

PLAN

REPORT OF THE PROCEEDINGS OF A PUBLIC HEARING
 BEFORE THE VILLAGE OF ARLINGTON HEIGHTS
 PLAN COMMISSION

COMMISSION

RE: 2214 EAST PALATINE ROAD SUBDIVISION - PC#17-002
 (CONTINUED FROM 3/22/17)

REPORT OF PROCEEDINGS had before the Village of
 Arlington Heights Plan Commission Meeting taken at the Arlington Heights Village
 Hall, 33 South Arlington Heights Road, 3rd Floor Board Room, Arlington Heights,
 Illinois on the 26th day of April, 2017 at the hour of 7:33 p.m.

MEMBERS PRESENT:

JOE LORENZINI, Chairman
 LYNN JENSEN
 MARY JO WARSKOW
 TERRY ENNES
 BRUCE GREEN
 SUSAN DAWSON
 JOHN SIGALOS
 JAY CHERWIN

ALSO PRESENT:

SAM HUBBARD, Development Planner

CHAIRMAN LORENZINI: Good evening. I'd like to call to order this hearing for the Plan Commission. Would you please rise and say the pledge of allegiance with us?

(Pledge of allegiance.)

CHAIRMAN LORENZINI: Roll call please, Sam.

MR. HUBBARD: Commissioner Cherwin.

COMMISSIONER CHERWIN: Here.

MR. HUBBARD: Commissioner Dawson.

(No response.)

MR. HUBBARD: Commissioner Drost.

(No response.)

MR. HUBBARD: Commissioner Ennes.

COMMISSIONER ENNES: Here.

MR. HUBBARD: Commissioner Green.

COMMISSIONER GREEN: Here.

MR. HUBBARD: Commissioner Jensen.

COMMISSIONER JENSEN: Here.

MR. HUBBARD: Commissioner Sigalos.

COMMISSIONER SIGALOS: Here.

MR. HUBBARD: Commissioner Warskow.

COMMISSIONER WARSKOW: Here.

MR. HUBBARD: Chairman Lorenzini.

CHAIRMAN LORENZINI: Here. The next item on the agenda is approval of meeting minutes for the Karr Subdivision from April 12th, 2017. Any comments, revisions, suggestions, recommendations, motions?

COMMISSIONER GREEN: I'll make a motion to approve.

COMMISSIONER JENSEN: Second.

CHAIRMAN LORENZINI: All in favor?

(Chorus of ayes.)

CHAIRMAN LORENZINI: Opposed?

(No response.)

CHAIRMAN LORENZINI: Okay, thank you. The next item is public hearings. We have two public hearings tonight. Before we get started, there's a lot of people here and I'm assuming there are some people here who haven't been to one of these before. So, just so you know how this goes, what we'll do is we'll call the petitioner up, they'll give a brief explanation of the project. Then we'll turn it over to Sam for the Planning Department's presentation on it. Then each Commissioner will take turns asking questions. Then after that, we'll open it up to the public for comments and questions. Then after that, we'll close the public portion, come back to the Commissioners for final questions and motions whether or not to approve the project.

Having said that, let's get started. The first one, the first public hearing is 2214 East Palatine Road Subdivision, PC#17-002, it's a continuation from the March 22nd, 2017 meeting.

Sam, have all the proper notices been given?

MR. HUBBARD: They were, yes.

CHAIRMAN LORENZINI: The Petitioner is here. Is anybody else besides

you going to testify? I'll swear you all in at once.

MR. LAUBENSTEIN: Just me, sir.

CHAIRMAN LORENZINI: Okay, would you please raise your right hand?
(Witness sworn.)

CHAIRMAN LORENZINI: Thank you. Okay, give us a brief presentation of your project.

MR. LAUBENSTEIN: For the reporter, my name is Richard Laubenstein, L-a-u-b-e-n-s-t-e-i-n. I'm the attorney for the Petitioners, the Hogreve family. This was up last time. I've got a shorter slide set, just a Reader's Digest presentation to bring you all back up to speed.

What we are asking for is a -- all right, operator failure.

MR. HUBBARD: It's the down button.

MR. LAUBENSTEIN: Down button, there we go. The Hogreve's property is a lot off of Palatine Road. It's approximately 100 feet wide, more than three times that far deep. It runs from Palatine Road back to Lilac, also called Birchwood Road. At present, there is one home on the site. It's highlighted in blue up in front, it fronts off of Palatine. So, we have a single-family residence with a detached two-car garage.

When we were here last time, there were some questions about how this lot came to be in existence, why it's oddly shaped compared to the rest. This lot was put up in 1955 before the Village of Arlington Heights came here. The Village grew up around it. There is a subdivision that went in immediately to its west first, and then a few years later a subdivision followed along to the east.

When this house was put up originally, there was no city water, there was no city sewer. This was well and septic, it needed the extra space for a well and septic field. When the subdivisions came through, they bought the farmland which was just one big chunk on either side of them, neither of the developers wanted this property. When city water and sewer were made available, it got hooked up. It is now city water, it is city sewer, it is not needed for well and septic but the odd lot remains. It was a piece of the jigsaw puzzle that didn't fit into either of the developers' plan.

So, we're 100 feet wide, 375 feet deep. The site is presently zoned R-1 which is estate housing which provides for the larger lots, the larger sizes. The property that's directly to the north and west, Arlington Vista, is zoned R-2, single-family homes. The property to the east is zoned R-3. We agree, as part of our application process and Staff has recommended and agrees as well, we want to change the zoning to R-2 so we're consistent with the other neighboring and surrounding properties.

