
24-003	3-016	"
23-004	4-017	"
22-005	5-018	"
21-006	6-019	"
20-007	7-020	"
19-008	8-021	"
18-028	9-027	"
17-010	10-023	"
16-011	11-024	"
15-012	12-025	"
14-013	13-026	50
123.41	123.41	

Catherine

123.78	123.78	
26-001	1-013	44
25-002	2-014	50
24-003	3-014	64
23-004	4-015	"
22-005	5-016	"
21-006	6-017	"
20-007	7-018	"
19-008	8-019	"
18-008	9-020	"
17-009	10-021	"
16-010	11-022	"
15-011	12-023	"
50 14-012	13-024	50
123.41	123.41	

Ashland

123.78	123.78	
26-001	1-014	44
25-002	2-015	50
24-003	3-015	"
23-004	4-016	"
22-005	5-017	"
21-006	6-018	"
20-007	7-019	"
19-008	8-020	"
18-009	9-021	"
17-010	10-022	"
16-011	11-023	"
15-012	12-024	"
50 14-013	13-024	50
123.41	123.41	

# GOODMAN

123.37	123.37	
26-001	1-013	44
25-002	2-014	50

123.37	123.37	
26-001	1-014	44
25-002	2-015	50

123.37	123.37	
26-001	1-014	44

5-B.15

**APPLICATION FOR ZONING VARIATION**

Application # 550  
Date Filed: 7/17/08  
UARCO #  
83667

TO THE PRESIDENT AND BOARD OF TRUSTEES  
VILLAGE OF LA GRANGE, ILLINOIS

(please type or print)  
Application is hereby made by

Address: 320 S. Ashland Avenue

Phone: (708) 469-7445

Owner of property located at: Heather & Jeff Yuknis

Permanent Real Estate Index No: 18-04-320-017

Present Zoning Classification: R-4 Present Use: Single Family Residence

**Ordinance Provision for Variation from Article # 3-110,E,1 & #3-109,C,1** of Zoning Ordinance, to  
wit: 1 (Maximum Building Coverage on an Interior Lot - 30%)  
2. (Front Yard Setback and Front Yard Reduction)

- A. Minimum Variation** of Zoning requirement necessary to permit the proposed use, construction, or development:
1. A 2 % increase in the Lot Coverage to allow us to build a Covered Front Porch on the front of the house.
  2. A reduction in the Front Yard Setback to be able to build a Covered Front Porch

**B. The purpose** therefor, to add on a Covered Front Porch

- C. The specific feature(s)** of the proposed use, construction, or development that require a variation:
1. Lot Coverage – the current house and garage cover 1,739 square feet on a lot 50' x 123.6' (6,180 square feet) with a 30% Lot Coverage leaves 115 square feet – the Proposed Covered Front Porch is 230 square feet ; therefore we are requesting 115 square feet or 2% increase.
  2. Front Yard Setback & Front Yard Reduction – the current house is set back 22'-8". We propose to build an 8' deep front porch which would reduce the setback to 14'-8" – the house just to the north 318 S. Ashland is set back 13'-2" and the house to the south 324 S. Ashland is set back 15'-7"

5-13.16

PLAT OF SURVEY must be submitted with application. The plat should show any existing buildings on the petitioned property as well as any existing buildings on property immediately adjacent. It should also show any proposed new construction in connection with the variation, including landscaping, fencing, etc.

1. General Standard. The Petitioner must list below **FACTS AND REASONS** substantially supporting each of the following conclusions or the petition for variation cannot be granted. (if necessary, use additional page)

a. State **practical difficulty** or **particular hardship** created for you in carrying out the strict letter of the zoning regulations, to wit: to be able to enjoy the benefits of a covered front porch and blend in with the character of the neighborhood which consists of many homes with covered front porches

b. A reasonable return or use of your property is not possible under the existing regulations, because: We believe that a porch across the front of the house is a reasonable request and could not build an appropriate scaled porch within the current regulations. We would like a porch that allows for furniture conducive to conversations and it would expand our living space.

c. Your situation is unique (not applicable to other properties within that zoning district or area) in the following respect(s): We have a house that was built close to the front lot line but enjoy the fact that the two adjacent homes are also situated close to the front. Therefore our request is in keeping with the character of the block. Our house is much smaller in scale than the two adjacent homes as well.

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

The architectural style of the house is Dutch Colonial with both clapboard siding and stone detail. We believe that a covered front porch will not only give us the opportunity to use it and interact with the neighborhood but will enhance the appearance of our home.

5-13-17

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid

We just moved in last winter and feel that this addition will complete the design and give our house the warm approachability of most of the neighborhood.

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

The denial of the increase in lot coverage would eliminate the potential of adding the covered front porch feature (a key component in expanding outdoor living space and adding the character that would enhance the neighborhood).

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

Our disadvantage is that the house was built too close to the front lot line and thusly we are requesting a reduction in the front yard setback to allow us to build a covered front porch.

6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

We feel that the variance process has been put in place for instances just such as this. Our request is sincere and we do not feel that it is extraordinary in size or function.

5-13-18

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

- (a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or
- (b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or
- (c) Would substantially increase congestion in the public streets due to traffic or parking; or
- (d) Would unduly increase the danger of flood or fire; or
- (e) Would unduly tax public utilities and facilities in the area; or
- (f) Would endanger the public health or safety.

We believe that our request would not adversely affect any of the aforementioned items

8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

We respectfully request that an addition of a covered front porch (230 square feet) for a total of 115 square feet over the maximum lot coverage be granted. The current maximum lot coverage is 1,854 square feet and we are proposing 1,969 square feet (a 2% increase). The current Authorized Variation for maximum allowable building coverage is 20% and we are asking for only 2%. In addition we are requesting for a reduction in the front yard setback to 14'8" relative to the adjacent homes on either side.

\* \* \*

**NOTICE:** This application must be filed with the office of the Community Development Director, accompanied by necessary data called for above and the required filing fee of Five Hundred Dollars (\$500.00).

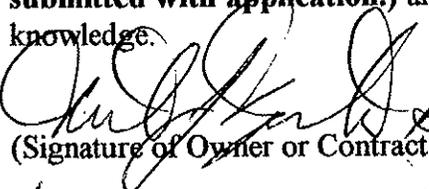
5-13-19

The above minimum fee shall be payable at the time of the filing of such request. It is also understood that the applicant shall reimburse the Village any additional costs over and above these minimums, which are incurred by the Village, including but not limited to the following:

- (a) Legal Publication (direct cost);
- (b) Recording Secretarial Services (direct cost);
- (c) Court Reporter (direct cost);
- (d) Administrative Review and Preparation (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (e) Document Preparation and Review (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation, and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost); and
- (j) Postage Costs (direct cost).

Such additional costs shall be paid by the applicant prior to the Board of Trustees making a decision regarding the request.

I, the undersigned, do hereby certify that I am the owner, or contract purchaser (**Evidence of title or other interest you have in the subject property, date of acquisition of such interest, and the specific nature of such interest must be submitted with application.**) and do hereby certify that the above statements are true and correct to the best of my knowledge.

  
(Signature of Owner or Contract Purchaser)

Heather Yukins 320 S. Ashlan  
318 S. Ashlan  
(Address)

LAURENCE  
(City)

IL  
(State)

60525  
(Zip Code)

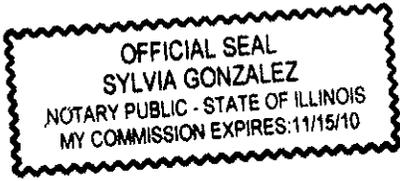
Subscribed and sworn to before me this 17<sup>th</sup> day of July, 2007.

5-13.20

(Notary Public)

(Seal)

*Sylvia Gonzalez*



Enclosures:

**(FOR VILLAGE USE ONLY)**

1. Filed with Office of the Community Development Director: July 17, 2007.
2. Transmitted to Zoning Board of Appeals at their meeting held: August 16, 2007
3. Continuation (if any):
4. Notice of hearing published in: Sub Life on:
5. Findings and Recommendation of Zoning Board of Appeals referred to Village Board at Meeting of:
6. Final Action of Village Board for adoption of amending ordinances or denial of applicant's request at meeting held:
7. Payment of expenses satisfied:

Conditions Imposed:

5-B.21

LOT AREA -  $50' \times 123.61' = 6,180$  SQ. FT.  
MAX. LOT COVERAGE(30%) = 1,854 SQ. FT.  
HOUSE (1319) + GARAGE (420) = 1,739 SQ. FT.  
MAX. ADDITION = 115 SQ. FT.  
NEW FRONT PORCH = 230 SQ. FT.  
 $230$  SQ. FT. -  $115$  SQ. FT. =  $115$  SQ. FT. OVER MAX.  
 $1,739$  SQ. FT. +  $230$  SQ. FT. =  $1,969$  SQ. FT. (32%)

318 SETBACK  $13'-2''$

320 SETBACK  $14'-8''$

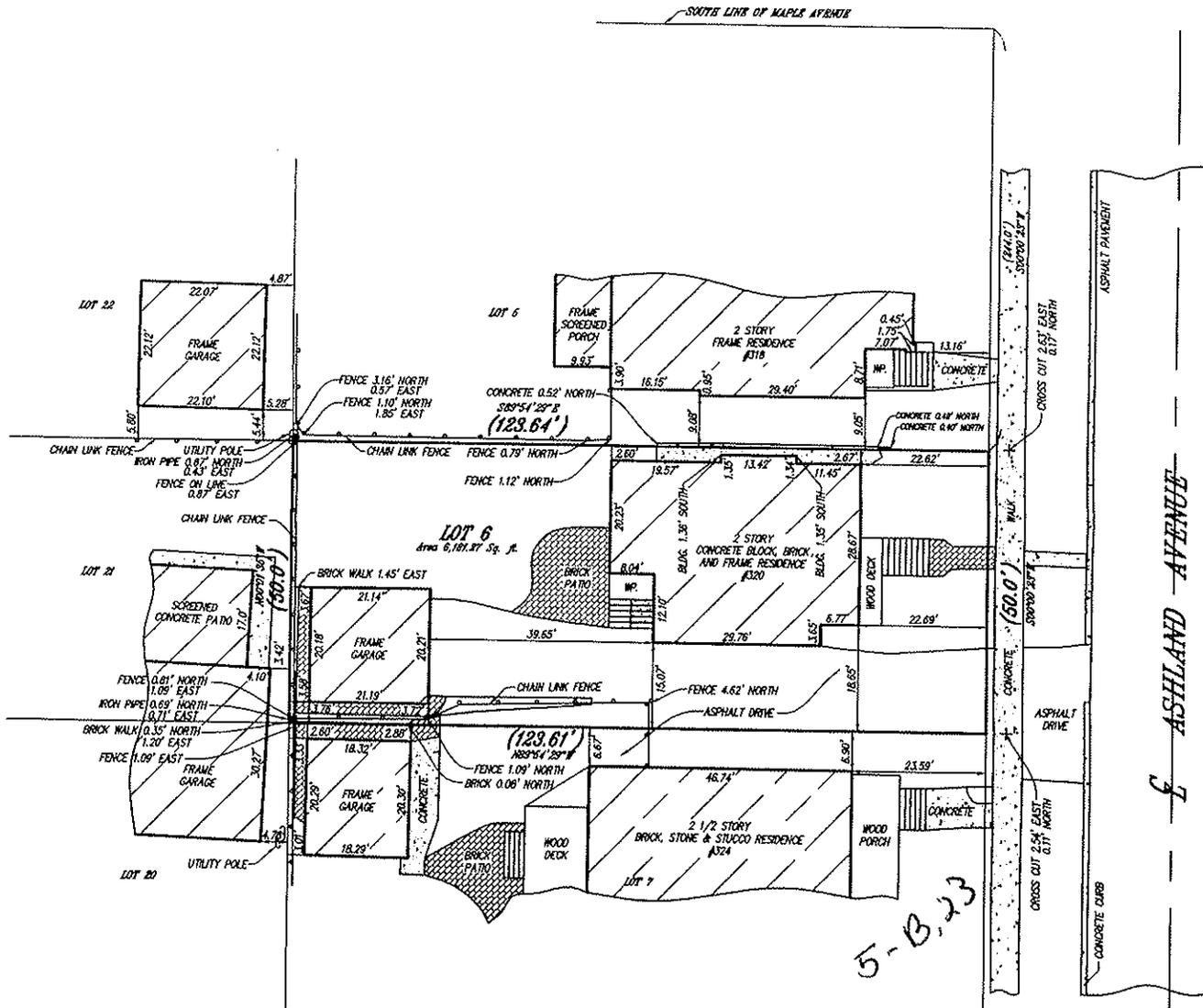
324 SETBACK  $15'-7''$

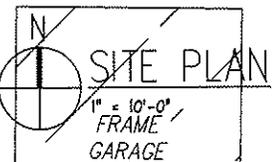
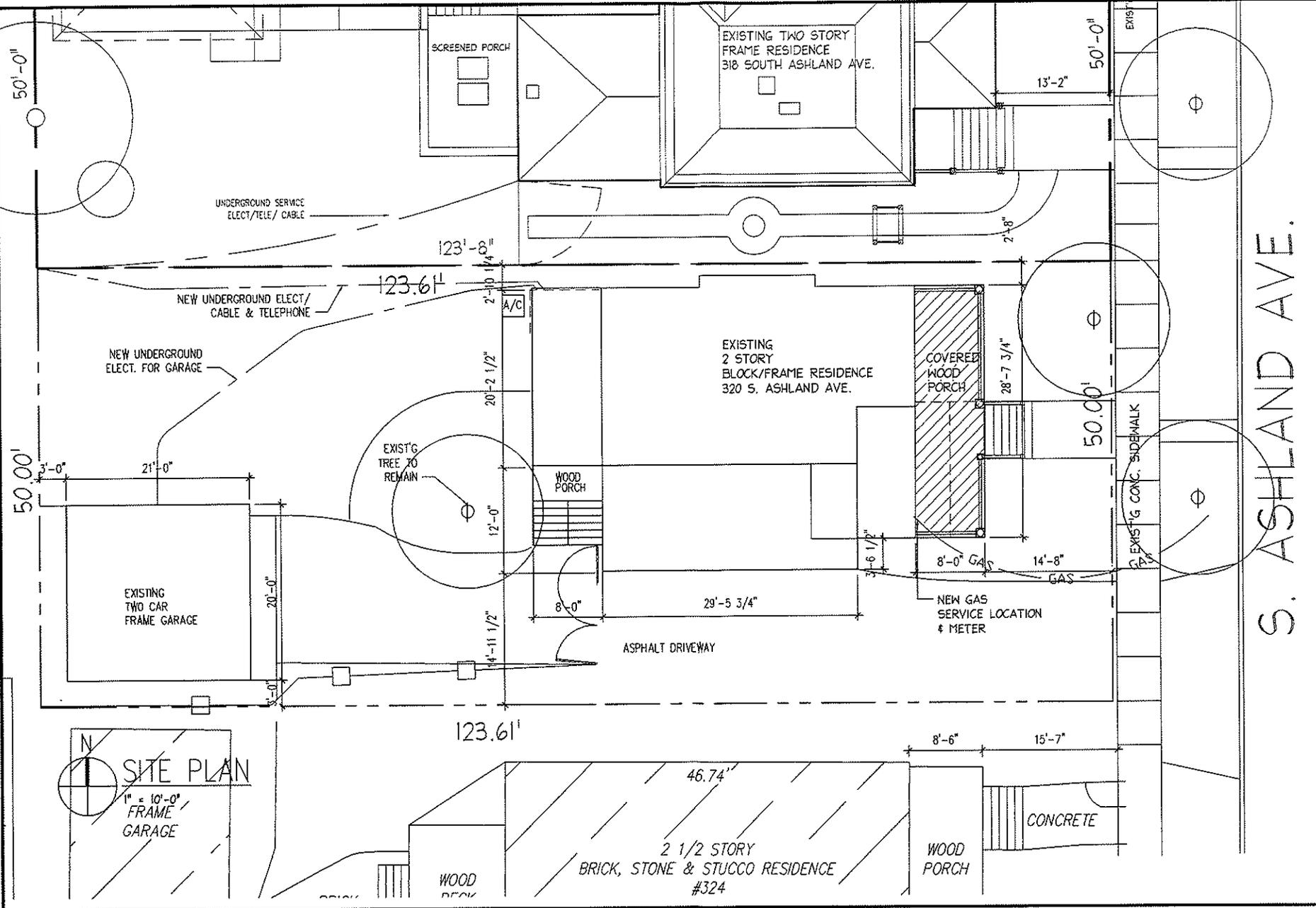
# NELSON SURVEYORS, LLC.

