

VILLAGE OF ORLAND PARK

*14700 Ravinia Avenue
Orland Park, IL 60462
www.orland-park.il.us*



Meeting Minutes

Tuesday, October 23, 2007

7:00 PM

Village Hall

Plan Commission

Louis Stephens, Chairman

*Commissioners: Judith Jacobs, Paul Aubin,
Steve Dzierwa, Mike Culligan, Patricia Thompson, and Nick Parisi*

CALLED TO ORDER/ROLL CALL

The meeting of the October 23, 2007 Plan Commission was called to order at 7:00 p.m. by Chairman Stephens.

Present: 6 - Commissioner Dzierwa; Commissioner Aubin; Commissioner Stephens; Commissioner Culligan; Commissioner Thompson, Commissioner Parisi

Absent: 1 - Commissioner Jacobs

APPROVAL OF MINUTES

The minutes of the October 9, 2007 Plan Commission meeting were continued to November 13, 2007.

A motion was made by Commissioner Patricia Thompson, seconded by Commissioner Steve Dzierwa, that this matter be CONTINUED to the Plan Commission, due back on 11/13/2007. The motion CARRIED unanimously.

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

PUBLIC HEARINGS**2007-0660 Land Development Code Amendments I (2007)**

STEPHENS: Entertained a motion for a continuance..

DZIERWA: Moved to continue the public hearing for file number 2007-0660, Land Development Code Amendments I (2007), to the November 27, 2007 Plan Commission meeting.

THOMPSON: Second.

This matter was CONTINUED to the Plan Commission, due back on 11/27/2007

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

2007-0661 Land Development Code Amendments II (2007) MFG District

STEPHENS: Entertained a motion for a continuance..

DZIERWA: Moved to continue the public hearing for file number 2007-0661, Land

Development Code Amendments II (2007), to the November 27, 2007 Plan Commission meeting.

THOMPSON: Second.

This matter was CONTINUED to the Plan Commission, due back on 11/27/2007

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

2007-0324 Walsh Property

Andrea Crowley for Griffin and Gallagher, 10001 South Roberts Road, Palos Hills

HOFKENS: Staff presentation made in accordance with the written Staff Report dated October 23, 2007 as presented.

STEPHENS: Invited comments and/or questions from the petitioner.

AUBIN: Swore in Andrea Crowley.

CROWLEY: Provided some clarification to Staff's Report. Initially we had been told we couldn't apply because of the lot size. That is true. The Village had suggested the right-of-way idea to which we were not opposed initially. This lot was created prior to the Walsh's purchase of it. It was an existing lot of record so they haven't done anything that created this situation. The problem is that without a variance, this property is completely useless. It is vacant land; nothing really marketable because it is not buildable. Any potential purchaser would have to go through this process as well. In the meantime, the Walsh's have to maintain it. It has become a place where garbage gets dumped. This is a hardship financially for them; they are paying taxes on it as well as paying to maintain it if they cannot get over there themselves since they are not in the immediate area. This is a hardship for the Walsh's. It is my understanding that previously, Mr. Walsh and a potential contract purchaser had approached a neighbor about acquiring a piece in back. At that time, that neighbor was not interested.

STEPHENS: Asked Ms. Crowley how long the Walsh's have owned this lot.

CROWLEY: They have owned the lot for 12 years. The most recent contract purchaser was within the last two years.

STEPHENS: Which contract purchaser?

CROWLEY: There was a party interested in purchasing the lot from the Walsh's and I believe they came to the Village and were told that it had non-conformance issues. They did not come before Planning because once they approached the neighbor to buy a parcel to make it easier to work with, they backed away. Therefore, the Walsh's have decided that in order to make this not a burden on themselves and to try to make this a usable piece of land (because currently it truly is completely unusable).

STEPHENS: Asked Staff if at the time the Walsh's purchased this property, was the zoning still an R-3?

HOFKENS: I believe so, however, I will check on that.

CROWLEY: I don't believe there has been a zoning change.

STEPHENS: So this has been R-3 zoning for quite some time.

CROWLEY: I believe so, however, I will have to verify that.

STEPHENS: Asked Ms. Crowley if she has seen the letter from the Village Attorney?

CROWLEY: No, I have not.