What we want to do is we propose dividing the property into two equal-sized lots that's going to allow for the construction of a new home on the portion to the north which fronts off of Lilac Road. On the preliminary and on the screen, on the slide in front of you, again the existing house is highlighted in blue. The proposed house, you'll see a dotted line or an outline where that's approximately going to be built in the back.

We do have buyers for these lots, but I need to stress or remind, I think you were aware of this last time, the property has been marketed since 2015. We can't find a buyer that wants to take this whole shoe box-shaped lot. Kids today don't want to mow the lawns, nobody gardens, they see that as a liability, extra land they're paying taxes on that they can't do anything with. We have had nibbles to buy it if we can get it subdivided.

Right now, we have two contracts that are pending, but they are all pending based on approval of a subdivision. We have one family that's interested in buying the

existing home. The home was the Elroy Hogleve family home since 1955. It was his father's farmland before that. He was born on the land. His son who is with us, Wayne, was born there. They lived at that house until just a few years ago. They're still residents of Arlington Heights but they've moved to Luther Village.

So, this house has been sitting vacant now for quite a long time. We've been trying to find buyers, but as I said we can't find anyone that wants to pick it up as is. We also have a potential buyer for the back lot, but they don't want to put in a lot of time, money or energy in getting things put together unless or until we can get the subdivision approved.

This shows a slightly larger view of the house. North is to the top, so Birchwood is north, Palatine Road is to the south. If you go immediately to the west which on the screen is to the left-hand side, that's Arlington Vista. Most of the homes there are ranch or single-family homes. There is an existing sidewalk which runs from Palatine Road down Birchwood, but it dead-ends where the Birchwood meets Lilac. So, there is no sidewalk on the south part of Lilac. It doesn't pick up again until you get to where Birchwood continues that's off the top of the screen.

The Village requirements when you're putting in a subdivision, it's kind of a one size fits all ordinance, which I think makes perfect sense when you're talking about five, six, eight, 10, 12 houses, what most people think of as a subdivision. If you have a large tract of vacant land and you're going to be putting a number of houses up, it becomes incumbent upon the developer to make sure there is a sufficient infrastructure there, that it's not going to be a burden to the Village. Likewise, they don't want the developer to start putting up eight or 10 houses without having sewer or water or things and they don't want the Village to be holding the bag. Perfect sense.

The Village requirements for a new subdivision would call for an installation of a sidewalk. That's part of the Village ordinance. Also calls for a water main. The ordinance reads if you're going to put in a subdivision, you need a water main that goes to the deepest or farthest back lot. Water mains by definition are something, it's a pipe large enough that's going to service four or five, six different houses.

We are in a rather unique situation. In fact, there was some banter back and forth with the Board, you might remember last month, if Elroy's dad had the prescience or forethought to put a dotted line down the middle of the lot, if he had two legal descriptions to start instead of just one, we wouldn't even be here. If you're going to build on a vacant lot, it's not a subdivision, you just go to the Building Department, you get your plans, your permits, you have to comply with whatever the current code is. That makes perfect sense.

Likewise, the existing house is one that would be considered grand-fathered in. If I was to sell this lot the way it is, I wouldn't need a new sidewalk. I wouldn't need a water main. It's grand-fathered in as a property that existed back since 1955.

The existing house does have, I told you before, water and sewer, but the hookups are at the north end. So, if you can see on the drawing itself, I just skipped ahead, oh, it still shows. On the drawing itself, it shows on the east side, that would be on the right-hand side, there is a 15-foot wide easement. That's the area where the water line runs from Lilac to supply the house. That's also where the sewers run. There's also various other public utilities that are there which we discussed last time.

There are provisions in the Village ordinances that will allow a subdivision to go in that doesn't have all of the bells and whistles. So, the ordinance may have been drafted one size fits all, if you're putting in 10 lots it makes sense, but there is a mechanism in the ordinance in the Village Code that will allow a subdivision to be approved with non-

conformities so long as they're noted on the ordinance. The ordinance gets drafted, it gets recorded, it's public record, so anyone that wants to buy later on knows what these variances, exceptions, what the certain peccadilloes are related to the property and no one can be surprised.

They're also going to be noted on the final plat, the final plat is going to reference where the easements are, what they can be used for, what their purposes are, what you need to do if you're going to build on there in the future. So, there are a number of mechanisms to protect not only the present owners and the prospective buyers but the people down the road as well.

To give you a general idea, it's a beautiful house built back in the 1950's, 1955 when they built houses to last. That's not brick veneer or facade, it's actual brick construction. We've got actual plaster and lath inside, not drywall. The house has been up for 60 years, it would probably be there for another 60 years. That's how well they built back then.

There is existing fire protection. There is a hydrant on Birchwood Lane, so that's right across the street which is to the west of the Hogreve property. Elroy and I have paced it off a couple of times, it's roughly 200 feet. I know the engineer has got a schematic or drawing. I think it's somewhere 200-240 feet from the house.

There was a lot of issues or concerns last time about whether or not there is adequate fire safety. One of the Commissioners was asking whether or not Palatine was blocked by screening fences. I know there are a number of houses along, or developments rather along Palatine when you go over towards Schoenback Road where it's all four-foot or six-foot fences. This particular neighborhood, this is Elroy's corner so that brown brick building on the right, that's the house right next to Elroy's. There are no screening fences, there are no obstructions that would keep the Fire Department from being able to get from the existing hydrant over to Elroy's house.