## PLAT OF SURVEY

LOT 6 IN BLOCK 7 IN LAGRANGE SUBDIVISION, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 AND THAT PART OF THE NORTHWEST 1/4 LYING SOUTH OF THE CHICAGO, BURLINGTON AND QUINCY RAILROAD, IN SECTION 4, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 11, 1873, AS DOCUMENT 130305, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 318 S. ASHLAND AVENUE  
320





TIMOTHY J. TROPETER - ARCHITECT  
 TIMOTHY J. TROPETER A.I.A.  
 910 S. ASHLAND AVE.  
 LA GRANGE, IL 60525  
 (708) 352-7446

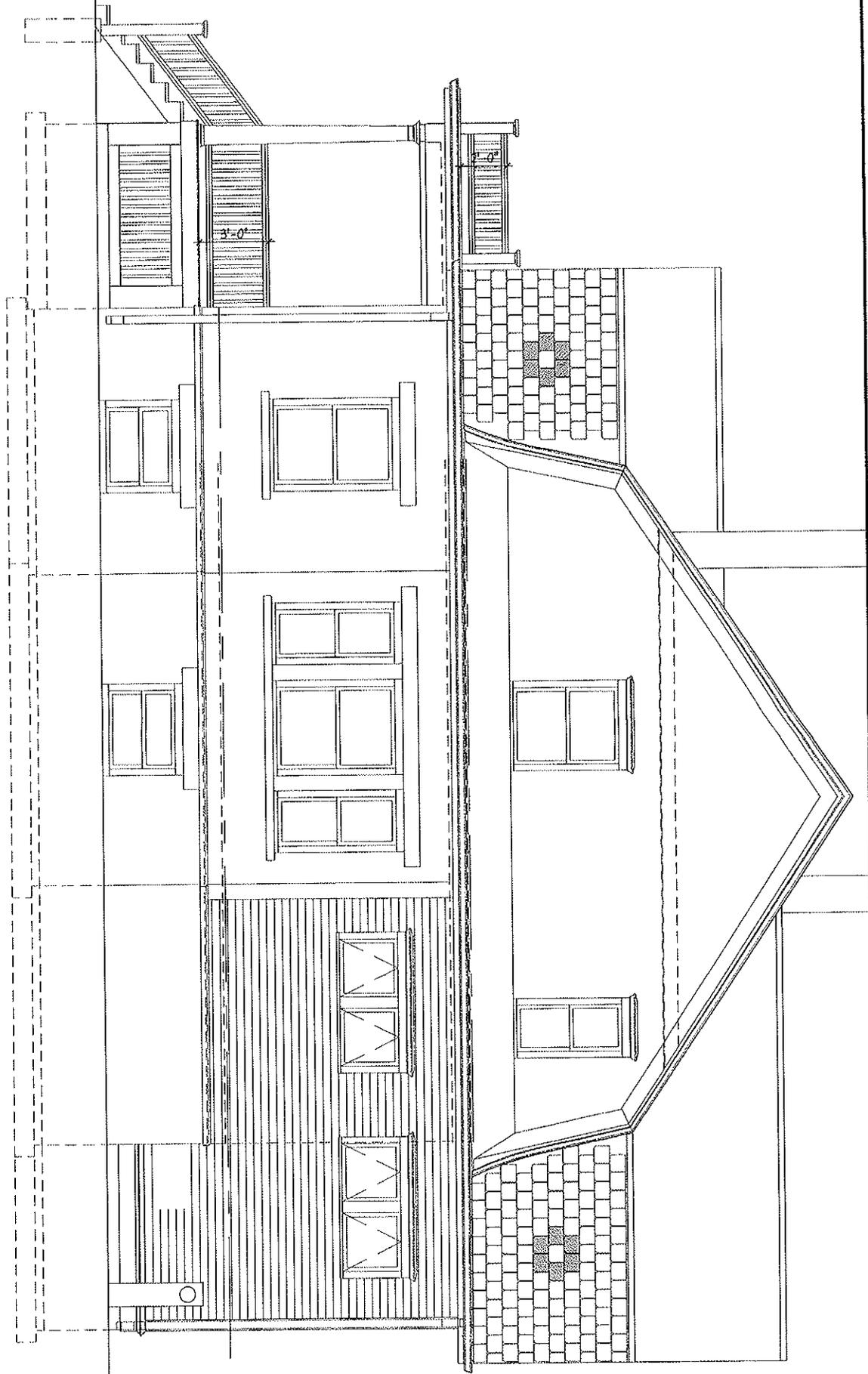
TJT

NEW FRONT PORCH FOR:  
 HEATHER & JEFF YUKNIS  
 224 S. ASHLAND AVE.  
 LA GRANGE, IL 60525  
 (708) 488-7445

A1  
 07/17/07  
 OF 6

5-0.24

NORTH ELEVATION  
1/4" = 1'-0"



A2  
07/17/07  
OF 8

NEW FRONT PORCH FOR:  
HEATHER & JEFF YUKNIS  
320 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 469-7445

TJT

TIMOTHY J. TROMPETER - ARCHITECT  
TIMOTHY J. TROMPETER A.I.A.  
318 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 352-7446

5-10-25



SOUTH ELEVATION

1/4" = 1'-0"

TIMOTHY J. TRONPETER - ARCHITECT  
TIMOTHY J. TRONPETER A.I.A.  
918 S. ASHLAND AVE.  
LA GRANGE, IL, 60525  
(708) 352-7445



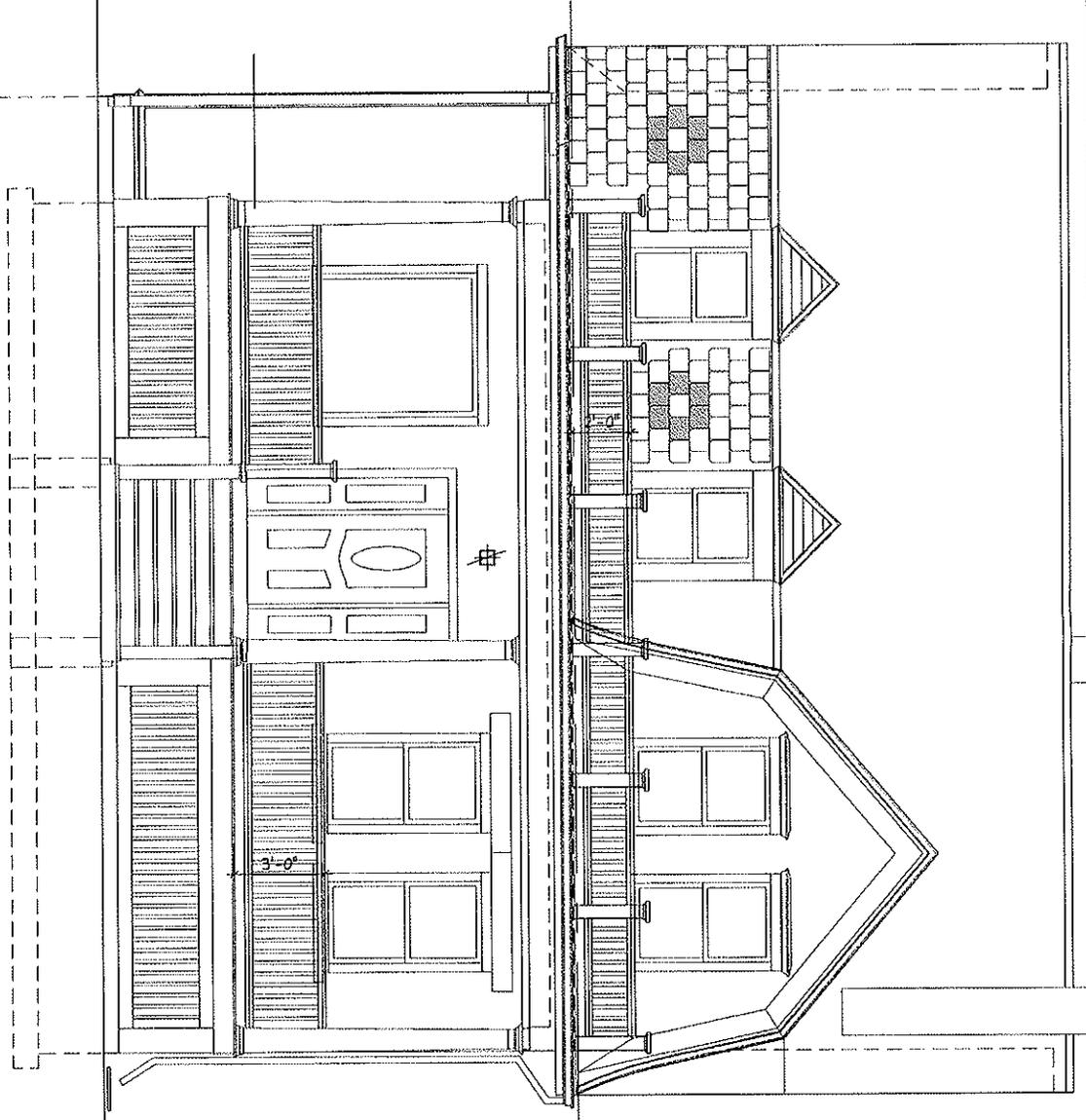
NEW FRONT PORCH FOR:  
HEATHER & JEFF YUKNIS  
918 S. ASHLAND AVE  
LA GRANGE, IL 60525  
(708) 469-7445

**A3**  
07/17/07  
OF 5

5-B. 26

EAST ELEVATION

1/4" = 1'-0"



A4  
07/17/07  
OF 6

NEW FRONT PORCH FOR:  
HEATHER & JEFF YUKNIS  
320 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 469-7445

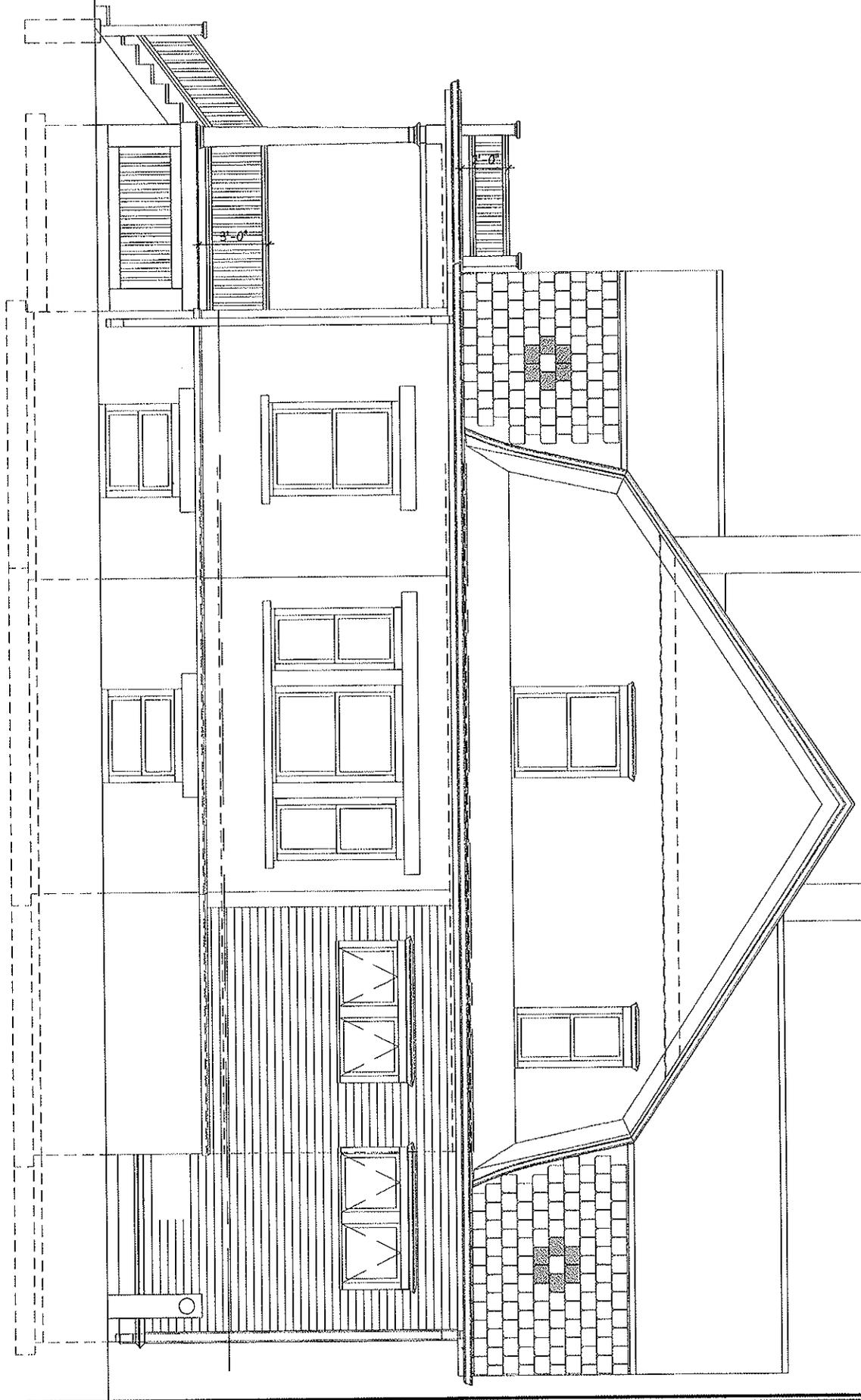
TJT

TIMOTHY J. TROMPETER - ARCHITECT  
TIMOTHY J. TROMPETER A.I.A.  
318 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 352-7446

5-B.27



NORTH ELEVATION  
1/4" = 1'-0"



A2  
07/17/07  
OF 6

NEW FRONT PORCH FOR:  
HEATHER & JEFF YUKNIS  
320 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 469-7445

TJT

TIMOTHY J. TROMPETER - ARCHITECT  
TIMOTHY J. TROMPETER A.I.A.  
318 S. ASHLAND AVE.  
LA GRANGE, IL. 60525  
(708) 352-7446

5-B.29



SOUTH ELEVATION

1/4" = 1'-0"

TIMOTHY J. TROMPETER - ARCHITECT  
 TIMOTHY J. TROMPETER A.I.A.  
 818 S. ASHLAND AVE.  
 LA GRANGE, IL, 60525  
 (708) 352-7446

TJT

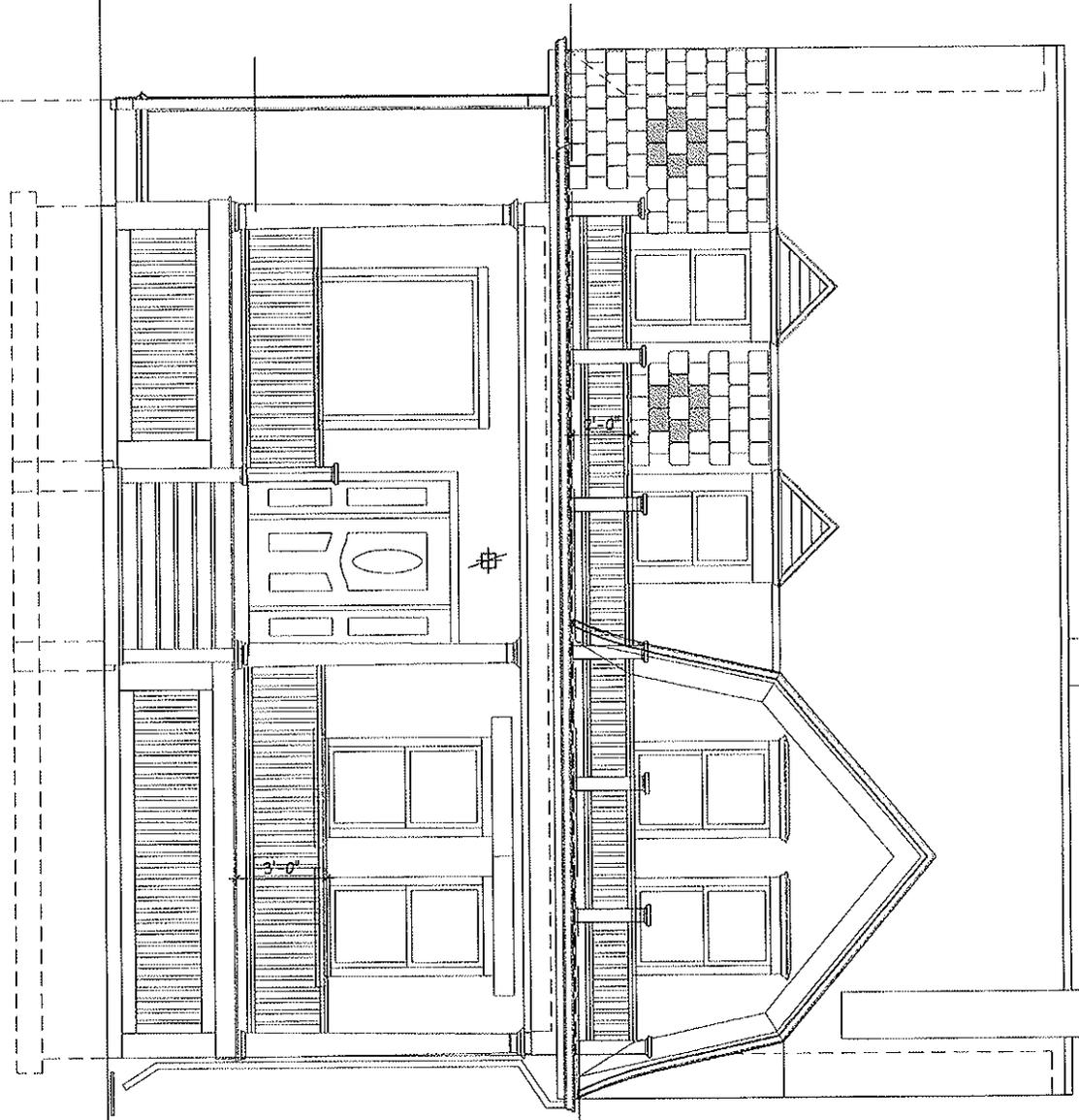
NEW FRONT PORCH FOR:  
 HEATHER & JEFF YUKNIS  
 320 S. ASHLAND AVE.  
 LA GRANGE, IL, 60525  
 (708) 461-7446