STEPHENS: Gave Ms. Crowley a copy of said letter and time to read through it.

CROWLEY: Took a moment to skim through the Village Attorney's letter.

STEPHENS: Indicated to Ms. Crowley that he just thought she would like an opportunity to review the document because it is the Plan Commissioners' packets and the letter will affect our vote on this petition.

CROWLEY: Noted that in terms of some of the setback issues, part of the problem here is that the lot initially looks like it was laid out to front on Lemoyne Avenue which would make setbacks a much easier thing to deal with. Because of the lack of an improved road in that dedicated space we have to front on 144th which makes the setback very difficult.

STEPHENS: This plat was recorded back in 1920. Your assumption is based on the fact that you think it was laid out that way. We don't know that for sure.

CROWLEY: Correct. I'm basing my assumption on the fact that if it wasn't laid out that way, that lot behind would have been land locked at the time of creation. We just hope that the Plan Commission will consider the hardship of the owners, the Walsh's, in terms of having a piece of property they really cannot get rid of and that is very difficult to work with. They (the Walsh's) are here and I am here for

questions.

STEPHENS: Invited comments and/or questions from the public.

AUBIN: Swore in Mr. Robert Waymeier.

WAYMEIER, resides at 14410 Rainey's Lane (the property contiguous to the south): Stated his concern in regard to building too large of a house on this property. Concerned about having a house that would impinge upon or make use of my backyard.

STEPHENS: It may block daylight?

WAYMEIER: No, I'm concerned about too large of house being put on this property and then that house would have no backyard and then my house becomes a community backyard type thing. I'm also concerned about it changing the character of the neighborhood - having a very large house on a very small lot.

AUBIN: Swore in Kim Mallon.

MALLON, resides at 14322 Oakley Avenue, around the corner to the west: My concern is similar to that of Mr. Waymeier in that we have seen some tear downs in the neighbor. My husband and I both feel that some of the sizes of the homes may be big for the lot and it does change the character of our neighborhood. We don't want any home that may be built on this lot in the future to look too big for the lot.

AUBIN: Swore in Joanne Kessen.

KESSEN, resides at 10275 West 144th Street (next door to the petitioner's lot): Noted the Plan Commissioners were wondering how they got the lot. Originally, Mr. Labee lived there for years. He owned the house and the lot. That house, 14406 - that lot was his back yard. Mr. Walsh bought the whole thing and then ended up just selling the house and kept the lot. The Harris' at 14410, have the same thing; they own the house and the lot behind them. That was their backyard. When the Harris' sold theirs, they sold the whole thing; the house and the lot behind it. They did not divide it in half. We are concerned about how big a house will be built and how close to the property line on our side. Those are our concerns.

CROWLEY: Noted that there is a 29-foot right-of-way between the Walsh's property and the Kessen's so there would be at least a 29-foot gap, even if we literally built line to line.

STEPHENS: The requested action is a variance in reduction in the lot size. Is it a variance in the reduction of the side yard of all the setbacks?

HOFKENS: No, this would be a two-step process. As recommended by our lawyers, because the lot right now is not developable, it really is not eligible to be before you for any setback variances. Essentially, the Board and the Plan Commissioners need to grant the lot size variance to make it eligible to come back for the setback variance.

STEPHENS: The reduction would be the frontage, the depth and the square footage. So there would be three variance reductions to bring this into compliance.

HOFKENS: The frontage actually meets the 80-foot required width. There needs to be a reduction in overall size and in the depth of the lot.

STEPHENS: Invited comments and/or questions from the Plan Commissioners.

PARISI: This is pretty clear to me. It is obvious that these restrictions were in place when it was purchased. I would agree with the Attorney; way back when they initially developed this there was the thought of a street going through (Lemoyne Street) and had that occurred, I would imagine that this would have been developed to front on that street. That did not happen and nothing has changed since. The owners had the opportunity to sell that lot when they sold the house but they choose to keep it. That is what brings us here today.

THOMPSON: Concurred with Commissioner Parisi; nothing further to add.

AUBIB: Ditto.

DZIERWA: Asked Mr. Waymeier to reapproach the podium. Noted he met with Mr. Waymeier on Sunday and talked a little bit. Noted Mr. Waymeier told him he is not interested in selling any part of the property he has which he now uses as his back yard.