This is in the back or north end of the property. It shows where the sidewalk dead-ends. The sidewalk stops all along the neighbor's property, this would be Elroy's property. You can see it picks up again where Lilac originally was going to run through, that part was then condemned, it wasn't used for street purposes. The Village put in a connecting sidewalk that connects Arlington Lakes to Arlington Vista, and that's behind the Hogreve property.

When we were here last time, there was a lot of talk back and forth, and the general consensus I think of the board with at least regard to the sidewalk was since there are so many other neighborhoods in Arlington Heights like Sherwood and other developments that don't have sidewalks, putting in a sidewalk just on the Hogreve lot that doesn't connect to anything on either side doesn't make much sense. However, when we were here last time, we did not have any engineering reports or drawings the board requested and I got together with the purchaser of the vacant lot. We engaged an engineer, they have furnished the engineering costs, it's part of the packet that you have. The bottom line is it's about \$2,000 for the sidewalk.

We are asking, as part of the approval tonight, that the subdivision be approved, and we're asking for a variance that the sidewalk does not need to be put in. I believe it was Chairman Lorenzini and a couple of the other board members last time who had suggested that the ordinance provide if in the future Arlington Heights is going to put in a sidewalk, that whoever the present owner of Lot 2 would agree to pay their pro rata share at that time to put the sidewalk in. So, if you're going to put in a whole sidewalk that connects that whole area, we are covered, the buyer knows, whoever buys down the road knows, as long as the recorder of deeds doesn't burn down in another Chicago fire, everyone will know that that's taken care of. Unless there's any other questions really about the sidewalk, I think I can move on to the main issue that had most of the questions involved.

The existing home is serviced with water, waste and fire protection from existing lines. The buyer of Lot 2 is willing to allow the private easement to continue up that east side as I showed you to allow for continued access by Lot 1 for water and waste lines. This is an area where I lost some of the members last time through, when you're talking about an existing residence that has the lines that run back, right now Elroy Hogleve owns that whole property so it's not a matter of any easements. He can do whatever he wants on the property. As long as it gets recorded on the plat that there is a private easement and the buyers know that line is there, he has the right to maintain it. Later on you'll see a slide or if you want we can take a look at the actual proposed final plat, we have language on there that allows the use, maintenance, repair, improvement, et cetera, so that water will always be provided to Lot 1.

What we're proposing is, in order to accommodate some of the Village concerns from the various Village Departments and also concerns that were raised by the panel last time, there will be an easement, a 10-foot wide easement along the west edge. So, now again we're back over on the left-hand side of the screen, that runs all the way from Lilac to the front for future use, in case in the future someone ever takes down the existing home which is grand-fathered in and puts up a McMansion that's happening all around in Arlington Heights. I see that whenever I come to church with my mom, we see sometimes people buying one or two lots, knocking down the bungalows, putting up a McMansion. Any new construction is going to need to comply and conform with the Village requirements. So, if you put up a new house, you're going to need not only the internal building codes but you're going to need to comply with whatever water line or new water main may be needed.

We aren't doing any construction on Lot 1 though we're leaving the same house that has existing water that is grand-fathered in. So, we're requesting that approval be given to the subdivision where we're putting all of the pieces in place. We're giving all the building blocks so to speak. If a water main is ever needed in the future, if new construction ever goes in, it's provided for. At that point, just like any other construction in Arlington Heights, when they go to submit their building permit to put up the McMansion, they're going to have to cover the costs, put up the bond, pay for the expense, et cetera.

One of the concerns that was raised last time was, well, that's too vague. We never know if it's going to go in. But the main point, and I don't mean to be belabor this, the main point is it may never be needed. The existing house on Lot 1 fronts Palatine, it's one of the few houses up and down that street that has a driveway onto Palatine. Everybody else in Vista or in Arlington Lakes, they all have Village roads. It's not that busy.

The existing house is rather close as you can see to Palatine Road. It takes a particular type of buyer, I would label them, I've been doing real estate and legal work related to real estate development for coming up on 30 years, I think you call them first time buyers or entry buyers that want to get a foothold in a beautiful community like Arlington Heights but can only afford a house with certain things that other people may have to find acceptable. So, it is highly unlikely that anyone is going to actually put up a new house or a new structure. So, it's highly unorthodox to require Mr. Hogleve at this point to be putting up money for something that may never go in and may never be needed.

Per the board's request, we've submitted engineering drawings so you can see where they would go in. The engineer was able to provide drawings that show this new water main would fit very nicely in the 10-foot easement on the west side. They've also come up with costs. I have talked with some of the folks about it, Elroy, I'm glad you're sitting down because the costs for putting this in are estimated at \$48,000. I have to add a little asterisk here.

You had wanted drawings and price estimates. At this point, since we're looking for approval of the plan but without actually doing the construction, we asked for what would be a preliminary set of drawings. The engineer has already made it perfectly clear, if this actually has to go to construction, it's another \$2,500 to get the signed off, sealed, buildable set.

We also would be required to get an IEPA, Illinois Environmental Protection Agency, permit because a new water main is going in. Permits in a good day, when I was practicing seven or eight years ago, took three months to get an IEPA. Everything in Illinois, as I'm sure you're all aware, is moving at a snail's pace. I would be lucky to get the permits in six months.