A3  
 07/17/07  
 OF 6

5-B.30

EAST ELEVATION

1/4" = 1'-0"



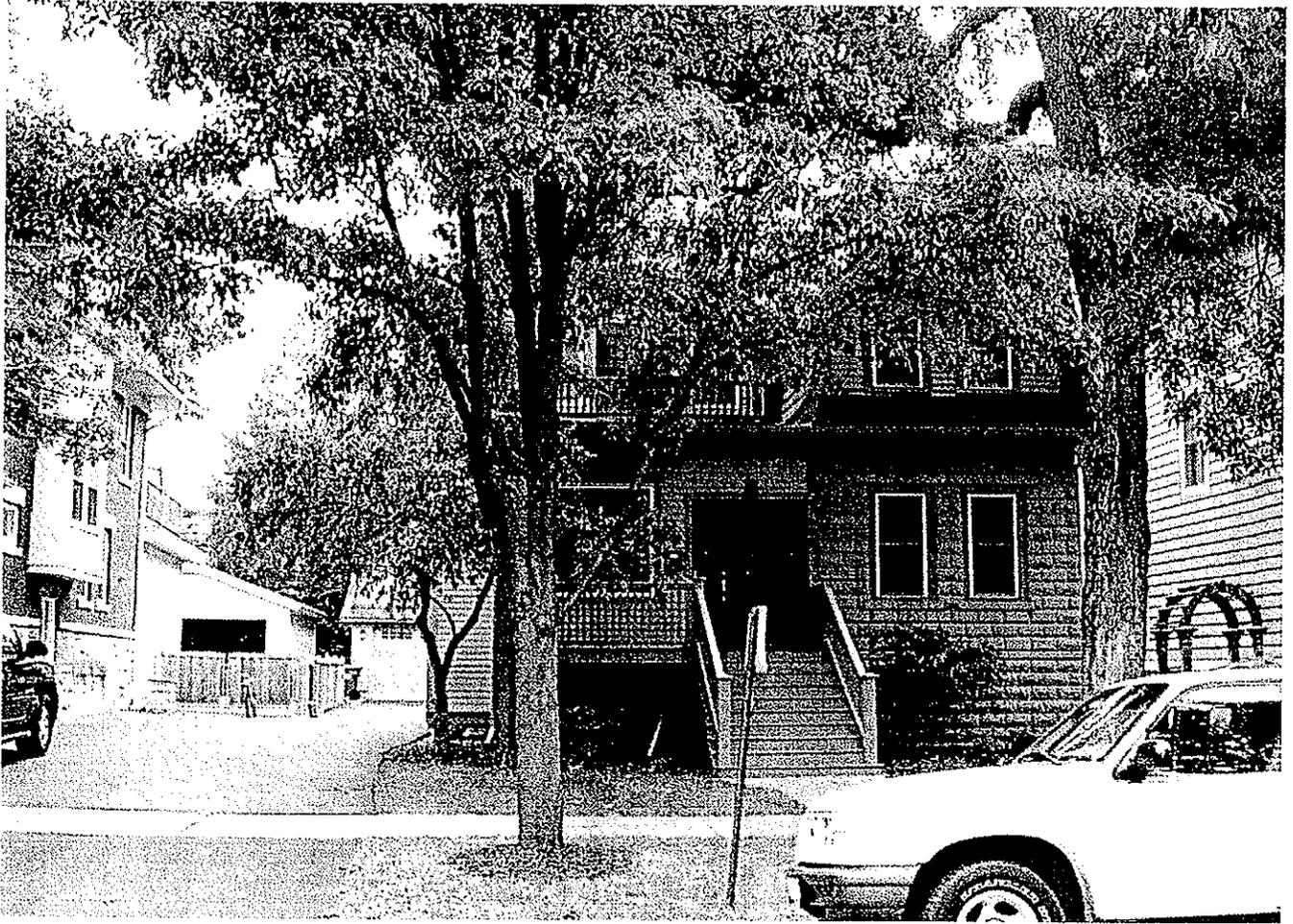
A4  
07/17/07  
OF 6

NEW FRONT PORCH FOR:  
HEATHER & JEFF YUKNIS  
320 S. ASHLAND AVE.  
LA GRANGE, IL, 60525  
(708) 469-7445

TJT

TIMOTHY J. TROMPETER - ARCHITECT  
TIMOTHY J. TROMPETER A.I.A.  
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(708) 352-7446

5-B.31



(1)

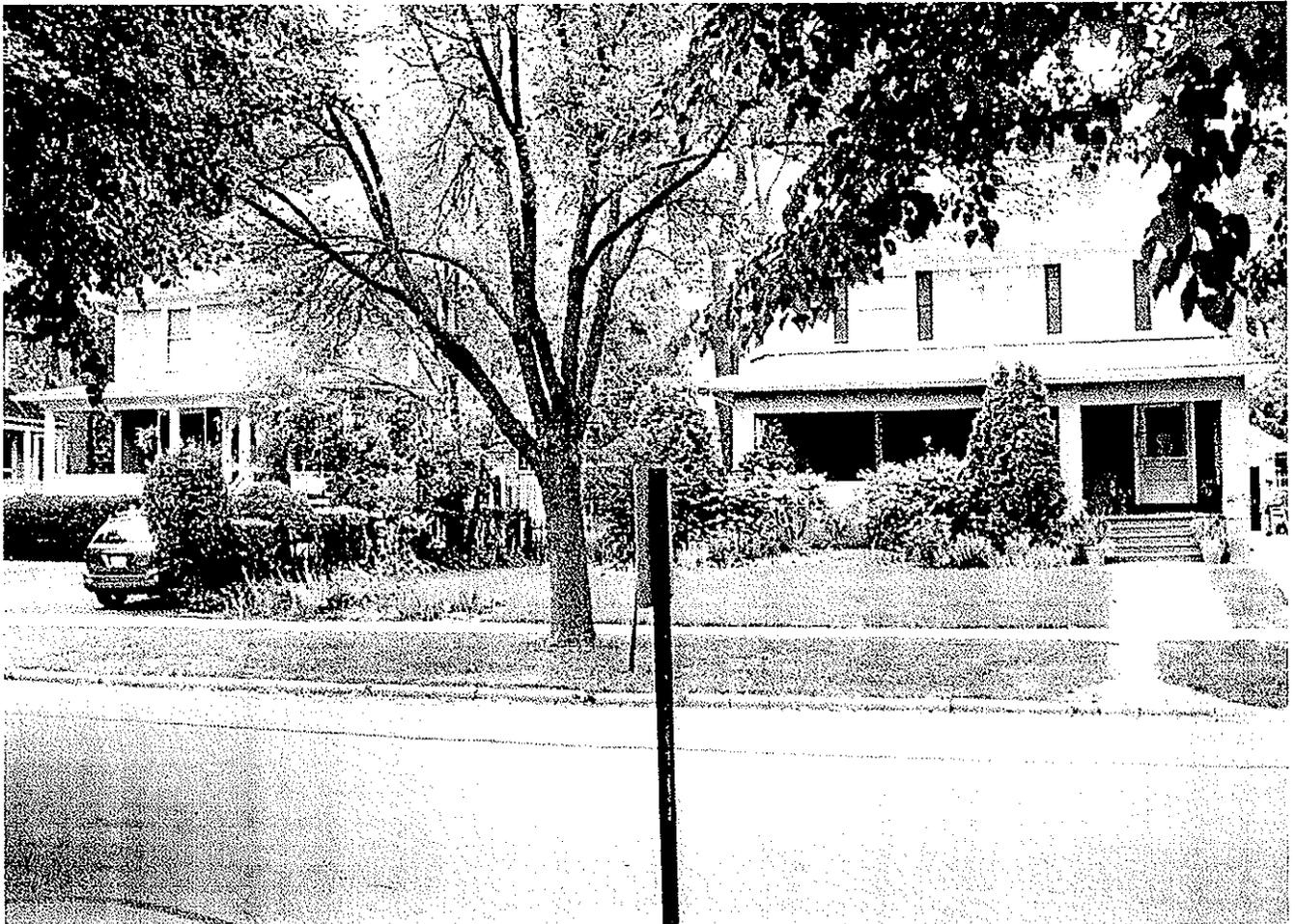
320 S. ASHLAND.

NOTE; ON THE 300 BLOCK OF ASHLAND

20 OUT OF 24 HOMES HAVE COVERED FRONT PORCHES.

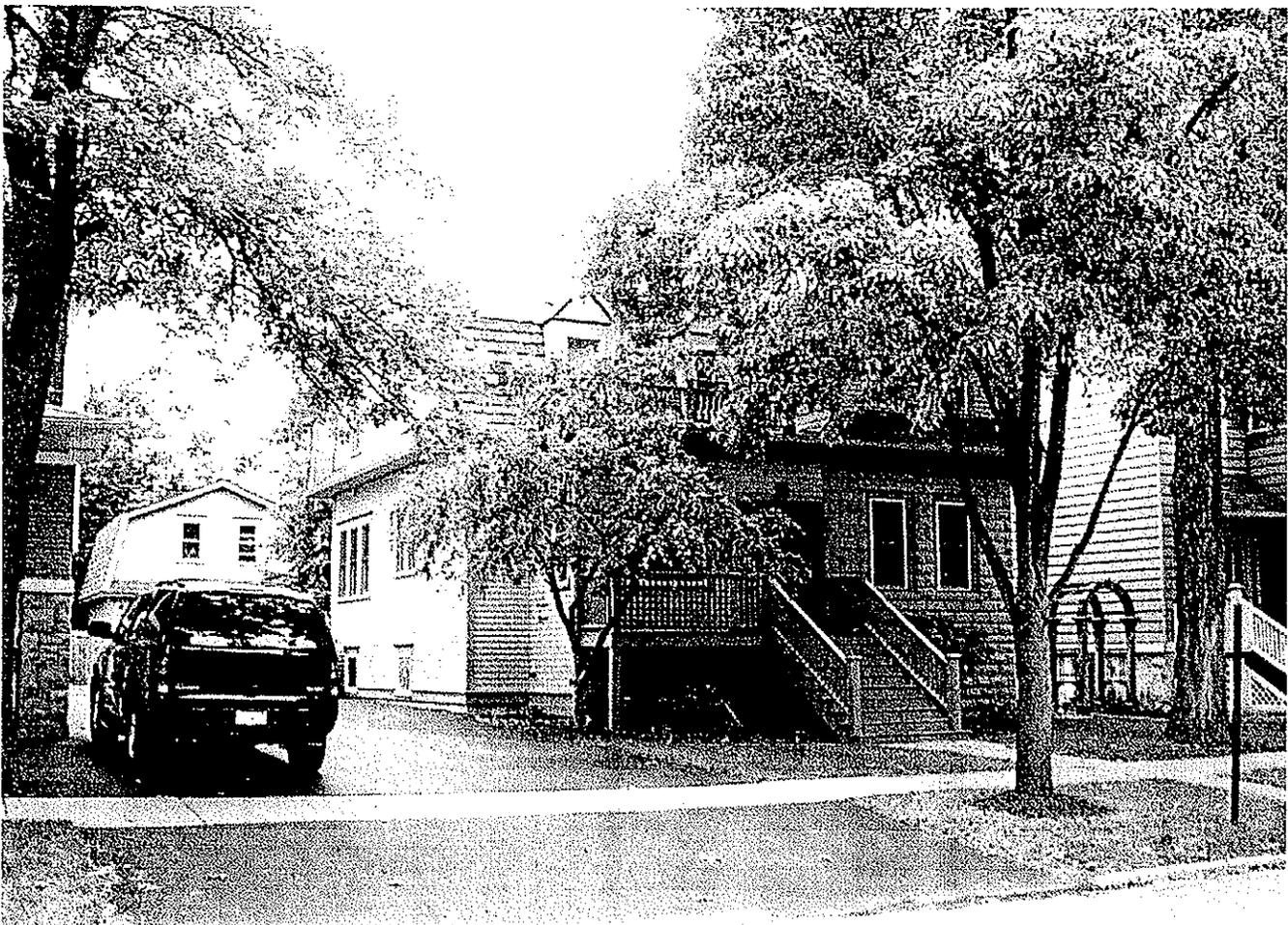
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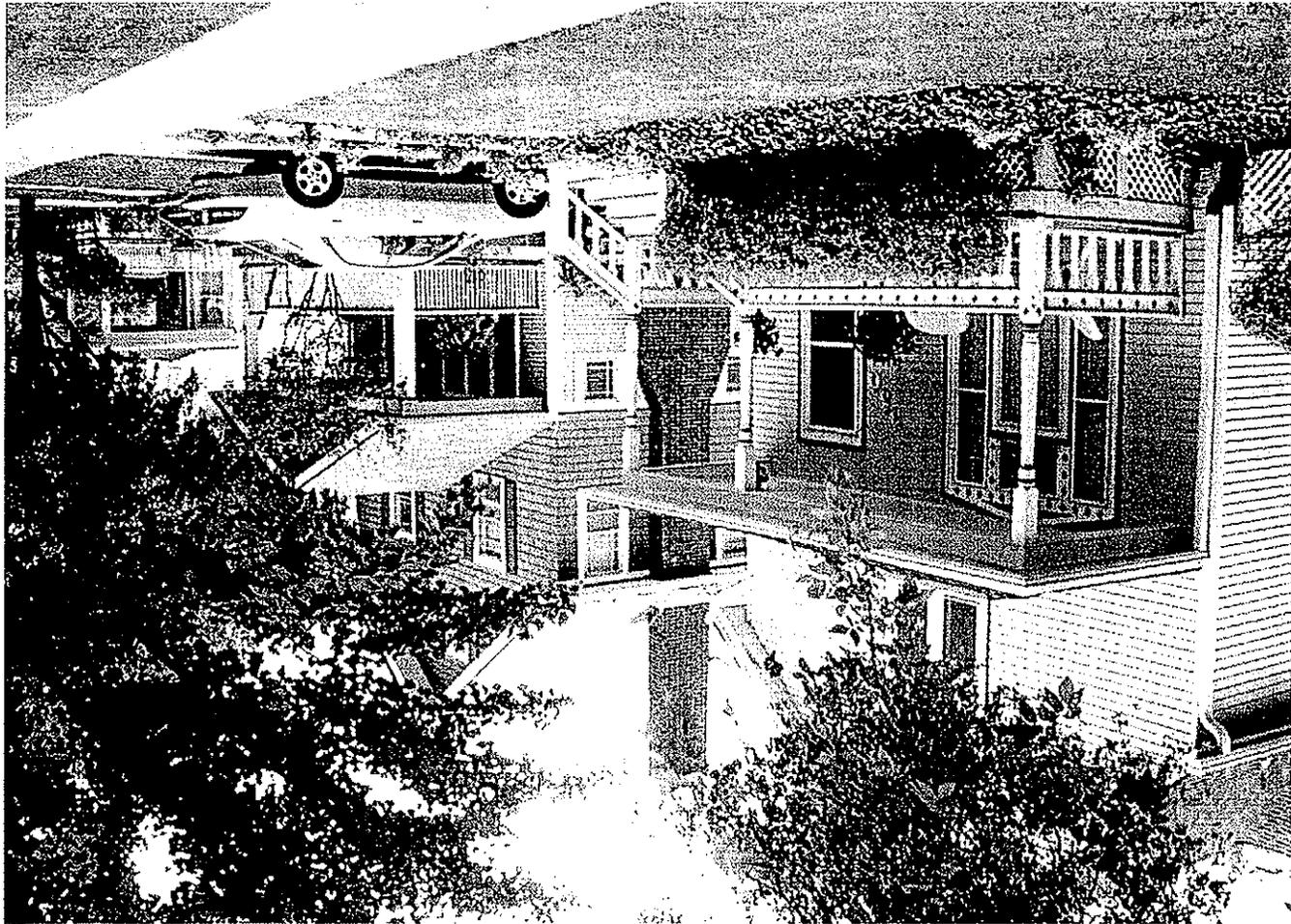
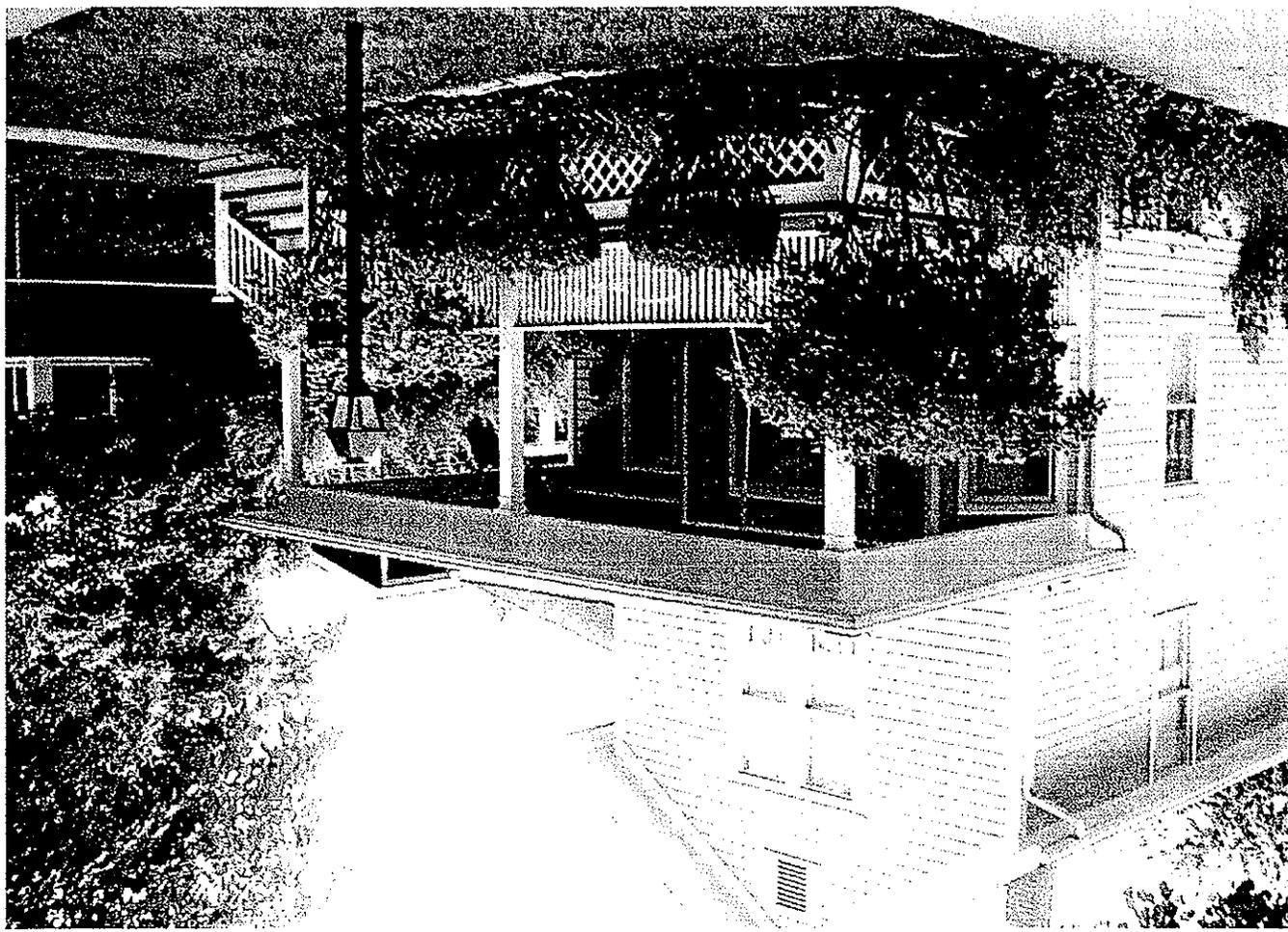
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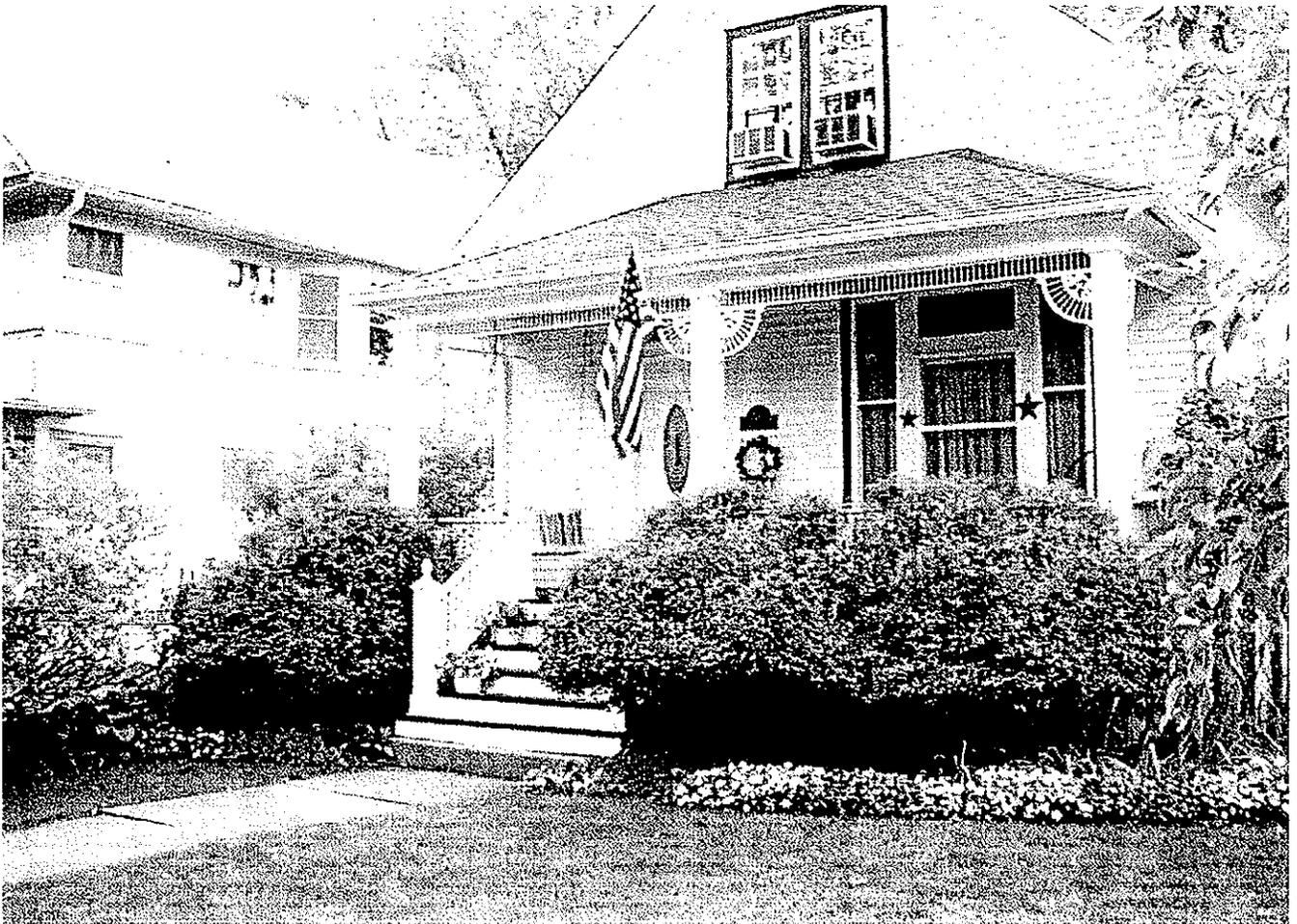
5-B.34