WAYMEIER: Correct, not at this time.

DZIERWA: Asked if anyone has any history on those two lots. Asked Mr. Walsh if he wouldn't mind being sworn in so that he could ask as few questions of him.

AUBIN: Swore in Tom Walsh.

TOM WALSH, resides at 10255 West 144th Street: Stated that when he bought this property, he bought two pieces of property. He bought property with a house, 74' x 107'. The other property is an empty lot. He pays \$1,500 in taxes for that lot every year - a buildable lot. It was a buildable lot until they decided not to put in the street.

STEPHENS: You bought two pieces of property. You bought 14406.

TOM WALSH: Yes.

STEPHENS: And you bought the lot behind it; all as one package?

TOM WALSH: I bought two pieces of property. That is how it was put through; as two pieces of property and I sold the house (14406) to a woman named Jill whose last name I forget.

PARISI: Asked for clarification from Mr. Walsh. You bought the two pieces of property but you bought them at the same time from the same seller.

TOM WALSH: Yes, I did. I bought two different pieces of property. I didn't buy one piece; I bought two pieces of property with two tax receipts.

DZIERWA: I think it would have been a much different situation if you had bought the house first and then maybe a year later or a couple months later you bought the other lot. The fact that you bought them at the same time answers a couple questions for us. It is a shame that the Village didn't follow through and put Lemoyne Street in, however, I think that something might have happened south of there where you see the cul-de-sac with the other houses and all the pie-shaped lots there. I think there is a little bit of fault that may lie on the Village with something like that, however, realistically, Lemoyne Street or Avenue cannot go in right now. I think it is a piece of property that Village should sell. I think it is something if you wanted to purchase that, it would make things a whole lot easier should the front of your house front what would be Lemoyne Street. It would be basically a private thing. I personally do not think it works facing 144th Street. I don't like the idea of you having no back yard. If you were to come in and get your 30-foot setback from the front and your 30-foot setback from the back, you could build a 14-foot deep house and nobody wants to do that. As things work now, Mr. Waymeier does not want to sell his lot; there is nothing that is going to work out. I would suggest to him (advice he can take or leave) that he consider consolidating those two lots in the future so that when he sells, he sells one piece of property. That, however, is not what we are talking about. I think that if you could purchase that land from the Village, I think you could make that a buildable lot. Your side yard would basically be his backyard. That would be the way I would lean right now. Otherwise, my fellow Plan Commissioners asked the questions I was going to, therefore, I nothing further at this time.

STEPHENS: Directing his comment to Commissioner Dzierwa, asked if he is talking about purchasing the 29-feet all the way to the south?

DZIERWA: Yes.

STEPHENS: Who would put that street in?

DZIERWA: Basically, it would just be used as a driveway for the one homeowner. I think that is the only way this is going to work. It would be a private drive.

STEPHENS: If the property behind 14410 was purchased and you consolidated those two as one lot. Is that what you are saying?

DZIERWA: If you were to purchase that whole drive, obviously it goes behind Mr. Waymeier's second piece of property and Mr. Waymeier, while I don't know what he is thinking, I don't think he would want to purchase that piece to add on to his backyard and make it go further to the west. I'm thinking that the only way this will work is that piece of property gets sold by the Village and if both buyers don't want to buy it, would Mr. Walsh want to buy it - the whole piece of property - why would he if it is not really contiguous. The size of this lot only works if the front of the house were to face to the west. I think I could live with something like that.

WALSH: If you let me put the face of the house to the west, I could stay back 30-feet which would give me 77-feet to build. A 30-foot yard in the back and a 40-foot house and that would only take up approximately 30% of the lot.

DZIERWA: As this sits now, I would not vote in favor of it. Something else would have to happen with that piece of property the Village owns. That's all I have. Thank you.

CULLIGAN: I understand the dilemma that the Walsh's have with this piece of property, however, tonight there are many ideas and talks about setbacks and variances, etc. The only thing for discussion here is reducing that lot size for that variance and in my opinion, it is a significant reduction to the R-3 and I am in complete agreement with Staff's recommendation. Thank you.