I have a buyer for this lot who has been very patient. The contract I think was back in October, I started working with Sam around Thanksgiving or right before then. We've been putting things together. If it's another six or eight months out before he can get this all approved and all put together, that puts us off to the next building cycle. We're going to lose this potential buyer.

The buyer on Lot 1, likewise, has been patient. But I'm sure they can find another fixer-upper in Arlington Heights and they may not wait around that much longer either.

So, we've got extra costs. We're looking at over \$50,000. We're looking at at least six months on a good day. The existing house's sales price is \$235,000. We've got a mortgage on that property of \$200,000. The property was free and clear until the Hogreves moved into Luther Village.

Elroy has leukemia. He's been having a number of treatments lately. His wife has macular degeneration. They have expenses that have, since they weren't able to sell the house outright, they took out a mortgage. Perfectly understandable. After you pay off the mortgage and give the property tax credits, take care of all the closing costs, paid the state and county their fees, the bloodsucking lawyer wants to get paid. I don't have a margin, I don't have \$50,000 to play with.

My clients find themselves in this condition right now where they are land rich and cash poor. To pay over \$50,000 for a water main that may never be needed for a house that may never be built, this is the perfect situation or scenario where that carve-out in the Village ordinance that says we can approve it without bells and whistles, I think we come under that category. Certainly that's what we're requesting.

The Village has asserted a new water main would be needed because it would allow the line to be cleared, thereby keeping good water pressure for the existing house. They want us to put in the new water main and disconnect the existing pipes. That is a very meritorious item, but I don't think I need to remind you, I know many of you have been on the panels here for a number of years, Village ordinances, whether we're talking zoning or construction or other ordinances, have to have some reasonable basis. Don't mean to get all lawyerly on you but since we are making a record, *Columbus Park v. Board of Appeals of the city of Chicago*, 182 Northeast 2d. 722, you need a reasonable relationship to either public health, morals, safety, or welfare, anything else is overreaching.

So, it's very noble to say, well, the existing line is a 400-foot supply line, it's an inch or inch-and-a-half copper, it may clog, water pressure may drop off, the owner may get cold in the shower. Those are all understandable things but those are not Village concerns. They don't raise to the level of Village interference, they actually smack of interfering in the sale and purchase of real estate. It was Commissioner Dawson I think last time we were here that pointed out, look, the buyers had an inspection, they're okay with it, they've looked at it,

they're all right with the pressure. If they aren't raising a problem, I don't know why it's becoming a Village issue on this.

When I had the engineer do the plans for us, I had a number of conversations, and I have to tell you he's a very nice gentleman, if any of you are actually looking for it, he's not a client of my firm but he does very nice work, Pinnacle Engineering, Dwight Trostle. When I was talking with him and he put together the plans, he was scratching his head about why are we putting in a main to serve one house. I pointed out, well, it's in the ordinance, to comply with the ordinance I need a main, whether it's one house or 10 or 15 or 20. He goes why do you want it? I said the Village has pointed out two things. It would allow for a fire hydrant which would improve fire service, Sam had pointed that out last time when we were here. It's not essential to the fire service, and I have to use my words carefully, words have meaning in the law. The Village is providing adequate fire protection to the home as it stands. You can always make things better.

The ordinance that was in place in the 1950's when the Hogreve house went up and the late 1950's when Arlington Vista went up was not as stringent. Matter of fact, I got the Village Engineer's comments just yesterday, so I apologize, it was, I did not have time to add it in as part of the slide presentation. I have just a picture off good old Google. If I can hand it, I've got copies enough for everybody in the audience, for yourselves, for Sam, if we can make it part of the record.

Copies for anyone in the audience that's interested? I apologize if I'm putting you to sleep. Got them right up here. I come from a family of teachers, you think I could hand out flyers faster than that.

When Arlington Vista went into creation, the ordinance was not that strict. I have marked for you, if you look on the drawings that I gave you, there's a little yellow splotch on the lower right-hand side, that's the Hogreve house, all right. Running up and down, north and south, that's Birchwood. A highlighted behind that, that's Lilac. If you go over to the left where it makes a little dogleg, that's Jonquil. There's little red X's that mark the spots where the existing fire hydrants are. One of the nice things about Google is it comes with its own scale when you print it out, it comes with its own scale that shows you the size or the distance between items.

The hydrant that's presently on Birchwood is over 400 feet from the one that's behind it directly on Lilac, and it's 600 plus feet between Lilac and Jonquil. So, I want to be very careful and I have the greatest admiration for the Arlington Heights Fire Department, for the Village itself, I'm a product of Arlington Heights, I grew up here. The Fire Department knows which neighborhoods are older and which ones have fire hydrants that are under the new code. When an alarm goes off, they know, they'll send extra equipment, they'll compensate. So, adequate fire protection is being furnished. It's just if we put in a new fire hydrant, it would be better.

Well, everybody likes better, but once again we can't treat the Hogreve house different than any other home in Vista. I don't think it's the board's intention to go up and down Lilac and Jonquil and Birchwood and look for people with For Sale signs and say you can't sell your house unless you pay \$50,000 and put in a new fire hydrant. So, as long as the Hogreve house remains, the house that was built in 1955, it like all of Vista is grand-fathered in. It doesn't need the new property, if you make this \$50,000 charge, you are treating this owner different from everybody else in this part of Arlington Heights.