5-18-35



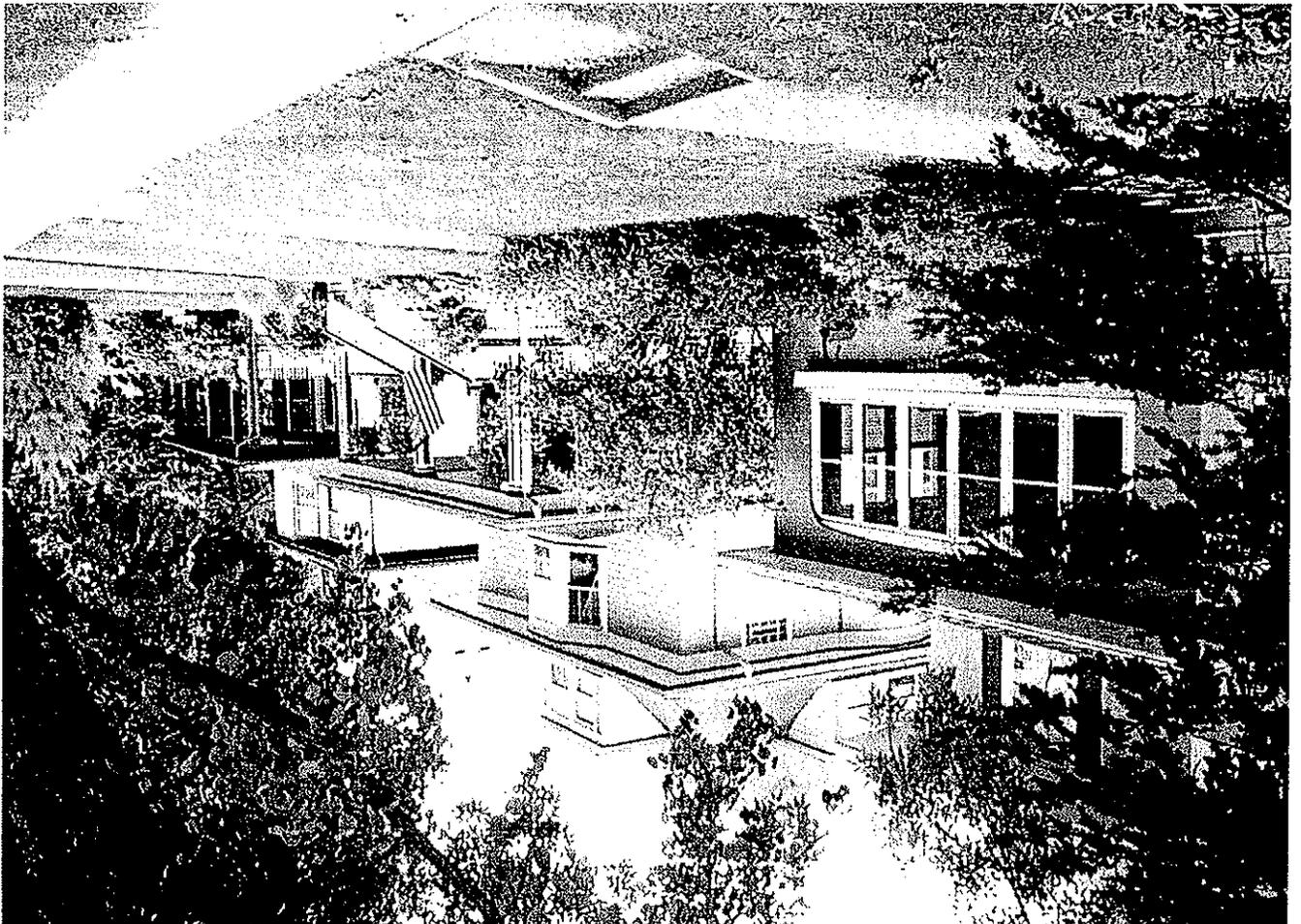
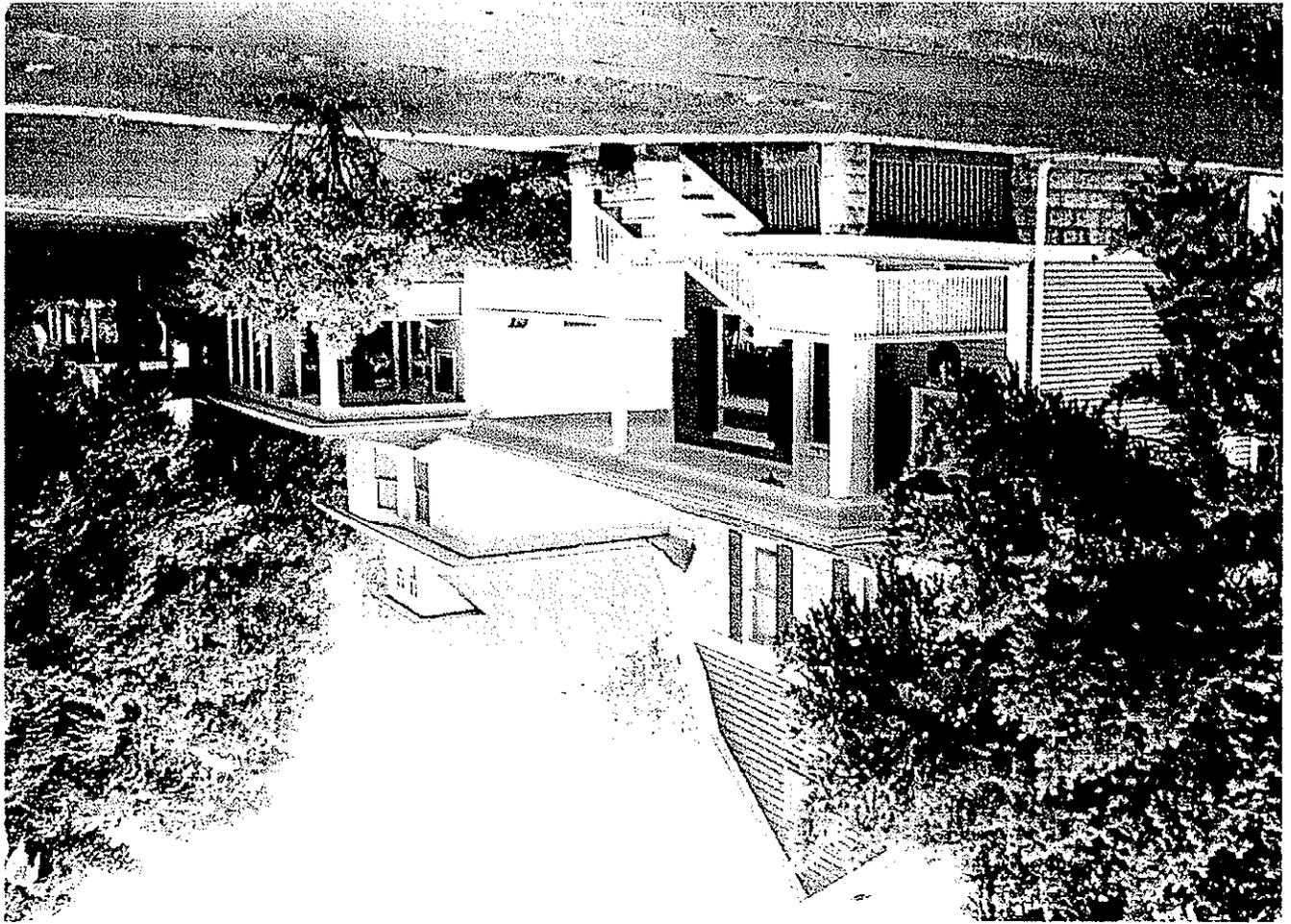
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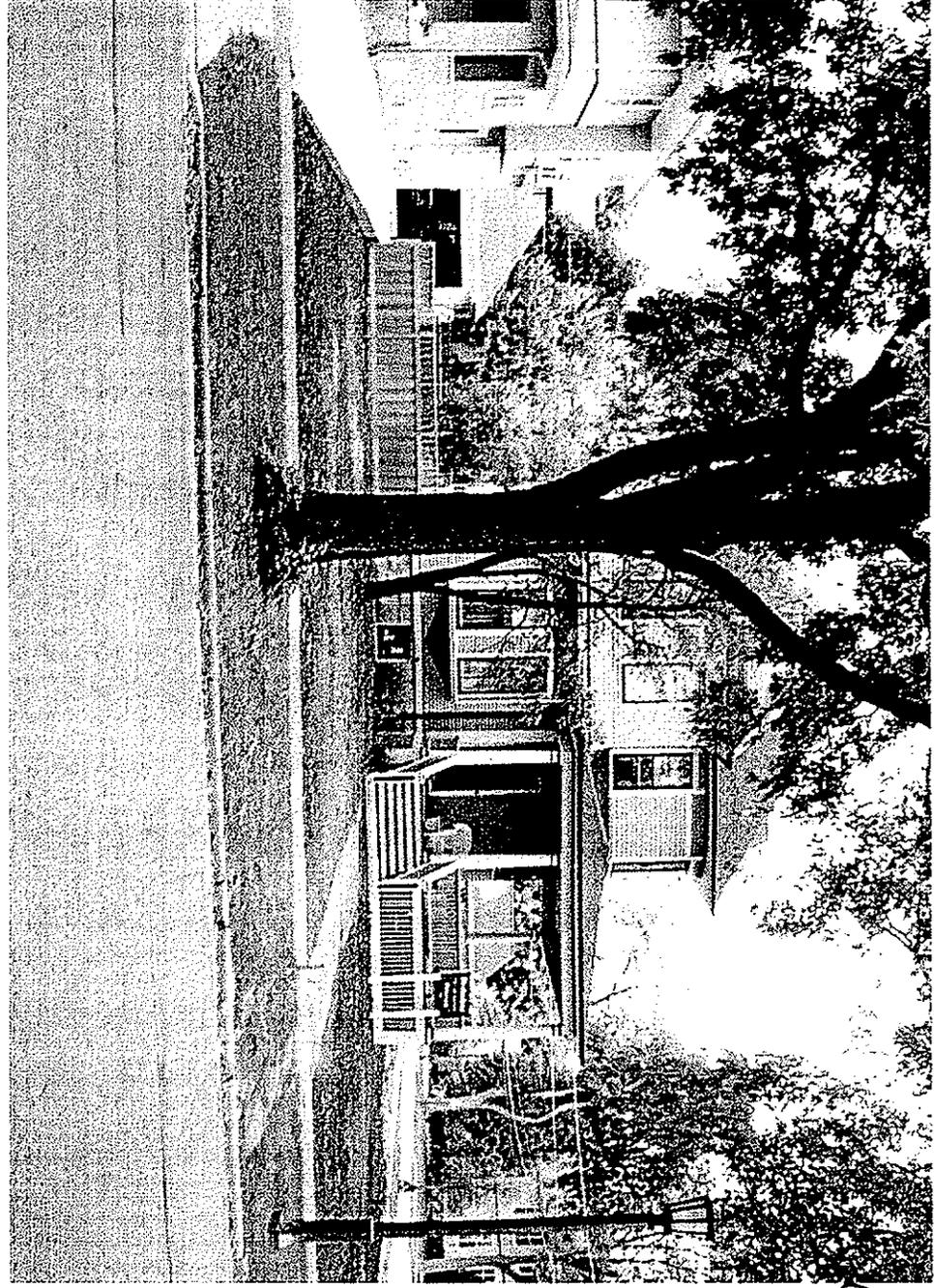


5-B.36

5-B.37



5



7



9-13-38

# Village of La Grange



## VILLAGE BOARD MEETING

MONDAY, SEPTEMBER 24, 2007

7:30 p.m.