STEPHENS: Referenced the first two lines of the Village Attorney's memorandum wherein it asks if lot 23 in Rainey's Subdivision a buildable lot - the answer is "not as a matter of right". I've looked at this whole thing a lot. Staff's recommendation is to create one new lot with the purchase of the lot that belongs to Mr. Waymeier.

CULLIGAN: Clarified that his agreement with Staff's recommendation is based on the motion pertaining to this purpose for which we are here tonight. It has nothing to do with that drawing or any other.

STEPHENS: I understand. I'm going somewhere with this. I agree with Staff's recommendation with the motion to deny this. What needs to be done is to try to get an agreement between Mr. Waymeier, Mr. Walsh and the Village of Orland Park to try and work this out so that one lot could be subdivided in the way it is shown here. Basically, in my opinion, the way they've designed this lot is comparable to the lot that is contiguous to the west. That would be the approach

to take on this. I don't think the request to give it a variance to make it smaller makes sense because of the way it is laid out. There will need to be too many variances when you come back to build on this. I'm inclined, therefore, to agree with my fellow Plan Commissioners and Staff's recommendation for a motion to deny.

CROWLEY: The neighbor to the south has declined to sell a couple of times. That is the problem with that scenario. Eventually, there will be no one to take care of this property. We are dependent upon an independent party who really does not have an interest in selling - either personal or objective.

STEPHENS: In addition to that, the petitioner has not convinced me by the answers given to the ten variance standards. I'm not convinced. The petitioner purchased a lot. They should have looked into it perhaps a little further. It is a tough situation for us to have to look into at this point in time.

AUBIN: Swore in Christine Walsh.

CHRISTINE WALSH, resides at 15705 Ravinia Avenue: In front of the Plan Commissioners and the good neighbors present who are objecting, asked if anyone has looked at the future of what is going to happen to this piece of property. As much as we'd like to, my husband and I are not going to live forever. What happens when we are gone. Who will pay the taxes on this piece of property and who will maintain it. We've been maintaining it for at least 12 years. We've also taken care of the Village's portion - they've never once come out to cut the grass. We've been doing that. If people on this panel are so far removed from reality that you cannot see that turning us down is a hardship. If that is the case, we live in the wrong village. This is a hardship financially, physically and mentally. Financially, we've been paying taxes on it and will have to continue to do so as long as we live. Physically, my husband just had two hip replacements and he is no longer able to maintain that property. Mentally, this is on our minds day and night. What happens to this property when we are gone? Who will be responsible for it. We have no objection to selling it to the neighbors who don't want a house there, however, we should not be penalized because someone wants to look out the window and see vacant property.

STEPHENS: We are not penalizing you. This lot is not in compliance with the zoning. The discussion you just brought up has no bearing on what will happen in the future. That has no bearing on what we are looking at right now. We have a petition before us in regard to whether or not we are going to grant a variance for this lot to the R-3 zoning.

PARISI: The reality is that the previous owner, probably realizing that he had to sell it all as one transaction - he chose not to split it. He did that for a reason probably. If he did split it, he would have a lot that he could not build on. The petitioner chose to purchase it.

STEPHENS: At one time when the zoning was different, the lot was buildable. After the zoning changed, it was no longer a buildable lot. That was long before the petitioner bought the lot.

STEPHENS: Entertained a motion from the Plan Commissioners.

CULLIGAN: Moved to accept as findings of fact of this Plan Commission, the findings of fact set forth in this Staff Report dated October 23, 2007 and moved to recommend to the Village Board, denial of the variance for 10255 144th Street in Orland Park to reduce the minimum lot size from 80' x 125' (10,000 sq. ft.) to 107' x 74' (7,918 sq. ft.).

DZIERWA: Second.

ALL: Aye. (Recommended for approval...6-0.)

This matter was RECOMMENDED FOR DENIAL to the Development Services & Planning, due back on 11/26/2007

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

2007-0380 Infiniti of Orland Park, Inc.

David B. Sosin, Attorney at Law, 11800 S. 75th Avenue, Palos Heights
Tom Walker, Infiniti Service Manager
Lawrence Sorestrom, Infiniti, Sales Manager

HOFKENS: Staff presentation made in accordance with the written Staff Report dated October 23, 2007 as presented.