So, I think we are all pretty clear this is not needed to be adequate fire protection. In the engineer's report that I got last week, he did use the word adequate but I think

he was using it like a layman would, not like a lawyer would. He said that in order to provide adequate fire protection to the Hogreve house, we have to put in that new hydrant. By definition, that would mean if we don't have the new hydrant, then for the last 60 years Arlington Heights has not been providing adequate services not only to Hogreve but to anyone in Arlington Vista, and I don't want to, that's a can I don't want to go open up and I don't agree with it. So, I think he was using layman's terms, not terms of art.

So, setting that part aside, if it's not needed for safety, the only other reasons that are in the Village comments that you folks got and which Sam is going to bring up, well, it would be inconvenient for the owner of Lot 2 if someone puts in a water main in the future. Yes, that happens, but that's a civil matter between those two owners. They have recourse, they have rights. You as a Village will not allow a permit to be issued to allow a new water main to be put in unless as part of that permit whoever is doing the work puts up the bond and agrees to restore the property to its current condition. They're going to have to re-sod, they're going to have to re-level. They can't leave a pile of dirt.

Same thing with regard to the private easement. The private easement that's in there, and we'll take a look in a moment at the proposed plat of subdivision, has in there whoever owns Lot 1 has a right to go on Lot 2 to maintain, repair, replace, improve the pipe. They're going to need a permit. They're going to need to restore, make that other property owner whole. That's civil or just intramural between those two lot owners. The Village doesn't come into play.

Dwight Trostle pointed something else out which I'm happy he did so I'll give him credit for it. The Village's obligation is just to provide a water main. The Village's obligation is to provide a sewer in the street. Each homeowner is responsible for the connections from the house to the street. It's a homeowner's responsibility, therefore, I know this from personal experience, we all probably, we love the big trees in Arlington Heights. Trees have roots, roots get into the sewer line. If the sewer in the street is damaged, Arlington Heights has to fix it. If my connection from my house on my property to the street gets damaged, I pay for it. It's not a Village concern.

Same thing for the water. Older houses, they tend to have pipes that get clogged. I grew up in Arlington Heights back when it was still well water. I don't think city water came in in my neighborhood until late 70's, maybe early 80's. Well water was notorious for being hard, I still remember my dad making me bring those bricks of salt to the water conditioner. Hard water tends to be hard on pipes. Older houses that are built 60 years ago, it's not unusual if half the homes in Vista may need to get re-piped. That's on them, not on the Village.

So, we have a buyer of Lot 1 who has inspected, who has looked at it, who says the pressure is good. Elroy Hogreve, the owner, is here, he can tell you the same thing. No one is complaining of it in its present condition. In the future if pressure drops off, having a water main is not the solution. The homeowner will re-pipe. According to Dwight, he took pencil and paper together, if we're just putting in a supply line, that's a much smaller pipe, we don't need engineerings, you just have to trench it in, you don't even have to dig up the old one, just trench in the new one. Less than a third of the cost, no IEPA permit, it makes just more practical sense and I think that's what we're all here for is to try to find a logical way to help make this work through.

So, a water main isn't needed, and in fact according to Mr. Trostle it could be counterproductive. One of the reasons the Village says you want a main is so that you can have a hydrant and flush it and the water doesn't get stagnant. If you have six or eight houses hooked to that main, that makes sense. But think about it for a moment. If you have a

pipe that's large enough to provide water to six houses, there is a large volume of water in that pipe. If only one house is hooked up to that pipe, there's going to be a lot of stagnant water in that main because it's not getting enough flow, it's not getting enough use. So, for a large subdivision, it makes sense so that the quality of the water is maintained. If you have one house hooked to a great big pipe, you're actually being detrimental. According to Mr. Trostle, you're better off with a supply line.

So, we're not doing any Village purpose for safety. We aren't doing any Village purpose for making the water more potable. We're adding \$50,000 of costs to this lot that no other lot in Arlington Vista has to pay. We're putting conditions on an existing house that don't exist anywhere else, and we're taking a house which for three years has sat vacant with no one that wants to buy it. If we don't get the subdivision, it's going to remain vacant, attract pests, attract rodents, detract from the value of the surrounding properties. If we approve the subdivision with the variances we're requesting, someone is going to move in and love that house. It's going to be occupied. It's going to be habitable.

A new house is going to go in on that vacant lot that all of the neighbors behind me have been looking at for 60 years. It's not going to add that much of a burden to the neighborhood. One more driveway, we don't need a road study. Sam has made it clear we don't need a tree study, a road study, a water detention study. We're going to pay for the water detention that would result from putting in the new house, and you've got another property on the tax rolls for Arlington Heights. So, we get a twofer, we get two new homeowners, we get more tax revenue for the Village, we get rid of an empty vacant house, we return the property to useful condition.

So, on the action requested, the original, I think it's the summary that Sam prepared, it's a very nice thing, I labeled it my bible, We are looking for preliminary approval today. We are not asking for final because I don't have the Mylar signed by all the utilities. I've talked to all of them, I've got e-mails back from all of them, they are just waiting for me to stop in. Everybody is on board to sign off on this.

There is one exception, again what a surprise. Palatine is a state road. I've been talking with them for weeks now. We aren't adding a new driveway, we aren't asking for any changes or variances or any new curb cuts. It may be another week or so for me to get that.

But what we want is preliminary approval today. Let us come back in two weeks before you, we will have all the signatures in place by then so that we can make the next Village Board meeting and start crafting the ordinance that we need. If you look at that first page from Sam where it lists the variances required, he has it chapter and verse.