BOOK 2 OF 2

Village Hall Auditorium

53 S. La Grange Road

La Grange, IL 60525

Elizabeth M. Asperger  
Village President

Robert N. Milne  
Village Clerk

VILLAGE OF LA GRANGE  
Community Development Department

**BOARD REPORT**

TO: Village President, Village Clerk  
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Patrick D. Benjamin, Community Development Director  
Angela M. Mesaros, Assistant Community Development Director

DATE: September 24, 2007

RE: **ORDINANCE - VARIATION - REQUIRED FRONT YARD/ DENNIS AND  
DIANE TALENTOWSKI, 108 SOUTH 7<sup>TH</sup> AVENUE.**

---

Dennis and Diane Talentowski, owners of the property at 108 South 7<sup>th</sup> Avenue, have applied for a variation from Front Yard requirements to allow the construction of a wrap-around front porch. The subject property is located in the R-3 Single Family Residential District and within the Historic District. The property in question is larger than typical zoning lots with a 75 foot width; whereas, most lots in the village are 50 ft. wide.

Construction of the proposed six foot deep front porch would encroach into the adjusted front yard setback of 25 feet by 2 feet. Subsection 14-303E1 (a) of the Zoning Code allows the reduction of any required yard and setback by variance. The requested variation falls within the authorized limits of the Zoning Code.

According to the petitioners, the proposed front entry way would more easily enable safe passage for family and friends during inclement weather. In addition, adding a front porch would improve the aesthetics of the property and be consistent with vintage houses in the immediate neighborhood.

On August 16, 2007, the Zoning Board of Appeals held a public hearing on this matter (see Findings of Fact). At the public hearing, the petitioners presented the application. The motion to recommend that the variation be granted, with the condition that the applicants engage in a covenant with the village that the front porch never be enclosed, failed by a vote of two (2) ayes and three (3) nays. Pursuant to Subsection 13-102D of the Zoning Code, at least four aye votes are required to decide in favor of any application.

Those Zoning Board members recommending denial felt that a zoning variation should not be recommended based on design. While the Commissioners may have supported the concept of the proposal, the application does not meet the standards required for a variation. They cited the following facts: (1) The Zoning Board generally has not recommended a variance for a porch unless the property had a pre-existing porch. (2) While many historic homes in La Grange have front

5-C

porches, newer homes such as the petitioners' do not have front porches. This porch does not fit the vernacular. (3) This property is situated on an adequately sized lot; therefore, it does not meet the unique physical conditions.

The members voting in favor stated that they felt the design would be sensitive to the historic character of the neighborhood.

If you concur with the recommendation of the Zoning Board of Appeals to deny the request, then a motion to deny the variation is in order. No resolution or ordinance memorializing such action is necessary. Conversely, should you choose to grant the variation, a motion to approve the attached ordinance authorizing the variation would be appropriate.

Please note that in accordance with State Statute, the approval of any proposed variation which fails to receive the approval of the Board of Appeals will not be passed except by the favorable vote of two-thirds (2/3) majority vote by roll call of all Trustees currently holding office (four out of six Trustees).

Staff has prepared the attached ordinance authorizing the variation for your consideration.

5-C.1

ORDINANCE NO. O-07-

AN ORDINANCE ALLOWING ZONING VARIATION  
OF THE VILLAGE OF LA GRANGE

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook, State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, Dennis and Diane Talentowski, owners of the property commonly known as 108 S. Seventh Avenue, La Grange, Illinois, and legally described as follows:

That part of the north west quarter of the south east quarter of Section 4, Township 38 north, Range 12, East of the Third Principal meridian, described as commencing 75 feet south of the south west corner of Cossitt and Seventh Avenue as shown on the map of the Owner's Subdivision and recorded May 21, 1909 as Document 4378957, thence south along the west line of Seventh Avenue 75 feet; thence west 150 feet; thence north 75 feet; thence east to the west line of Seventh Avenue to the place beginning in Cook County, Illinois.

have applied for variation from Paragraph 3-110C1 (Required Front Yard) of Chapter 154 of the La Grange Code of Ordinances in order to construct a 6 ft. by 34.98 ft. wrap-around front porch on the above referenced property. The Zoning Board of Appeals, as required by law, has conducted a duly noticed public hearing on this matter on August 16, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1: A variation of 2 ft. from Paragraph 3-110C1 (Required Front Yard) of Chapter 154 of the La Grange Code of Ordinances, to construct a wrap-around front porch, be hereby granted to the owner of the above-referenced property in conformance with the plans submitted to the Zoning Board of Appeals subject to the following condition:

1. The owners of the property engage in a covenant with the Village that the front porch never be enclosed.

SECTION 2: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

5-C.2

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

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

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

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, VILLAGE PRESIDENT

**ATTEST:**

\_\_\_\_\_  
Robert N. Milne, VILLAGE CLERK

5-6.3

**FINDINGS OF FACT**

ZONING BOARD OF APPEALS  
OF THE  
VILLAGE OF LA GRANGE

President Asperger and  
Board of Trustees

August 16, 2007

**RE: ZONING CASE #559: VARIATION – Dennis & Diane Talentowski – 108 S. 7<sup>th</sup> Avenue, to consider a zoning variation from Paragraph 3-110C1 (Required Front Yard) of the Zoning Code to authorize the construction of a front porch within R-3 Single Family Residential District.**

The Zoning Board of Appeals transmits for your consideration its recommendations for a request of zoning variation necessary to construct a front porch on the property at 108 South 7<sup>th</sup> Avenue.

**I. THE SUBJECT PROPERTY:**

The property in question is a single family residential lot with a 75 foot width and a depth of approximately 150 ft.

**II. CHARACTERISTICS OF THE SURROUNDING AREA:**

The subject property is located in the R-3 Single Family Residential District.

**III. VARIATIONS SOUGHT:**

The applicant desires a variation from Paragraph 3-110C1 (Required Front Yard) of the La Grange Zoning Code. The applicant wishes to construct a front porch which would encroach into the adjusted front yard by two feet. At the public hearing, the applicant requested a variation to allow for the construction of a front porch at the subject property. Paragraph 14-303E1(a) (Authorized Variations) allows the reduction of any required yard. The requested variation falls within the authorized limits of the zoning code.

**IV. THE PUBLIC HEARING:**

After due notice, as is required by law, (including legal publication, posting at the subject property and courtesy notices to owners within 250 feet of the subject property) the Zoning Board of Appeals held a public hearing on the proposed variation in the La Grange Village Hall Auditorium on August 16, 2007. Present were Commissioners Nancy Pierson, Charles Benson, Jr., Nathaniel Pappalardo (arrived at 7:40 p.m.), Kathy Schwappach and Chairperson Ellen Brewin presiding. Also present was Staff Liaison, Angela Mesaros and Village Board Trustee James Palermo. Testimony was given under

5 - C.4

oath by the applicants. No objectors appeared at the hearing and no written objections have been filed to the proposed variation.

Chairperson Brewin swore in Dennis and Diane Talentowski, owners of the subject property, 108 South 7<sup>th</sup> Avenue, and Steve Potracki, Architect, 3812 Harrison, Brookfield, who presented the application and answered questions from the Commissioners:

- The Petitioners purchased the house in 1997. The house was built in 1954. It is a beautiful home on the inside, located in a beautiful section of La Grange in the Historic District. The original Cossitt house is across the street. The new front porch will complement the neighborhood.
- They are asking for a six foot deep front porch, which will give them a front door. The house currently has no formal front entryway.
- The Talentowskis stated that they feel the house does not look attractive from the front, and they are trying to improve the appearance of the house with a nice front entrance. They are not asking for an excessive encroachment.

Chairperson Brewin solicited questions from the Commissioners:

- Commissioner Pierson asked about the proposed addition. Answer: The new front door and entryway all fall within the zoning code requirements with the exception of the front yard.
- Commissioner Pappalardo asked how the required front yard is determined. Answer: It is the average of the two immediate adjacent properties.
- Chairperson Brewin asked if the porch would be a wrap-around. Answer: Yes, but the wrap around portion does not encroach into the front yard.
- Chairperson Brewin asked if there were other alternatives. Answer: With a full side porch, there is no way to access the garage in the back. Chairperson Brewin replied that they could move the driveway. Answer: This did not seem practical to the Petitioners.

Chairperson Brewin solicited questions and comments from the audience.

- Tom Skoleta, 111 South 7<sup>th</sup> Avenue, lives directly across the street and stated he is excited about the porch. He thinks it looks great.

5-0.5

- Anka Perish, 103 South 7<sup>th</sup> Avenue, stated that she lives in a house constructed in 1893 with a wrap around porch, and she is excited about the proposal. She feels that the Talentowski's house is an eyesore. It is a 1950's house and further stated that other houses on the block are on small lots whereas the Talentowski's house is on a larger lot.
- John Pierce, contractor, stated that presently, there is a side door and any porch less than six feet deep would not allow safe entry into that.

*Under the provisions of the Zoning Ordinance, no variation shall be granted unless the applicant establishes that carrying out the strict letter of the provisions of this code would create a particular hardship or practical difficulty. Such a showing shall require proof that the variation sought satisfies certain conditions. The following facts were found to be evident:*

1. Unique Physical Condition:

This lot is larger than typical zoning lots in the R-3 Single Family Residential Zoning District with a 75 width; most lots in the village are 50 ft. wide

2. Not Self-Created:

According to the petitioners, the location of the house on the lot is not the result of any actions that they have taken since they purchased the property.

3. Denied Substantial Rights:

According to the petitioners, a front porch is a right enjoyed by many village residents.

4. Not Merely Special Privilege:

The petitioners believe that the proposed front porch is not a special privilege, because residents throughout the village have front porches that encroach into their required front yard. However, several of the residents in the immediate area do not have front porches that encroach into the required front yard. Less than 50% of the houses on the petitioners' block have wrap-around front porches.

5-6-6

5. Code and Plan Purposes:

The petitioners are not changing the use of the property. With the proposed front porch, the property would not exceed the maximum building coverage as required by the Zoning Code.

6. Essential Character of the Area:

While the house is located within the Historic District of the Village, it is not a design that would typically have a wraparound front porch. However, the petitioners believe that the requested variation would not adversely affect the character of the neighborhood.

7. No Other Remedy:

Other remedies for construction of a covered porch at the subject property would be to locate the porch on the south side of the house. This would align with the front façade of the house and meet the required front yard.

**V. FINDINGS AND RECOMMENDATION:**

- Chairperson Brewin stated that in La Grange, most of the older homes have front porches, however newer homes do not have front porches. This porch does not fit the vernacular of the house, in her opinion.
- Chairperson Brewin stated that it looks like there is an entryway to get into the house. She is pleased with the proposed design but does not believe that should be the basis for granting a variation. She further stated that she is not sure why this is a necessity and the house does not appear to be unique.
- Commissioner Pierson stated that while she likes the plans, she finds it hard to establish that there is a hardship.
- Commissioner Pappalardo asked if the Talentowskis would be willing to accept a condition that the porch would remain open. Answer: Yes, they would.
- Commissioner Pappalardo stated that he thinks that it is a very nice house; La Grange has a wide variety of styles of homes and this is a good example of a nice home that does not necessarily fit in the context.

5-c.7

- Commissioner Benson stated that he personally feels that this house would be a lot nicer if it was turned to face the street. He understands that they are trying to fit this house into the neighborhood. This case is similar to a variation granted a couple of years ago that helped a house fit into the neighborhood.
- Commissioner Pappalardo stated that our charge is to interpret very precise variation standards. He stated that the Zoning Board could not ignore the standards on the basis of aesthetics.
- Commissioner Pappalardo further stated that though there are some unique aspects, this property is situated on an adequately sized lot. Therefore, it does not meet the standard unique physical condition.
- Chairperson Brewin stated that she agrees with Commissioner Pappalardo, the design is reasonable, however, they cannot grant this based on design.

There being no further questions or comments from the audience or the Commissioners, a motion was made by Commissioner Benson and seconded by Commissioner Schwappach that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the application submitted with ZBA Case #559 with the condition that the applicants engage in a covenant with the village that the front porch never be enclosed.

Motion Failed by a roll call vote (2/3/1).

AYE: Benson and Schwappach.  
NAY: Pappalardo, Pierson and Brewin.  
ABSENT: Brenson.

BE IT THEREFORE RESOLVED that the Zoning Board of Appeals failed to recommend approval to the Village Board of Trustees of the variation from Paragraph 3-110C1 (Required Front Yard) to allow construction of a front porch at 108 South 7<sup>th</sup> Avenue.

Respectfully submitted:

Zoning Board of Appeals of the  
Village of La Grange

BY:

  
Ellen Brewin, Chairperson

5-C.8

August 21, 2007

President Elizabeth Asperger  
Village Board of Trustees  
Village of LaGrange  
53 South LaGrange Road  
LaGrange, IL 60525

Dear President Asperger and Trustees:

I am respectfully submitting an addendum to our Application for Zoning Variance (ZBA Case #559) for review by you and the Village Board. We were denied our variance by the ZBA (3-2) due to our failure to adequately address the eight conclusions. The addendum is our attempt to address the conclusions.

Thank you for your time and attention.

enc

Sincerely,

The image shows two handwritten signatures in black ink. The top signature is 'Diane Talentowski' and the bottom signature is 'Dennis Talentowski'. Both are written in a cursive, flowing style.

Diane and Dennis Talentowski  
108 S. 7<sup>th</sup> Ave  
LaGrange, IL 60525

5-6-9

1. General Standard. The Petitioner must list below **FACTS AND REASONS** substantially supporting **each** of the following conclusions or the petition for variation cannot be granted. (if necessary, use additional page)

a. State **practical difficulty** or **particular hardship** created for you in carrying out the strict letter of the zoning regulations, to wit: In order to enter our residence, one must walk up the driveway to reach our "front" entry door, which is actually located on the side of our house. During the winter months, after a snowfall, the driveway gets very slippery due to the vehicle traffic entering and leaving the driveway, packing the snow and turning it to ice. Once the temperature drops below freezing, we experience ice covered driveway until the temperature returns above freezing.

Approximately two years ago, my 88 year old father was walking up the driveway, slipped, fell, and broke his hip due to the slippery conditions.

We make every effort to clear the snow but if it should snow during the day while we are at the office, the first car in the driveway starts the packed snow condition and it compounds with each subsequent snowfall.

Allowing us to move the entry from the side of the house to the front, including a covered but open porch, and a separate front walkway would allow us to keep a clear and safe approach to our home

b. A reasonable return or use of your property is not possible under the existing regulations, because:

c. Your situation is unique (not applicable to other properties within that zoning district or area) in the following respect(s):

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

The lot is larger than most typical Single Family lots and meets all other requirements of the residential zoning requirements. The placement of the existing home is set behind the zoning districts required setback however moving the door to the front of the house and covering the entry area would require a variance of 2'-0" into the setback to allow for a 6' functional porch.