STEPHENS: Invited comments and/or questions from the petitioner.

AUBIN: Swore in David Sosin.

SOSIN: I am the attorney for the dealership. The owner, Chuck Piano, would be here, however, he is out of town today. This is a hearing that has been scheduled and rescheduled a couple times. We apologize that Mr. Piano couldn't be here this evening. We've viewed Staff's Report and are happy we are able to reduce the amount of impervious surface even by a small amount. We are taking paved surface and adding to the dealership with these two areas. In the material we supplied you were some pictures that show the very significant landscape buffer that already exists. We will certainly submit a Landscape Plan and the dealership was happy to add the landscape islands around this new building even though

they weren't required when this building was built. We will look at that north area. It does have a full landscape buffer area. I looked at it and took these pictures to show what is really there. Pointed out, in tab #6 in the materials he provided, as a dealership, we have a responsibility to the manufacturer to maintain certain levels of activity. In every instance, this dealership is far below what they want for an Infiniti Dealership. We want to stay here. Mr. Piano wanted me to relay his great desire to stay in the Village of Orland Park. We are working with these two additions as the limited amount we can do and still maintain our dealership. I was recently before the Plan Commission when we put in that Lexus dealership with over 50 service bays. There are 40-plus at Mercedes Benz. With this, we will have 11. We have only five service bays right now. The reason we could not move that door over to the side is because there is not enough room. There had been a number of other Staff comments which are not in the Staff Report because we listened to Staff and did whatever we could to make it work. That concludes our presentation, however, will answer any questions anyone has.

STEPHENS: Asked Mr. Sosin if he had a chance to see the revised motion which addresses the door being open.

SOSIN: No, I have not seen it.

STEPHENS: Asked Mr. Sosin to take a look at it while he asked for other comments.

SOSIN: Noted that in regard to the utility issue, they will certainly call the utility service, however, we don't know whose it is.

STEPHENS: You can clean it up.

SOSIN: We can't raise that utility box. We will landscape it.

HOFKENS: Clarified that the petitioner is not being asked to raise the box, simply clean it up. We will be happy to work with the petitioner if he needs help contacting the utility company.

SOSIN: Okay, thank you. Whatever our responsibility is as a property owner, we will take care of it.

STEPHENS: Invited comments and/or questions from the public and received none.

STEPHENS: Invited comments and/or questions from the Plan Commissioners.

CULLIGAN: Stated he believes that is a cable or telephone box. Indicated that Mr. Sosin is right - it probably does need to be graded. The cleaning up will require more than picking up a few bottles. Asked the petitioner to please try to

cooperate given there are residents to the north. Many times we have small agreements and things we suggest but never get followed up on. Please cooperate with that door.

DZIERWA: Indicated he met with Larry, the Infiniti Sales Manager yesterday at which time I mentioned the landscaping in the rear. My sentiment is that if they can match what was done behind the Mercedes Benz dealership, that would be showing consideration to the neighbors. Putting a little money into the landscaping would be good and then I would have no problem with this addition whatsoever. Agree with the extra condition in regard to keeping the service door closed when not in use.

CULLIGAN: Asked where the trash enclosure is to be relocated.

SOSIN: Probably in the corner.

CULLIGAN: And please make it match the style of the building. Work with Staff in regard to the trash enclosure.

DZIERWA: Indicated he noticed when he was out there that yesterday that the northern end of that addition is even with trash enclosure at the Mercedes dealership if you follow that straight line to the east. If there were a trash enclosure on the back of that building it would not work. We need to specify that the petitioner work with Staff and not have the trash enclosure to the north of the addition.

PARISI: I think that what they are doing makes a lot of sense. I can understand about the flow of traffic. They should work with the utility company to get that sunken hole fixed. I understand they can't do it. In terms of the additions, I think that a good place for the trash enclosure might be just to the north of the delivery addition. There is still a 70-foot buffer from the neighbors. I think it might be an improvement from the neighbor's viewpoint. Instead of looking at an overflow of cars waiting to be serviced back there, the majority of that there will now be enclosed. I think this is a good plan. Thank you.

THOMPSON: Concurred with her fellow Plan Commissioners. Her main concern would be the dumpster and the garage door.