We are looking for the subdivision. We are looking to postpone construction of the sidewalk I think indefinitely. In here it says until someone builds on Lot 2. The general consensus I received was as long as it's provided in the ordinance that if you ever put a sidewalk in on the rest of the block, they'll conform, that's fine. Commensurate with that, obviously then we don't want to pay any bond construction fee set aside relative to the sidewalk. We're asking to postpone construction of the water main and the fire hydrant and the payment of the associated costs until such time as someone is going to put in a McMansion and it would make sense to put that in. But it does not make sense to pay \$50,000 for something that may never ever go in or never ever be needed.

On the engineer's report which Sam got to me yesterday, there is one additional comment that he didn't have in his notes and that I wasn't aware of until I saw it. The

engineer has requested that the public utility easement on the west side of the property be 15 feet, I think because we gave 15 on the east side. I have the actual plats with me. If you look at the plats that are part of the packet, you might be able to zoom in enough to understand or see why that's different.

On the east side, there is a dotted line that shows where the water line, the service line is located. We need 15 feet because that's just where it was put years ago when the water line was put in. The Village requirements for yard setbacks on the side and easements on the side is only 10 feet. So, I can give voluntarily extra, that's on me, but the Village can't require more than what's in there. In fact, in the first two go-arounds from the engineer, he was happy as a clam with 10 feet. He's just asking for 15 because we gave 15 on the other side.

If you look at the plan where the builder on Lot 2 wants to put his house, if it's 15 feet on both sides, his house doesn't fit. I lose the buyer, that's overreach, there is no reason for it. So, I'm going to ask that it be approved with the easements as shown on the plan, not the extra five feet. I'm going to ask that it be approved without requiring any payments for the hydrant or the water line.

Now, there is just one thing that I do need clarification from because I know there are a number of expenses that do need to get paid as part of the approval process. There is the money in lieu of detention. The calculations were made, we know we owe that, that's about \$9,000. I understand that part.

There was a note or a comment from Sam that when Lot 2, the new house goes up, they have to pay towards the school and library and other things. I believe those are expenses that are commensurate with the construction of the house, not with the subdivision. So, I need guidance from you folks. Is that something that we're supposed to pay now or later? And how much? Because there was no figure set forth. But as far as plan review or the maintenance deposit or the public improvement deposit, none of those should apply.

I thank you for your patience. I thank you for your time. If you have any questions, I'll try my best to answer them.

CHAIRMAN LORENZINI: Okay, thank you. You can sit down for a bit. Sam, would you give the Staff report please?

MR. HUBBARD: Sure. Good evening to the Plan Commission. Thank you, Chairman Lorenzini.

So, yes, returning back, the Plan Commission originally discussed this back at the end of March. It was for a two-lot subdivision at 2214 East Palatine Road. The present request is for a preliminary plat of subdivision to subdivide the lot into lots, a rezoning from R-1 to R-2, and then several variations from the Subdivision Code which are new and are in light of the Petitioner's request to not construct the water main, fire hydrant, sidewalk, to put up the bonds and so forth.

So, again, here is the aerial, you've already seen this, and this is the site plan. So, I think what the Petitioner is referring to with regards to the increase of the side yard setback on the east side by five feet from 10 feet to 15 feet is just so that it coincides with the 15-foot public easement that you have along the eastern side of the property. So, that's what the Petitioner I think is referencing.

MR. LAUBENSTEIN: The public improvements, there is a sewer that runs underneath this property that actually is used by the other homes in the other subdivisions. It's within 10 feet of our lot line. The dotted line that appears there is actually the water supply line for

the house. So, since I'm going out 15 feet to get the private easement, I thought it would be more confusing to put a 10-foot public, 15-foot private because they can't build on that anyhow, we just make that 15 feet.

One the west side which is the left side of the site plan, that is a 10-foot public easement which corresponds with the 10-foot setback, side yard setback required by the Village. The engineering that you got, the drawings, everything fits for the water main within that 10 feet.

As you can see on where it's labeled Lot 2, the hash-marked section, the proposed house goes smack right up to that 10 feet. I don't have five feet on that side to give, and there isn't a Village reason to give five feet on that side.

MR. HUBBARD: So, you're saying you have a 15-foot private utility easement along the east side?

MR. LAUBENSTEIN: Yes, because if you see the dotted line, that shows where the water line went and that was just --

MR. HUBBARD: So, there's 15 feet from the east property line measuring west?

MR. LAUBENSTEIN: Yes.

MR. HUBBARD: That 15 feet is an easement?

MR. LAUBENSTEIN: Yes, and a public easement as well.

MR. HUBBARD: You're saying you're intending to build in that easement?

MR. LAUBENSTEIN: No, no.

COMMISSIONER GREEN: 20 feet to the edge of the house.

MR. HUBBARD: So, that's what the Engineering Department is saying, they want to increase the 10-foot side yard setback on the east side of the property so that it's 15 feet wide total, so that it matches your easements. Because there is no sense having a building setback line that's less than the easement. That would mean that buildings could be setback 10 feet from the east property line, and if the easement required a 15-foot setback from the east property line, then buildings could be built into the easement area by 5 feet. Do you see what I'm saying? If it's a 10-foot building setback and a 15-foot easement, they're saying they want 15 feet for the building setback so that you don't build on your easements. So, that's what they're referencing.

CHAIRMAN LORENZINI: That's on the east side.