5-C.10

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.

The home is located behind the allowable setback of 31.97' by 4.02'. In order for the porch to be functional, a minimum porch width of 6 feet would be required which would necessitate an additional 2'-0" of setback.

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

An entry at the front of the home is the most common placement of the entry and a front walk way connecting the entry to the city sidewalk would allow us to insure a safe passage during inclement weather.

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

The relocation of the entry to the front of the home would more easily enable safe passage for family and visitors.

6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

Relocating the front entry and adding a front porch would add to the aesthetic appeal of the property in a area of the village that has vintage homes.

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or

(b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or

(c) Would substantially increase congestion in the public streets due to traffic or parking; or

5-0-11

- (d) Would unduly increase the danger of flood or fire; or
- (e) Would unduly tax public utilities and facilities in the area; or
- (f) Would endanger the public health or safety.

The proposed addition of the front porch would not change the use of the property, would not adversely affect the character of the neighborhood, and would add to the continuity and harmony of the neighborhood.

8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

We have explored many other design variations to relocate or refocus the main entry to our home. We feel that the front façade is the most logical and economical alternative as it maximizes the exposure of the front entry to the street, maximizes the amount of room internal to the structure, and allows the blending of our home with other homes on our block and in the neighborhood.

5-6.12

## STAFF REPORT

**CASE: ZBA #559 - Dennis and Diane Talentowski - 108 S. 7<sup>th</sup> Avenue - Required Front Yard**

### **BACKGROUND**

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

The petitioners, Dennis and Diane Talentowski, wish to construct a new 6 ft. by 34.98 ft. wraparound front porch on the subject property at 108 S. 7<sup>th</sup> Avenue. The required front yard for this property is 35 feet. The proposed porch would encroach into the required front yard by 2.0 feet. Therefore, a building permit could not be issued.

In order to construct the proposed front porch, the petitioners seek a variation from Paragraph 3-110C1 (Front Yard Setback) of the Zoning Code. Construction of the front porch would encroach into the adjusted front yard by 2.0 ft. Subparagraph 14-303E1 (a) (Authorized Variations) allows the reduction of any required yard. The requested variation falls within the authorized limits of the Zoning Code.

### **VARIATION STANDARDS**

In considering a variation, be guided by the General Standard as outlined in our Zoning Code that "No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection."

**Unique Physical Condition** - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

This lot is larger than typical zoning lots in the R-3 Single Family Residential Zoning District with a 75 width; most lots in the village are 50 ft. wide.

**Not Self-Created** - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

5-C.13

According to the petitioners, the location of the house on the lot is not the result of any actions that they have taken since they purchased the property.

**Denied Substantial Rights** - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

According to the petitioners, a front porch is a right enjoyed by many village residents.

**Not Merely Special Privilege** - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

The petitioners believe that the proposed front porch is not a special privilege, because residents throughout the village have front porches that encroach into their required front yard. However, several of the residents in the immediate area do not have front porches that encroach into the required front yard. Less than 50% of the houses on the petitioners' block have wrap-around front porches.

**Code and Plan Purposes** - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

The petitioners are not changing the use of the property. With the proposed front porch, the property would not exceed the maximum building coverage as required by the Zoning Code.

**Essential Character of the Area** - *"The variation would not result in a use or development on the subject property that:*

- a. *Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. *Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. *Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. *Would unduly increase the danger of flood or fire; or*
- e. *Would unduly tax public utilities and facilities in the area; or*
- f. *Would endanger the public health or safety."*

5-C.14

While the house is located within the Historic District of the Village, it is not a design that would typically have a wraparound front porch. However, the petitioners believe that the requested variation would not adversely affect the character of the neighborhood.

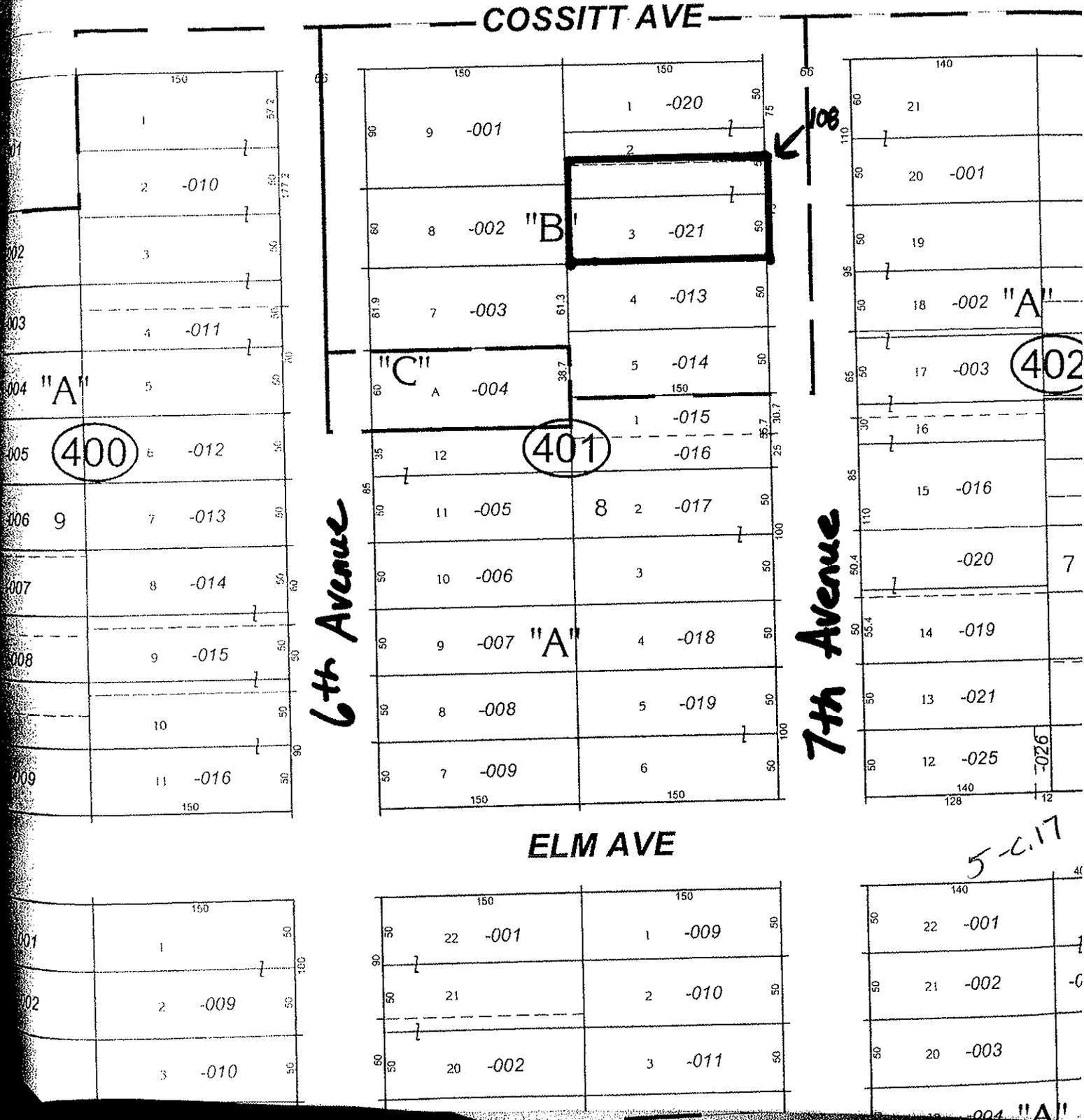
**No Other Remedy** - *"There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."*

Other remedies for construction of a covered porch at the subject property would be to locate the porch on the south side of the house. This would align with the front façade of the house and meet the required front yard.

5-C,15



# W 1/2 SE 1/4 SEC 4-38- LYONS



**APPLICATION FOR ZONING VARIATION**

Application # 559  
Date Filed: 7/19/07  
UARCO # 83685

TO THE PRESIDENT AND BOARD OF TRUSTEES  
VILLAGE OF LA GRANGE, ILLINOIS

(please type or print)

Application is hereby made by Dennis & Diane Takentowski

Address: 108 S. 7th Avenue Phone: 708.528.4847 (cell)

Owner of property located at: 108 S. 7th Avenue

Permanent Real Estate Index No: 18-04-401-021-0000

Present Zoning Classification: R-3 Present Use: Single Family Residential

Ordinance Provision for Variation from Article # 3-110-5 of Zoning Ordinance, to wit: that part of the north west quarter of the south east quarter of section 4, Township 38 North, Range 12

East of the Third Principal Meridian. Described as commencing 75 feet south of the south west corner of Cassit & 7th Avenue as shown on the map of owner's subdivision & recorded May 21, 1909 as document 4378957. thence south along the west line of 7th Ave. 75 feet; thence west 150 feet; thence North 75 feet; thence East to the west line of 7th Ave. to the place of beginning, In Cook County, Illinois.

A. Minimum Variation of Zoning requirement necessary to permit the proposed use, construction, or development:

A variation of 2-0 is needed - <sup>required</sup> front yard ~~requirements~~

B. The purpose therefor, To construct an addition to alter the location of the front Door & to add a front Porch

C. The specific feature(s) of the proposed use, construction, or development that require a variation: \_\_\_\_\_

A front porch to the front of the existing residence.  
Reorient the "front" door from side facing to front facing.

5-c.18

PLAT OF SURVEY must be submitted with application. The plat should show any existing buildings on the petitioned property as well as any existing buildings on property immediately adjacent. It should also show any proposed new construction in connection with the variation, including landscaping, fencing, etc.

1. General Standard. The Petitioner must list below **FACTS AND REASONS** substantially supporting each of the following conclusions or the petition for variation cannot be granted. (if necessary, use additional page)

a. State **practical difficulty** or **particular hardship** created for you in carrying out the strict letter of the zoning regulations, to wit: Live in a 1950'S Ranch in The historic area

where the majority of homes have front porches

b. A reasonable return or use of your property is not possible under the existing regulations, because:

We cannot share the same privilege of using a front porch as our neighbor's do.

c. Your situation is unique (not applicable to other properties within that zoning district or area) in the following respect(s): There is no direct front door or front porch due

to the placement of the home in the 1950'S.

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

The placement of the existing home is set behind  
the districts 35'-0" required setback

5-C.19

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid

the home was set behind today's currently  
allowed front setback of 35'-0"

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

By not being granted this variation we will be  
denied substantial rights ~~is~~ that our neighbors enjoy of  
~~the~~ sitting on a front porch connecting with the neighborhood.

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

We are looking to improve our home by adding a front  
porch & relocate the front door to compliment the majority of homes  
in our neighborhood & historic district. We believe this is the best  
solution.

6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

Adding a front Porch to the property will add &  
continue the harmony of the entire neighborhood.

5-6-20

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

- (a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or
- (b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or
- (c) Would substantially increase congestion in the public streets due to traffic or parking; or
- (d) Would unduly increase the danger of flood or fire; or
- (e) Would unduly tax public utilities and facilities in the area; or
- (f) Would endanger the public health or safety.

None of the items above would be a result of granting this variation.

8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

A variation is the only remedy to obtaining a useable front porch to maintain the character of the neighborhood.

\*\*\*

**NOTICE:** This application must be filed with the office of the Community Development Director, accompanied by necessary data called for above and the required filing fee of Five Hundred Dollars (\$500.00).

The above minimum fee shall be payable at the time of the filing of such request. It is also understood that the applicant shall reimburse the Village any additional costs over and above these minimums which are incurred by the Village, including but not limited to the following:

- (a) Legal Publication (direct cost);
- (b) Recording Secretarial Services (direct cost);
- (c) Court Reporter (direct cost);

5-C,21

- (d) Administrative Review and Preparation (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (e) Document Preparation and Review (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation, and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost); and
- (j) Postage Costs (direct cost).

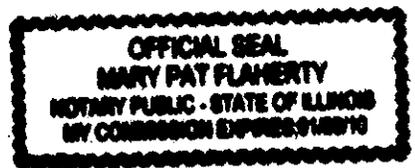
Such additional costs shall be paid by the applicant prior to the Board of Trustees making a decision regarding the request.

I, the undersigned, do hereby certify that I am the owner, or contract purchaser (**Evidence of title or other interest you have in the subject property, date of acquisition of such interest, and the specific nature of such interest must be submitted with application.**) and do hereby certify that the above statements are true and correct to the best of my knowledge.

Wine P. Palatnik 108 South 7th Avenue  
 (Signature of Owner or Contract Purchaser) (Address)  
LaGrange Illinois 60525  
 (City) (State) (Zip Code)

Subscribed and sworn to before me this 18th day of July, 2007.

Mary Pat Flaherty  
 (Notary Public) (Seal)

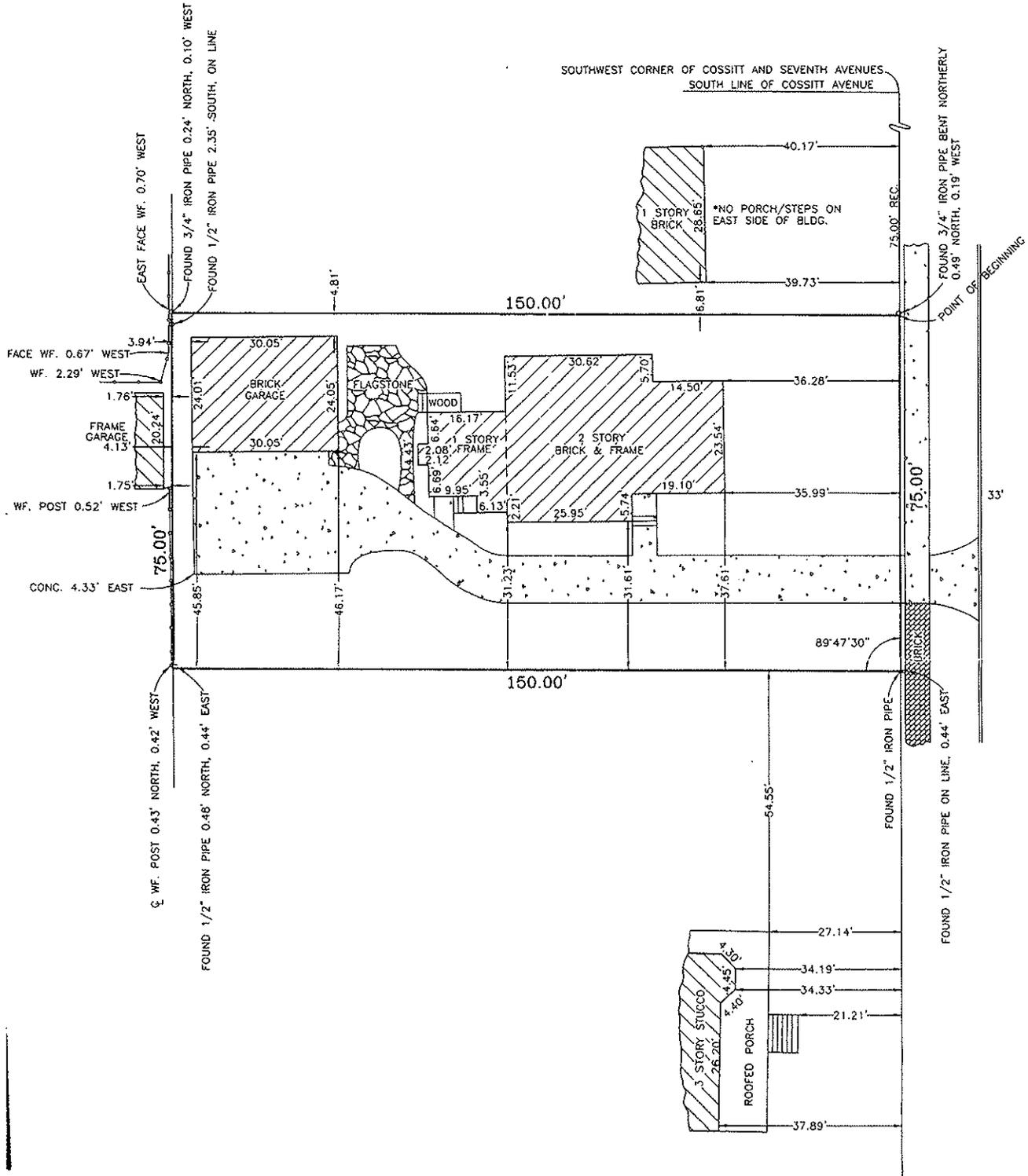


5-6-22

# SCHOMIG LAND SURVEYORS, LTD. PLAT OF SURVEY

T OF THE NORTH WEST QUARTER OF THE SOUTH EAST QUARTER OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDI  
ING 75 FEET SOUTH OF THE SOUTH WEST CORNER OF COSSITT AND SEVENTH AVENUE AS SHOWN ON THE MAP OF OWNER'S SUBDIVISION AND RECORDED  
T 4378957, THENCE SOUTH ALONG THE WEST LINE OF SEVENTH AVENUE 75 FEET; THENCE WEST 150 FEET; THENCE NORTH 75 FEET; THENCE EAST TO I  
AVENUE TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 108 SOUTH 7TH AVENUE