AUBIN: My questions have been asked and answered.

STEPHENS: Agreed with the Plan Commissioners; I see no problem with this. See no problem moving the building to the rear. Asked for clarification on how many bays there will be.

SOSIN: Eleven. There are five bays now and we are adding six more.

STEPHENS: Expressed his opinion that the landscaping in the back currently is terrible. That has to be cleaned up and there has to be some arborvitae, evergreens, planted. This is the worst I've seen in a while.

SOSIN: This dealership has been here for awhile. It was done to the standard. We've never received any notice from the Village of any deficiencies. Everything is alive. Perhaps there is a little higher standard now.

STEPHENS: It still has to be cleaned up. I guess from your perspective, I would want to put evergreens in just to block the view of that horrid satellite dish on the property approximately ten feet behind you.

SOSIN: We have a great relationship with our neighbors. We won't do anything to disturb that.

STEPHENS: Entertained a motion from the Plan Commissioners.

PARISI: Moved to accept as findings of fact of this Plan Commission, the findings of fact set forth in this Staff Report dated October 23, 2007 and moved to recommend to the Village Board, approval of the Preliminary Site Plan and Building Elevations for the Infiniti expansion as shown on the drawings entitled "Additions to Infiniti of Orland Park" prepared by EAI, project number 27-002, dated 5/30/07, most recent revision 10-11-07, sheets C1.0 and A2.0, subject to the following conditions: (1) that the petitioner submit a Landscape Plan for separate review and approval that provides extensive foundation landscaping around the service addition and fills the gaps and areas of dead vegetation along the north bufferyard; (2) that the petitioner work with the utility company to correct and maintain the sunken utility box and hole in the north bufferyard; (3) that the overhead door on the north side of the building be closed whenever it is not in use; (4) that all final engineering related items are met; and (5) that the petitioner work with Staff to relocate the trash enclosure to the north of the proposed vehicle delivery addition with compatible materials to the existing building.

DZIERWA: Second.

PARISI: Moved to accept as findings of fact of this Plan Commission, the findings of fact set forth in this Staff Report dated October 23, 2007 and moved to recommend to the Village Board, approval of the Special Use Permit Amendment to allow for 5,806 square feet of building addition on the existing Infiniti Dealership with a modification to allow for 85.5% lot coverage, subject to the same conditions as outlined in the Site Plan motion.

DZIERWA: Second.

A motion was made by Commissioner Nick Parisi, seconded by Commissioner Steve Dzierwa, that this matter be RECOMMENDED FOR APPROVAL to the Development Services & Planning, due back on 11/26/2007. The motion CARRIED unanimously.

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

2007-0490 Charleton Highlands

David B. Sosin, Attorney at Law, 11800 S. 75th Avenue, Palos Heights

TURLEY: Staff presentation made in accordance with the written Staff Report dated October 23, 2007 as presented.

STEPHENS: Asked Mrs. Turley - the original variances that were granted - were they granted on all of the lots in the subdivision - it was a blanket grant for all the lots?

TURLEY: Correct.

STEPHENS: The lots that are labeled 1 - 16, you said that they are the same size as those lots or are the lengths longer.

TURLEY: They are very similar in size to the square footage and in length. They all have the 30-foot setbacks along the rear.

STEPHENS: Are the lots in the middle the same - are they about 115?

TURLEY: Yes, they are. Those four to the north (20 - 24 which back up to 94th Avenue) are longer.

STEPHENS: Your comment that lots 1 - 16, those are about 115 in length.

TURLEY: Yes.

STEPHENS: Invited comments and/or questions from the petitioner (still sworn from the previous petition).