MR. LAUBENSTEIN: This is what happens when you read late in the afternoon. Again, my apologies. My mother is a teacher who would be very angry that I misread that. It does say east, not west. It makes perfectly good sense. I remove the slanderous comments I made before and I admonish myself for not reading carefully. I get that, thank you.

MR. HUBBARD: Slanderous comments removed.

CHAIRMAN LORENZINI: Please continue, Sam.

MR. HUBBARD: So, here is the engineering plan. The Petitioner has prepared preliminary engineering showing the easement, I'm sorry, the water main extending along the west property line and has provided the utility easement for this infrastructure as well. This was something the Village requested. We wanted to make sure that this line could work in this location, and we also wanted the estimate for the cost of construction, which has also been provided. That was part of the Plan Commission packet as well, and I can confirm the Petitioner's number is at around \$48,000 for that construction of the water main and the fire hydrant.

So, just to be specific, the first requested variation would be a

variation to postpone the construction of the sidewalk along Lilac Lane until such time as a building permit for Lot 2 is received. There was some discussion last time that the Plan Commission may be interested in waiving this requirement completely. I would add that the sidewalk to the west already dead-ends and it's just kind of a floating sidewalk. So, if the Petitioner was to construct a sidewalk on the north side of Lot 2, that would enable this already existing dead-end to have a point of connection to the east and it would facilitate that connection. The Village would also, if that sidewalk was put in, the Village would also put in a sidewalk connection from the east connecting so that the sidewalk on Lot 2 would not be just a floating sidewalk, it would have a connection to the east. The connection to the west would, you know, would come in at any point at such time that, you know, the property owner to the west wanted to facilitate that.

The second variation is to postpone the construction of the water main and fire hydrant until such time as the home on Lot 1 is demolished and a new home is built. The final variation, is to Chapter 29, Section 29-503(a), (b) and (c), and this would postpone the provision of the maintenance and public improvement bond for the water main and fire hydrant until such time as the existing home on Lot 1 was demolished, and then the deposit for the sidewalk would be provided when a building permit was received for Lot 1.

Just while it's on my mind, the impact fees are due at time of building permit, not at time of subdivision, and we can certainly get that information to the Petitioner. It's going to be based on the, you know, number of bedrooms and so forth. That's a code requirement. They go to the Park District, they go to the School District and so forth.

So, you know, in order to help the Plan Commission understand what the rationale behind the code requirements are and why the Village is asking for these improvements, while we certainly sympathize with the plight of the Petitioner, our job is to enforce the codes and the codes do have a rational basis and reasoning as to why they exist. First of all, if we're to postpone and delay the installation of this water main, there is no guarantee when it would ever be built. You know, it's pushing it off to an uncertain date. You know, this home on Lot 1 to the south may work currently for the current buyer, but as the home continues to age, as the trends in the housing change and the layout and style of that home is no longer desirable, that home may eventually go on the market and it's going to be difficult for any person to want to purchase that with the obligation of constructing a water main. The only option will be to knock it down and build a McMansion if they know they're going to have to pay \$50,000 to extend the water main to it, and it may be some time before the market is good enough to support the cost associated with doing that.

So, while the home may sit vacant today, I think there is just as good a chance that the home may eventually sit vacant at some point in the future if it is ever to be redeveloped. So, in a sense it's, you know, just delaying the possibility on vacancy on that lot.

Again, the Petitioner mentioned the impact of the water main construction, that's going to impact any owner on Lot 1, I'm sorry, on Lot 2 to the north. While there is a buyer now that acknowledges that's not a problem and is aware of it, I don't know where that buyer is going to be in 10 years, 15 years, and the next person who lives in that home is very likely not going to know that a water main could be constructed and that's going to be quite a disturbance to them and detrimental to their quality of life. The first thing that that person is going to do, he's going to come to the Village and say why didn't this water main go in back when this was subdivided, you know, and he's going to complain to the Village that, you know, the Village is disturbing their property.

Third of all, it's really not ideal for private service lines to cross somebody else's property. I mean that's just planning and development and organization of subdivisions 101. You know, if that water main on Lot 2 which serves Lot 1 breaks someday, you know, it's going to impact Lot 2. The first thing again they're going to say is why is there a water line on my lot that's broken? They're going to try and approach the Village and ask the Village for assistance, but you know, it's a private issue but I think that the Village is going to, you know, be asked to play a part in it. This situation could be avoided if the code is adhered to today.

Finally, water quality and water pressure can be impacted on such a long run of pipe. You know, again it may be that water pressure is not a problem for the potential buyer on Lot 1 now, but I don't know what the future owner of Lot 1 is going to say? Maybe that's going to be a problem for them. By allowing the current infrastructure to remain, you know, the Village is allowing potentially poor water quality and poor water pressure to serve that home.

The point that, you know, a main that serves six houses will provide better water quality than a main that serves one house is well taken, and that's true. But that's why the Village, one of the reasons why the Village has asked for the hydrant to be constructed on the southern terminus, it would flush that line and it would maintain the water quality. There's really no way to do that on a 400-foot long, plus or minus, private service line.

So, these are some of the issues that I think the Plan Commission needs to be aware about when deliberating on this case. You know, there's two sides to every story, and I think this is the other side of the story. These are not overreaching items the Village is asking for. These are code requirements. We're not asking this developer or this subdivider to do anything different than we would ask of any other subdivider.