5-C-23



Talentowski  
108 Seventh Avenue  
LaGrange

Existing



Existing

5-6.24

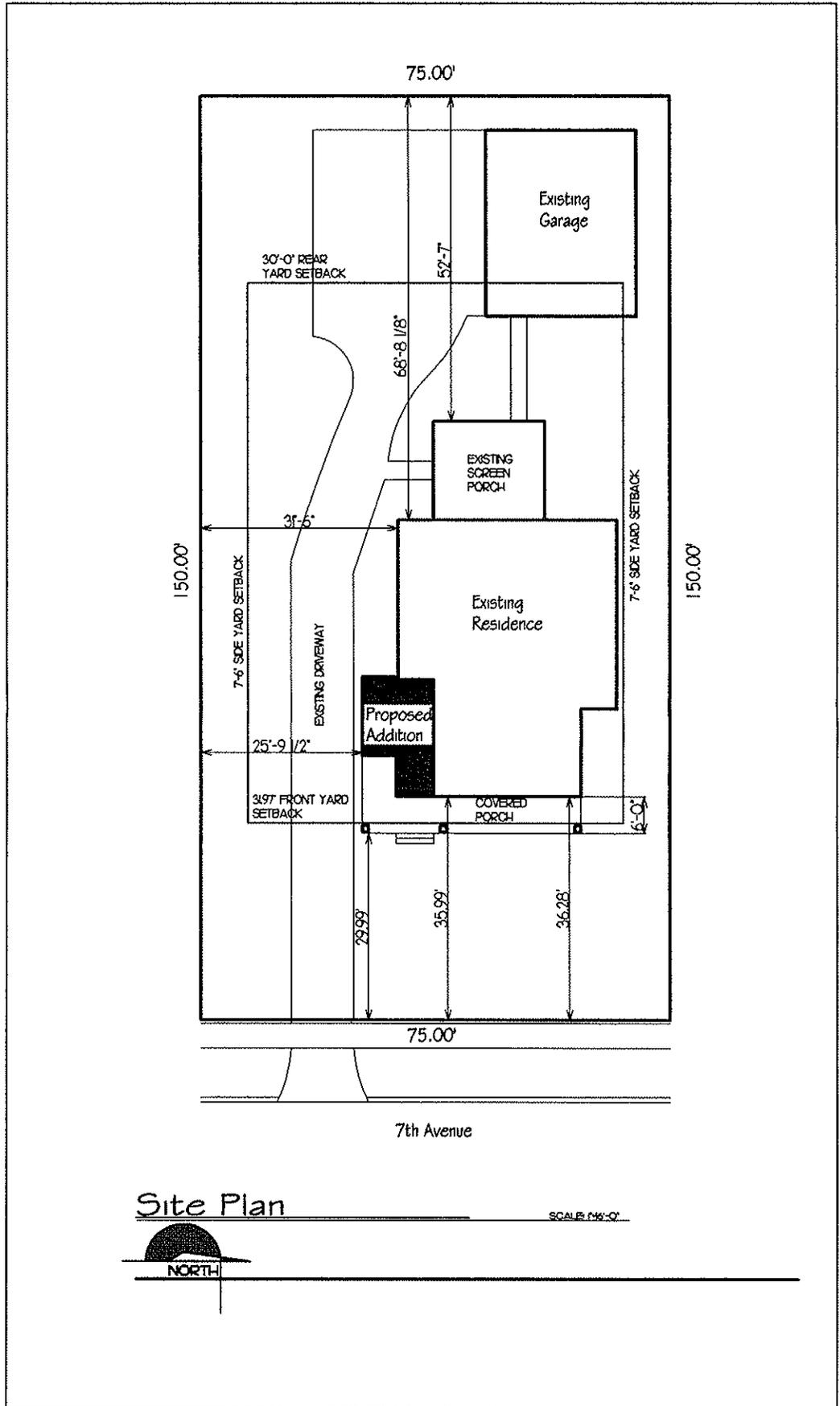


Left Side Elevation SCALE 3/16"=1'-0"



Front Elevation SCALE 3/16"=1'-0"

5-C.25



5-C.26

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk,  
Board of Trustees, and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Andrianna Peterson, Assistant Village Manager

DATE: September 24, 2007

RE: **ORDINANCE – AMENDMENT TO VILLAGE CODE /  
ESTABLISHING UPDATED STANDARDS RELATING TO  
DISORDERLY CONDUCT AND LOITERING**

---

The Village Manager conducts staff meetings with Department Heads at regularly scheduled intervals. From time-to-time, the Village's senior management critically discusses areas of proposed improvement based on issues currently affecting the community.

Most recently, discussion has focused on policing of the Central Business District; more specifically, concerns with the loitering / congregation of young adults and individuals exhibiting behavior considered inappropriate by community standards. A need for better enforcement tools was identified in order to supplement our on-going community policing efforts.

After several months of legal research and analysis of relevant case law, a draft ordinance was developed by the Village Attorney, with input from the Village Manager, Department Heads and the Village Prosecutor, that substantially improves upon our current code of ordinances because it: 1) better assists police officers with enforcement by improving upon and expanding the definition of disorderly conduct and loitering; 2) more comprehensively communicates to the public the types of activities and/or actions that are not acceptable; and 3) updates our code language to a level that would survive legal scrutiny as it relates to constitutional rights.

The cornerstone of the proposed ordinance is the provision of a "mini-due process" procedure, requiring a police officer to engage in a conversation with the suspect individual or group of individuals. The outcome of that conversation determines whether or not the specific activity in question rises to the level of "disorderly conduct" or "loitering" as defined in the ordinance. This determination is a critical part of the enforcement process in order to effectively and properly balance an individual's constitutional rights with community standards.

5-D

Board Report – Ordinance – Amendment to Village Code / Establishing Updated  
Standards Relating to Disorderly Conduct and Loitering  
September 24, 2007 – Page 2

While the principal focus of the ordinance is related to activities in the downtown area, the ordinance will also assist with our on-going efforts to enhance the quality of life throughout the entire Village, especially in our residential neighborhoods.

We recommend that the ordinance be approved.

5-D.1

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 132-01  
OF THE LA GRANGE CODE OF ORDINANCES  
TO ESTABLISH UPDATED STANDARDS  
RELATING TO DISORDERLY CONDUCT AND LOITERING

WHEREAS, the President and Board of Trustees of the Village of La Grange have determined, based on the thorough study, analysis, and recommendation by the Village Staff, that it is appropriate and in the best interests of the Village and its residents to update the existing regulations in the La Grange Code of Ordinances regarding disorderly conduct and loitering in the manner provided in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recital is incorporated into and made a part of this Ordinance by this reference.

Section 2. Amendment of Section 132.01 of Code of Ordinances. Section 132.01, titled "Disorderly Conduct," of the La Grange Code of Ordinances is hereby amended in its entirety so that said Section 132.01 will hereafter be and read as provided in Attachment A to this Ordinance.

Section 3. Effective Date. This Ordinance will be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

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

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

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

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, Village President

ATTEST:

\_\_\_\_\_  
Robert N. Milne, Village Clerk

5-D.2

ATTACHMENT A

AMENDED SECTION 132-01

**§ 132.01      DISORDERLY CONDUCT; LOITERING.**

(A)      Disorderly Conduct. A person commits disorderly conduct when he or she knowingly:

(1)      Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2)      Transmits or causes to be transmitted in any manner to the Village fire department a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3)      Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place; or

(4)      Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being committed, or has been committed; or

(5)      Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(6)      While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(7)      Transmits or causes to be transmitted in any manner to the police department or fire department, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or

5-D.3

(8) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(9) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency.

B. Loitering. A person commits a violation of loitering if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances that may be considered in determining whether such alarm is warranted is whether the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstance makes it impracticable, a peace officer must, prior to any arrest for an offense under this subsection, afford the actor an opportunity to dispel any alarm that otherwise would be warranted by requesting the actor to identify himself or herself and explain his or her presence and conduct. No person may be convicted of an offense under this subsection if the peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm. Violations of loitering include:

(1) Loitering for the purpose of engaging in a prostitution offense. Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution or of patronizing a prostitute as those terms are defined in the Illinois Criminal Code, commits loitering for the purpose of engaging in a prostitution offense. For the purposes of this paragraph, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

(2) Loitering in the vicinity of private dwellings. No person shall wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze, or look upon the occupants therein in a clandestine manner.

(3) Loitering in public rest rooms. No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

5-D.4

(4) Loitering on public grounds. No person shall loiter in or about any public grounds at or near where children or students normally congregate. As used in this paragraph, "loiter" means to delay, linger, or idle in or about any public grounds without a lawful purpose for being present.

(5) Presence on school grounds. No person other than a student of the particular school, parent or guardian of such a student, or employee or agent of a school district shall be present on school grounds or in a school building during regular school hours on any day when the school is in session without the express permission of an authorized representative of a school. Any person who goes into a school building or onto school grounds and subsequently refuses to leave said building or grounds after being requested to do so by an authorized representative of the school or a police officer shall be deemed in violation of this paragraph. If a school is an official polling place, this paragraph shall not apply to an elector entering said building on a designated election day to cast his or her ballot.

(6) Public buildings and places. No person shall lodge in any public building, structure, or place without the permission of the owner or person entitled to possession or in control thereof. A person lodges when they occupy a designated area on another's property as if to dwell there.

(7) Obstruction of traffic by loitering. No person shall loaf or loiter in a group or a crowd upon a public street, sidewalk, alley, street crossing or bridge, or any other public place within the Village in such manner as to prevent, interfere with, or obstruct the ordinary free use of such public street, sidewalk, alley, street crossing or bridge, or other public place by persons passing along and over the same. A person loafs when they spend time in idleness.

(8) Loitering after being requested to move.

(a) Obstructing public ways. No person shall obstruct any public street, sidewalk, alley, street crossing or bridge, or any other public place by lounging or loitering in or upon the same after being requested to move on by any police officer.

(b) In groups or crowds. No person shall loiter in a group or a crowd upon a public street, sidewalk, or alley, or in any adjacent doorway or entrance, or on street crossings or bridges, or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move on by any police officer or by any person in authority at such places.

(c) In places of public assembly or use. No person shall loiter, lounge, or loaf in or about any depot, theater, dance hall, restaurant, store, sidewalk, parking lot, or other place of assembly or public use after being requested to move on by any police officer or by the owner or other person in charge of such place. Upon being

requested to move, a person shall comply immediately with such request by leaving the premises or the area.

(d) When signs posted. No person shall loiter on private property posted by means of a sign or signs prohibiting such conduct, without the express consent of the owner or other person in charge thereof. The presence of a person on such property for a period of 10 minutes or longer than allowed by the person in charge or that person's agent shall be presumptive evidence of a violation of this paragraph.

# 4587894\_v4

5-0.6

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk,  
Board of Trustees, and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Andrianna Peterson, Assistant Village Manager

DATE: September 24, 2007

RE: **ORDINANCE – AMENDMENT TO VILLAGE CODE /  
ESTABLISHING STANDARDS FOR CONSTRUCTION OF  
UTILITIES IN PUBLIC RIGHTS-OF-WAY**

---

In July, 2007, the Cable and Video Competition Act was signed into law in Illinois. The legislation effectively eliminates individual municipal franchising authority for video services and replaces it with a new statewide regulatory framework for video / cable programming.

The impetus for the statewide legislation was a result of one telecommunication company's plans to introduce enhanced broadband services to the marketplace which would compete directly with cable television and satellite television products. In order to provide the new service, additional equipment will be installed in residential areas in public rights-of-way throughout La Grange and the surrounding area.

While competition and expanded video programming service options for residents is highly desirable and encouraged, it is important that the location, maintenance, screening, and height of equipment cabinets within the public right-of-way are regulated throughout the community, to the extent provided for in State law. Utility installations have a direct impact on municipal zoning ordinances as related to set-backs, visual screening, and impact of multiple structures located in close proximity to homes, garages, sidewalks and streets.

With that purpose in mind, Village staff in conjunction with the Village Attorney, have evaluated current Village ordinances related to utilization of public rights-of-way and have developed a new comprehensive set of construction standards that would be applicable to any utility wishing to utilize Village rights-of-way. A copy of the proposed ordinance is attached for your consideration.

5-E

The suggested provisions enhance the planning of new utility facilities; help minimize interference with and damage to rights-of-way; provide detailed permitting and approval instructions; require insurance and bonds; specify appropriate vegetation and tree trimming controls; and detail appropriate construction methods. The suggested provisions also update changes in the law since the 2000 adoption of the Simplified Municipal Telecommunications Tax Act.

Finally, the proposed amendments greatly enhance the Village’s ability to enforce appearance standards such as height of structures; location of structures near high traffic areas (such as schools); and number of structures within a specific location (e.g. – mitigate “overcrowding” of utility equipment cabinets).

We recommend that the ordinance be approved.

5-E.1

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 9  
OF THE LA GRANGE CODE OF ORDINANCES  
TO ESTABLISH STANDARDS FOR CONSTRUCTION  
OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

WHEREAS, the Village of La Grange has the authority to adopt ordinances and to promulgate rules and regulations governing the use of public rights-of-way and protecting the public health, safety, and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Code, including without limitation Sections 11-20-5, 11-20-10, 11-80-1, 11-80-3, 11-80-6, 11-80-7, 11-80-8, 11-80-10, and 11-80-13; Section 30 of the Illinois Telecommunications Municipal Infrastructure Maintenance Fee Act, 35 ILCS 635/30; Section 4 of the Illinois Telephone Company Act, 220 ILCS 65/4; and the Illinois Highway Code, including without limitation Articles 7 and 9 thereof, 605 ILCS 5/1-101 *et seq.*; and

WHEREAS, this Ordinance establishes generally applicable standards for use of, repair of, and construction on, over, above, along, under, across, or within public rights-of-way; and

WHEREAS, in the enactment of this Ordinance, the Village has considered a variety of standards for use of, repair, of, and construction on, over, above, along, under, across, or within the public right-of-way, including without limitation the standards relating to Accommodation of Utilities on Right-of-Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation, 92 Ill. Adm. Code § 530.10 *et seq.*; and

WHEREAS, the Village President and Board of Trustees find that it is in the best interests of the Village, the public, and the utilities using the public rights-of-way to establish a comprehensive set of construction standards and requirements to achieve various beneficial goals, including without limitation enhancing the planning of new utility facilities; minimizing interference with and damage to rights-of-way and the streets, sidewalks, and other structures and improvements located in, on, and above the rights-of-way; and reducing costs and expenses to the public;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance by this reference.

5-E.2

Section 2. Amendment to Chapter of Code of Ordinances. Title 9, titled "General Regulations," of the La Grange Code of Ordinances is hereby amended to add a new Chapter 100, which new Chapter 100 will hereafter be and read as provided in Attachment A to this Ordinance.

Section 3. Effective Date. This Ordinance will be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

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

ATTEST:

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

# 4639038\_v2

ATTACHMENT A

CHAPTER 100: CONSTRUCTION OF UTILITY FACILITIES  
IN PUBLIC RIGHTS-OF-WAY

§ 100.01 PURPOSE AND SCOPE.

(a) Purpose. The purpose of this Chapter is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.

(b) Facilities Subject to This Chapter. This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement. To the extent any provision of this Chapter 100 is inconsistent with or conflicts with any provision in Chapter 99 or other chapter of this Code, the provision of this Chapter 100 applies and controls.

(c) Franchises, Licenses, or Similar Agreements. The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license, or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Chapter.

(d) Effect of Franchises, Licenses, or Similar Agreements.

1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Chapter and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(e) Conflicts with Other Chapters. This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(f) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Chapter, the utility shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

(g) Sound Engineering Judgment. The Village shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

**§ 100.02 DEFINITIONS.**

As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

"AASHTO" - American Association of State Highway and Transportation Officials.

"ANSI" - American National Standards Institute.

"Applicant" - A person applying for a permit under this Chapter.

"ASTM" - American Society for Testing and Materials.

"Backfill" - The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring" - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Carrier Pipe" - The pipe enclosing the liquid, gas or slurry to be transported.

"Casing" - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"Clear Zone" - The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

"Coating" - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Code" - The La Grange Code of Ordinances.

"Conductor" - Wire carrying electrical current.

"Conduit" - A casing or encasement for wires or cables.

"Construction" or "Construct" - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification, or abandonment in place of facilities.

"Cover" - The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility" - A facility that crosses one or more right-of-way lines of a right-of-way.

5-E-5

"Director of Public Works" - The Village's Director of Public Works or his or her designee.

"Disrupt the Right-of-Way" - For the purposes of this Chapter, any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

"Emergency" - Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

"Encasement" - Provision of a protective casing.

"Equipment" - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation" - The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe" - Pipe meeting ASTM standards for this pipe designation.

"Facility" - All structures, devices, objects, and materials (including track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Chapter, except those owned by the Village.