SOSIN: Stated it is not often he comes before the Plan Commission disagreeing with Staff. Usually issues are worked out in advance. There is a lot of history to this subdivision which plays into what is going on here. We went back and looked back at the planning. This is a maintenance free community. The entire pond, all the grass and all the snow plowing is done by the Association which is already set

up and has documents recorded. When this was set up when it was Sheffield Highland Subdivision. This is kind of an urban area that feeds into Lifetime Fitness which is right next door with their big wall; a fairly dense area over here and then, of course, 94th Avenue which is rather busy. When our client, Charleton Highlands got into this we discovered that what they did was created a line for where the lot left off and where out lot A started - that basically chopped off the end of the last three lots. We are not asking to put a house 20 feet from 94th Avenue instead of the required 30 feet. This is a huge distance, in fact, 80 feet back. Frankly, after the engineers got done chopping this up and the architects got done designing it, they put the line in the wrong place. First they decided to angle the street and they did - there is a bow in it. Then they put in terracing with the landscaping there. There is a 50-foot easement for the pipeline company that no one is happy about, however, that is an existing condition, then the utilities said they don't want to go into that easement; they wanted their own easement, so it is 60 feet back. As a result, you can see where the easements go. The way the last three lots are lined up, there is plenty of room behind them. It is just a matter of the way they were designed. There is a wall back there. There is a ten-foot utility easement back there. The lot line is too far to the west in order to accommodate the houses that are planned for these and the house that is already built there. These are basically very nice small residences or very large townhouses. In order to fit the larger models (and these are what are designed for) this lot is a way to do it. We have another way to do it. We didn't realize until we got the Staff Report, what the Staff is thinking. We have not met with them. There is no precedent here no matter what the Staff Report says. The precedent is, the next time you have houses that back up 80 feet from the street, you may have a precedent. However, to say there is a precedent because you are asking for five or six feet of a variation, that is not a precedent. This is a very unique piece of property. The only reason it is created is because there is an out lot A to be owned by the Association. These lots could have gone all the way back to the street. This lot is 190 feet deep. All of these lots could go back to the street. Every one of them could be redone with a detention easement in back of it and go all the way and we wouldn't be here today. It really is a matter of where the line is drawn. The reality of this area is that these houses fit; they are appropriate; these are the lots that were designed for the larger houses. Referenced the site photos and noted where the line comes out. The second photo on the first page shows an area that shows a stand. It is actually a utility box. That box is in the ten-foot easement. All we need to do is revise the Plat. Where they took the line as it moved in from 175 feet to 115 feet, take the line straight down the utility easement up to here and then there is no variation whatsoever. It is just a plat of resubdivision. Now the lots would be deep enough and would all be 125 feet probably. Rather than jogging the line in (which is what cut off these lots) just take it straight back and then they fit. From the back of the lot line you would still have another 60 feet to the right-of-way of 94th Avenue. That certainly satisfies the spirit of the code.

STEPHENS: Asked Staff what they think about this suggestion and if they knew about this suggestion.

TURLEY: I didn't see it until just before the meeting. We had an idea of what they were going to propose this afternoon. We took a look at some of the engineering drawings with the engineer, however, you have to keep in mind that the reason those lots are like that is because that is a detention basin back there which is typical of a subdivision. There are detention and setback requirements for those detentions and there are also retaining walls in association with the detention. There are concerns with the solution. We can certainly take a closer look at it, however, we do have concerns.

STEPHENS: Who maintains the retaining walls?

SOSIN: The Association.

STEPHENS: Your proposal to go back further; what kind of an easement is back there.

SOSIN: There is a 50 foot pipeline easement. They wanted 50 feet. That is shown on the plat. There is another ten feet for utilities because the utilities would not put their utilities in the 50 foot easement. The pipeline itself is approximately one foot wide. They need 50 feet. That is 60 feet.

STEPHENS: You plan on just redrawing the line.

SOSIN: Yes.

STEPHENS: So the variance request goes away.

SOSIN: Yes. Instead of having the ten-foot utility easement outside the lot, the back of each lot is a ten-foot utility easement. The other part is who will maintain this - we will put language on the plat that specifically points out that this wall will be maintained by the Association and there will be an easement for it. That is in there already. There is very general language that gives the Association a blanket easement for maintenance of utilities, walls and everything else. There is another wall in the subdivision that it in place because there are some very substantial grades here. In regard to Staff's other concern, I talked preliminarily to Kevin Lehman who may have some other thoughts, however, I wanted to make sure from our engineer before we got here, that this works. Kevin Chaffin from KDC tells me that he will certainly talk to the Village Engineer. Referenced the pictures he supplied - the bottom photo on the second page which says view of pond south, that gives a good view of the pond from the lot 17. All of the detention is below the retaining wall. We are talking about the line going above the wall. It will not affect the capacity, the flow, the detention - it is far enough away from that.

STEPHENS: This is a solution you've come up with since this petition came to us. If you are going to go to this solution, then your request for a variance goes

away, correct?

SOSIN: I suppose it would then become a Plat of Resubdivision for you to review.

TURLEY: It may trigger a detention setback variance requirement. That is the main concern here - that there is a detention basin back there; steep slopes. We are concerned about getting access to the detention pond. Even though it is a private pond, access is needed to maintain it - to get around it to maintain it.

STEPHENS: We've given substantial variances to detention areas when it is bordered by streets. This one is bordered by 94th Avenue so it certainly has enough access to it. We've given variances like this in the past.

SOSIN: This issue is about a line; not about any of that. It is about a property line. You are not going to be able to maintain that line off of the top of that retaining wall any better if the line is here or there. The maintenance of that wall comes off 94th Avenue and off of 163rd Street.

STEPHENS: Agreed with Mr. Sosin. Stated he walked this property and it is too steep to maintain it from the west side.

STEPHENS: Invited comments and/or questions from the public.

AUBIN: Swore in Robert Legg.

LEGG, resides at 9426 Debbie Lane, directly south of this: Stated what he is worried about is the fact that they cut down on the retention pond. That is more going into theirs. They did nothing but make a mess over there.

STEPHENS: He is not talking about cutting down the pond.

LEGG: As long as the pond is not being cut down, that is fine by us. They've been working on this for over a year and they keep using Debbie Lane which is a private road as opposed to the street north of them. They are destroying our streets with their cement trucks, etc. Will they fix our streets when they are done?

STEPHENS: That is a dedicated roadway. They have a right to use a dedicated street. Asked Mr. Sosin to clarify Mr. Legg's concern about the retention area.

SOSIN: Stated there will be no change whatsoever in the detention area. That detention area has been seeded and it has been blanketed on the slopes. The developer has a huge investment in that pond and in the landscaping already in around that pond. We are just talking about changing the line. That is all.

STEPHENS: Could a sign be posted by Debbie Lane indicating there be no construction traffic.

SOSIN: Will do what the Village asks. The question now is where do we go. We have no problem doing a Plat of Resubdivision. However, Ms. Turley has a concern about it and this is a new issue that just came up tonight. We tried to react to it as soon as we got Staff's Report. What I would like to do is perhaps continue this for a month and see if we could ask Staff to look at some of these issues and get comfortable and we will have a Plat drawn to show them so that they can then react to it and have their engineers look at it.

SOSIN: Asked if the Plan Commissioners feel this might work better before we walk down that path.

STEPHENS: Invited comments and/or questions from the Plan Commissioners

CULLIGAN: No comment.

DZIERWA: No comment.

PARISI: No comment.

THOMPSON: No comment.

AUBIN: It has a way of working. We are going to do, via a motion, just what the petitioner just said.

STEPHENS: I think the petitioner has come up with a solution that may solve their problem as well as ours. I don't know we are going to be likely to grant any additional variances because the answers to the Special Variance Standards really do not give me a reason to say that we can grant the variance. However, the solution the petitioner has proposed does make a great deal of sense to me.

STEPHENS: Entertained a motion from the Plan Commissioners.

AUBIN: Moved to accept as findings of fact of this Plan Commission, the findings of fact set forth in this Staff Report dated October 23, 2007, and moved to continue file #2007-0490 to the November 13, 2007 Plan Commission meeting so that the petitioner can work with Staff to possibly move the east property line for lots 17, 18 and 19 to accommodate removing the request for setback variances.

DZIERWA: Second.

ALL: Aye. (Recommended for approval...6-0.)

This matter was CONTINUED to the Plan Commission, due back on 11/13/2007

Aye: 6 - Commissioner Dzierwa, Commissioner Aubin, Commissioner Stephens, Commissioner Culligan, Commissioner Thompson and Commissioner Parisi

Nay: 0

Absent: 1 - Commissioner Jacobs

NON-PUBLIC HEARINGS

OTHER BUSINESS

None.

ADJOURNMENT

STEPHENS: There being no further business before the Plan Commissioners, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Teri Dougherty
Recording Secretary