"Freestanding Facility" - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road" - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials" - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Director of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives, or any substance determined to be hazardous or toxic under any federal or state law, statute, or regulation.

"Highway Code" - The Illinois Highway Code, 605 ILCS 5/1-101 *et seq.*, as amended from time to time.

"Highway" - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures, and appurtenances necessary or convenient for vehicle traffic.

"IDOT" - The Illinois Department of Transportation.

"ILCC" – The Illinois Commerce Commission.

"Jacking" - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting" - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use" - The use of pole lines, trenches, or other facilities by two or more utilities.

"Major Intersection" - The intersection of two or more major arterial highways.

"Occupancy" - The presence of facilities on, over, or under right-of-way.

"Parallel Facility" - A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway" - Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut" - The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee" - That entity to which a permit has been issued pursuant to Sections 100.04 and 100.05 of this Chapter.

"Practicable" - That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure" - The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Petroleum Products Pipelines" - Pipelines carrying crude or refined liquid petroleum products including but not limited to gasoline, distillates, propane, butane, or coal-slurry.

"Prompt" - That which is done within a period of time specified by the Village. If no time period is specified, the period shall be 30 days.

"Public Entity" - A legal entity that constitutes or is part of the government, whether at local, state, or federal level.

"Restoration" - The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" - Any street, alley, other land or waterway, dedicated or commonly used for utility purposes, including utility easements in which the Village has the right and authority to authorize, regulate or permit the location of facilities other than those of the Village. "Right-of-way" shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway" - That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail" - The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund" - That amount of security required pursuant to Section 100.10 of this Chapter.

"Shoulder" - A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment" - A decision consistent with generally accepted engineering principles, practices, and experience.

"Telecommunications" - This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service; channel services; telegraph services; teletypewriter service; computer exchange service; private line services; specialized mobile radio services; video, audio, and data communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" also shall include, without limitation, wireless telecommunications as defined in the Illinois Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/1 *et seq.* "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" also shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable television-only services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

"Telecommunications Provider" - Means any person that installs, owns, operates, or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer" - Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

"Trench" - A relatively narrow open excavation for the installation of an underground facility.

"Utility" - The individual or entity owning or operating any facility as defined in this Chapter.

"Vent" - A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Village" - The Village of La Grange, Illinois.

"Water Lines" - Pipelines carrying raw or potable water.

"Wet Boring" - Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

**§ 100.03 ANNUAL REGISTRATION REQUIRED.**

Every utility that occupies right-of-way within the Village shall register on January 1 of each year with the Director of Public Works, providing the utility's name, address, and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 100.08 of this Chapter, in the form of a certificate of insurance.

**§ 100.04 PERMIT REQUIRED; APPLICATION AND FEES.**

(a) Permit Required. No person shall construct (as defined in this Chapter) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Chapter), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across, or within the right-of-way without first filing an application with the Director of Public Works and obtaining a permit from the Village therefor, except as otherwise provided in this Chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(b) Permit Application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(c) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- 1) The utility's name and address and telephone and facsimile numbers;
- 2) The applicant's name and address, if different from the utility, and its telephone and facsimile numbers, e-mail address, and its interest in the work;

- 3) The names, addresses, and telephone and facsimile numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- 4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- 5) Evidence that the utility has placed on file with the Village:
  - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
  - ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;
- 6) Drawings, plans, and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- 7) A plat or plats of survey showing property lines, and rights-of-way, existing sidewalks, curbs, gutters, underground utilities, easements, and similar features;
- 8) Evidence of permission from appropriate private property owners to under walk on that private property;
- 9) Evidence of insurance as required in Section 100.08 of this Chapter;
- 10) Evidence of posting of the security fund as required in Section 100.10 of this Chapter;
- 11) Evidence of an application for an electrical permit from the Village if, and as, required by the Code of Ordinances;
- 12) Any request for a variance from one or more provisions of this Chapter (see Section 100.21 of this Chapter); and
- 13) Such additional information as may be reasonably required by the Village.

(d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection (c) of this Section, the permit application shall include the following items as applicable to the specific utility that is the subject of the permit application:

- 1) In the case of new electric power, communications or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" has been issued by the ILCC that the applicant is required by law, or has elected, to obtain;
- 2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- 3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- 4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District have been satisfied; or
- 5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within 30 days after the change necessitating the amendment.

(f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of \$1,000 for plan review, inspections, and other services. No application fee is required to be paid by any telecommunications retailer that is paying the municipal telecommunications infrastructure maintenance fee established pursuant to State of Illinois law or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

#### **§ 100.05 ACTION ON PERMIT APPLICATIONS.**

(a) Village Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Director of Public Works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall reject such application in writing, stating the reasons therefor. If the Director of Public Works is satisfied that the proposed work conforms to the requirements of this Chapter and all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall issue a permit therefor as soon as practicable.

(b) Additional Village Review of Applications of Telecommunications Retailers.

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- 1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village not less than 10 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The Director of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used, and constructed.
- 2) If the Director of Public Works fails to provide such specification of location to the telecommunications retailer within either (i) 10 days after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) 25 days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, then the telecommunications retailer may commence work without obtaining a permit under this Chapter.
- 3) Upon the provision of such specification by the Village, when a permit is required for work pursuant to Section 100.04 of this Chapter the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications, and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

**§ 100.06 EFFECT OF PERMIT.**

(a) Authority Granted; No Property Right or Other Interest Created. A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Chapter on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(b) Compliance with All Laws Required. The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and all applicable statutes, laws, ordinances, rules, and regulations.

**§ 100.07 REVISED PERMIT DRAWINGS.**

If the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings, and specifications submitted with the permit application, then the permittee shall submit a revised set of drawings or plans to the Village within 90 days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Chapter, then it shall be treated as a request for variance in accordance with Section 100.21 of this Chapter. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

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**§ 100.08 INSURANCE.**

(a) Required Coverage and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverage) and products-completed operations coverage with limits not less than:
  - i) \$5,000,000 for bodily injury or death to each person;
  - ii) \$5,000,000 for property damage resulting from any one accident; and
  - iii) \$5,000,000 for all other types of liability;
- 2) Automobile liability for owned, non-owned, and hired vehicles with a combined single limit of \$1,000,000 for personal injury and property damage for each accident;
- 3) Worker's compensation with statutory limits; and
- 4) Employer's liability insurance with limits of not less than \$1,000,000 per employee and per accident.

(b) Excess or Umbrella Policies. The coverage required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the Village within 10 days after receipt of a written request therefor from the Village.

(d) Maintenance and Renewal of Required Coverage. The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 30 days after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Manager of such intent to cancel or not to renew."

Within 10 days after receipt by the Village of said notice, and in no event later than 10 days prior to said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

(e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (a) of this Section. A utility that self-

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insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (a), or the requirements of Subsections (b), (c) and (d) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection (a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(f) Effect of Insurance and Self-Insurance on Utility's Liability. The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

**§ 100.09 INDEMNIFICATION.**

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to indemnify and defend the Village and its elected and appointed officials and officers, employees, agents and representatives from and against any and all injuries, claims, demands, judgments, damages, losses, and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the utility or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this Chapter or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct, or breach of this Chapter by the Village or its officials, officers, employees, agents, or representatives.

**§ 100.10 SECURITY.**

(a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

- 1) The faithful performance by the permittee of all the requirements of this Chapter;
- 2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Chapter; and
- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Chapter or any other applicable law.

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(b) Form. The permittee shall provide the Security Fund in the form of either a surety bond in a form acceptable to the Village or an unconditional letter of credit in a form acceptable to the Village, at the permittee's election. The surety bond or letter of credit shall, at a minimum:

- 1) Provide that it will not be canceled without prior notice to the Village and the permittee;
- 2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
- 3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Director of Public Works, but not less than \$5,000. The amount may include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform such restoration. When the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Director of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

(d) Withdrawals. The Village, by 14-day advance written notice stating its intention to exercise withdrawal rights under this Subsection and the reason for withdrawal, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the 14-day notice period. Withdrawals may be made if the permittee:

- 1) Fails to make any payment required to be made by the permittee hereunder;
- 2) Fails to pay any liens relating to the facilities that are due and unpaid;
- 3) Fails to reimburse the Village for any damages, claims, costs, or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- 4) Fails to comply with any provision of this Chapter that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(e) Replenishment. Within 14 days after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection (c) of this Section.

(f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request

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for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.

(g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Chapter or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(h) Rights Not Limited. The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Chapter or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

**§ 100.11 PERMIT SUSPENSION AND REVOCATION.**

(a) Village Right to Revoke Permit. The Village may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

- 1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- 2) Non-compliance with this Chapter;
- 3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- 4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(b) Notice of Revocation or Suspension. The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 100.11.

(c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:

- 1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
- 2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within five working days after receipt of the written notice of revocation; or

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- 3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of such removal to the Village within 10 days after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

(d) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

(e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the Village or its designee may, at the option of the Village: (1) correct the deficiencies; or (2) upon not less than 20 days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

#### **§ 100.12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.**

(a) Notification of Change. A utility shall notify the Village no less than 30 days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Chapter, with respect to the work and facilities in the right-of-way.

(b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.

(c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

#### **§ 100.13 GENERAL CONSTRUCTION STANDARDS.**

(a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;

- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- 7) Flagger's Handbook;
- 8) Work Site Protection Manual for Daylight Maintenance Operations; and
- 9) Title 9 of this Code.

(b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Chapter, the Director of Public Works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Director of Public Works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

**§ 100.14 TRAFFIC CONTROL.**

(a) Minimum Requirements. The Village's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(d) Notice When Access is Blocked. At least 48 hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 100.20 of this Chapter, the utility shall provide such notice as is practicable under the circumstances.

(e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

**§ 100.15 LOCATION OF FACILITIES.**

(a) Parallel Facilities Located Within Highways.

- 1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:

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- i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
  - ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
  - iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
  - iv) No pole is located in the ditch line of a highway; and
  - v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- 2) Underground Parallel Facilities. An underground parallel facility may be located within the right-of-way lines of a highway only if:
- i) The facility is located as near the right-of-way line as practicable and not more than eight feet (2.4 m) from and parallel to the right-of-way line;
  - ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
  - iii) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.
- (b) Facilities Crossing Highways.
- 1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
  - 2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
  - 3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a 90-degree angle to the centerline as practicable.
  - 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:

- i) It has a minimum vertical line clearance as required by ILCC's rules titled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
  - ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
  - iii) Overhead crossings at major intersections are avoided.
- 5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
  - i) The design materials and construction methods will provide maximum maintenance-free service life; and
  - ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6) Markers. The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency telephone number. Markers may also be eliminated as provided in current federal regulations. (49 C.F.R. 192.707 (1989)).
- (c) Facilities to be Located Within Particular Rights-of-Way. The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
  - (d) Freestanding Facilities.
    - 1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
    - 2) The Village may require any freestanding facility located within a right-of-way to be screened from view.
  - (e) Appearance Standards.
    - 1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
    - 2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.
    - 3) The Village (i) may require uniformity in shape, color, height, and location of similar facilities, (ii) may restrict the above-ground height of a facility to a maximum of 48 inches, (iii) may forbid the location of a facility in a location adjacent to a school, church, or other use that is regularly frequented by children, (iv) may reasonably limit the number of facilities within a particular

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geographic area, (v) may reasonably require the consolidation of facilities when technically feasible, (vi) may require the co-location of a new facility near an existing facility to avoid the proliferation of facilities in different locations (for example, require a new facility to be mounted on a pole if technically feasible when there is an existing facility already on that pole)

(f) Above Ground Installation. Above ground facilities may be installed only if:

- 1) No other existing facilities in the area are located underground;
- 2) New underground installation is not technically feasible; and
- 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable.

(g) Facility Attachments to Bridges or Roadway Structures.

- 1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- 2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
  - i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
  - ii) The type, length, value, and relative importance of the highway structure in the transportation system;
  - iii) The alternative routings available to the utility and their comparative practicability;
  - iv) The proposed method of attachment;
  - v) The ability of the structure to bear the increased load of the proposed facility;
  - vi) The degree of interference with bridge maintenance and painting;

- vii) The effect on the visual quality of the structure; and
- viii) The public benefit expected from the utility service as compared to the risk involved.

**§ 100.16 CONSTRUCTION METHODS AND MATERIALS.**

(a) Standards and Requirements for Particular Types of Construction Methods.

1) Boring or Jacking.

- i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Director of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
- iii) Borings with Diameters Greater Than Six Inches. Borings greater than six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).
- iv) Borings with Diameters Six Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- v) Tree Preservation. Any facility located within the drip line of any tree designated by the Village to be preserved shall be bored under or around the root system.

2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."

- i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Director of Public Works.
- ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and

the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

- iii) The utility shall not trench within the drip line of any tree designated by the Village to be preserved.

3) Backfilling.

- i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
- ii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Director of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Director of Public Works.

4) Pavement Cuts. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 30-92, the following requirements shall apply:

- i) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Director of Public Works.
- ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.
- iii) All saw cuts shall be full depth.
- iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven years, or resurfaced in the last three years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

5) Encasement.

- i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
  - ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
  - iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
  - iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
  - v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
  - vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- 6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Power or Communication Line (In General)	30 Inches (0.8 m)
Communication Line Installed by the Plowed Method	24 Inches (0.6 m)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

- (b) Standards and Requirements for Particular Types of Facilities.

- 1) Electric Power or Communication Lines.

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- i) Code Compliance. Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines," and the National Electrical Safety Code.
  - ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
  - iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.
- 2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:
- i) the use of "moles," "whip augers," or other approved methods which compress the earth to move the opening for the pipe;
  - ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
  - iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
  - iv) tunneling with vented encasement, but only if installation is not possible by other means.
- 3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.
- 4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for

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Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).

- 5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois."
  - 6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Director of Public Works. With the approval of the Director of Public Works, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- (c) Materials.
- 1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction," the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
  - 2) Material Storage on Right-of-Way. All pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village.
  - 3) Hazardous Materials. The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (d) Operational Restrictions.
- 1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
  - 2) These restrictions may be waived by the Director of Public Works when emergency work is required to restore vital utility services.
  - 3) Unless otherwise permitted by the Village, the hours of construction are those set forth in applicable chapters of this Code.

(e) Location of Existing Facilities. Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

**§ 100.17 VEGETATION CONTROL.**

(a) Tree Trimming Permit Required. Tree trimming shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit in addition to any other permit required under this Chapter.

- 1) Application for Tree Trimming Permit. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
- 2) Compliance with Code of Ordinances. All work related to trees must comply with all provisions of this Code applicable to the care and treatment of trees.
- 2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(b) Specimen Trees or Trees of Special Significance. The Village may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire, or other means.

(c) Chemical Use. Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Director of Public Works that such spraying is the only practicable method of vegetation control.

**§ 100.18 REMOVAL, RELOCATION, OR MODIFICATIONS OF UTILITY FACILITIES.**

(a) Notice. Within 90 days after written notice from the Village, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

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(b) Removal of Unauthorized Facilities. Within 30 days after written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- 1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- 2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- 3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Chapter; or
- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(c) Emergency Removal or Relocation of Facilities. The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(d) Abandonment of Facilities. Upon abandonment of a facility within the public rights-of-way of the Village, the utility shall notify the Village within 90 days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Director of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

#### **§ 100.19 CLEANUP AND RESTORATION.**

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Director of Public Works. Such cleanup and repair may be required to consist of backfilling, re-grading, reseeding, re-sodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project.

#### **§ 100.20 MAINTENANCE AND EMERGENCY MAINTENANCE.**

(a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village and at the utility's expense.

(b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

- 1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- 2) In an emergency, the utility shall, as soon as possible, notify the Director of Public Works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.
- 3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(c) Emergency Repairs. The utility must file in writing with the Village of a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

#### **§ 100.21 VARIANCES.**

(a) Request for Variance. A utility requesting a variance from one or more of the provisions of this Chapter must do so in writing to the Director of Public Works as a part of the permit application. The request shall identify each provision of this Chapter from which a variance is requested and the reasons why a variance should be granted.

(b) Authority to Grant Variances. The Director of Public Works shall decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

(c) Conditions for Granting of Variance. The Director of Public Works may authorize a variance only if the utility requesting the variance has demonstrated that:

- 1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- 2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Director of Public Works may require the utility requesting the

variance to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter but which carry out the purposes of this Chapter.

**§ 100.22 PENALTIES.**

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility who does not pay the costs apportioned to it.

**§ 100.23 ENFORCEMENT.**

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Chapter.

**§ 100.24 SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

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**EXECUTIVE SESSION**

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village Clerk, Board of Trustees and  
Village Attorney

FROM: Elizabeth M. Asperger, Village President

DATE: September 24, 2007

RE: **CLOSED SESSION — PURCHASE, SALE OR LEASE OF  
REAL PROPERTY**

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It is requested that the Village Board meet in Closed Session, in accordance with Section 5 ILCS 120/2 of the Illinois Compiled Statutes, for the purpose of discussing the purchase, sale or lease of real property.

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