So, that being said, the Planning Department and Staff Development Committee are supportive of the subdivision and the rezoning, but we are not supportive of the requested variations to the Subdivision Code. Our recommendation is conditional on five items, I'm happy to go into detail if the Plan Commission would like.

In order to aid in the motion and decision this evening, there's three sets of motion sheets before you, and I want to just briefly go through them:

Motion Sheet No. 1 would be approval of the application including all of the variations except that a sidewalk would be required still on Lot 2. Motion Sheet No. 2 is approval of the application and all of the Subdivision Code variations including a variation which is to completely waive that requirement for the sidewalk. Motion Sheet No. 3 is approval of the subdivision and rezoning but denial of the Subdivision Code variations.

So, that concludes my presentation and I'm happy to answer any questions. Thank you.

CHAIRMAN LORENZINI: Thank you, Sam. Could I have a motion to include the Staff report into the public record?

COMMISSIONER DAWSON: So moved.

COMMISSIONER CHERWIN: Second.

CHAIRMAN LORENZINI: All in favor?

(Chorus of ayes.)

CHAIRMAN LORENZINI: Opposed?

(No response.)

CHAIRMAN LORENZINI: Thank you. Okay, let's go to questions from the Commissioners now. Commissioner Jensen, would you like to start?

COMMISSIONER JENSEN: Sure. First of all, very nice presentation.

MR. LAUBENSTEIN: Thank you, sir.

COMMISSIONER JENSEN: Let me ask now, just so you refresh our memory, you gave us what the value of the property is as it stands now unsubdivided. If it were subdivided, what would you most likely be able to generate as the value of the property if it were subdivided?

MR. LAUBENSTEIN: The value of the land, the price I gave you for the house is already taking into consideration the subdivision. We have no offers on the house in its present condition.

COMMISSIONER JENSEN: No, what I meant is if you're able to do what you want to do, what does that whole parcel, that set of land is what I'm saying.

MR. LAUBENSTEIN: As it is, we have no buyers. Right now, with two, the buyer for Lot 1 is \$238,000. Mr. Ke, you're about what? \$240,000 on the other lot. So, it's \$470,000 total.

COMMISSIONER JENSEN: So, it cuts it in half if you're not able to get the variances.

MR. LAUBENSTEIN: Well, not only cuts it in half, but again it cuts it to nil. I can't sell Lot 1 to anybody unless it's subdivided out, and no one since 2015 has wanted to buy the whole piece.

COMMISSIONER JENSEN: Sure. The other thing that I wanted to ask, just a couple of quick technical issues. How is the water service to Lot 2? What's the arrangement going to be for water service to Lot 2 once it's sold?

MR. LAUBENSTEIN: Water service to Lot 2 is part of the building plans which the Ke family has already submitted. They're working with your Building Department, I think they've had a couple of conversations with Sam as well. Lot 2 will connect to the existing water line which runs under Birchwood. It will connect over on the garage side which is to your left or west, somewhere over, it would be right in that same 10-foot easement presumably. They would not need a water main, they would just need a supply line.

COMMISSIONER JENSEN: Okay, that was what my question is. My last question, I don't understand and I'm not sure who ought to answer it, the condition number two about moving the shed three inches so that it will be in compliance with the five-foot yard setback.

MR. LAUBENSTEIN: There is a shed on Lot 1 right back where the dotted line shows. There's supposed to be a five-foot easement between both. It is not a permanent shed, it doesn't have a foundation. Elroy and I would be happy to move it, I can move it tonight. I've moved it two inches when I was out there putting up the signs. But I think it was the wind that helped. I put these signs up on a day when it was as windy as all get out out here.

COMMISSIONER JENSEN: I have no problem with what you're going to do physically with it, I just don't think this ought to be in writing. I think it's a goofy thing that suggests bureaucratic overreach.

MR. LAUBENSTEIN: Well, considered it moved. It will be.

COMMISSIONER JENSEN: You've made some very compelling arguments. I read very carefully the minutes from the last time you spoke to us and I thought you filled in with your current presentation all of the issues that were resolved and I find them very compelling personally. I must say I don't find the Village's position very compelling on most of the issues that they raised as the underlying rationale. So, I'm going to stop at this point.

CHAIRMAN LORENZINI: Commissioner Warskow?

COMMISSIONER WARSKOW: Yes. I just want to say I wasn't here for the

last presentation, so I felt like I was going to be at a loss this evening. But I do have to once again reiterate Commissioner Jensen's compliment, a very well done presentation such to the fact that I do not have any questions.

MR. LAUBENSTEIN: Thank you, ma'am.

CHAIRMAN LORENZINI: Commissioner Ennes?

COMMISSIONER ENNES: Counselor, a couple of questions. When you made your presentation last time, I don't recall that you had an offer for Lot 2.

MR. LAUBENSTEIN: We did have an offer on both last time. In fact, Mr. Ke, the buyer on Lot 2 was here last time.

COMMISSIONER ENNES: Is there a written offer subject to subdivision?

MR. LAUBENSTEIN: Correct.

COMMISSIONER ENNES: You have a deposit?

MR. LAUBENSTEIN: Correct. The realtor is here tonight who has been working on this diligently since 2015. We do have two written contracts but their contingencies are longer than my arm.

COMMISSIONER ENNES: The purchase price for the vacant land is the price Mr. Ke has just mentioned?

MR. LAUBENSTEIN: I don't have the contract in front of me but I have no reason to doubt.

COMMISSIONER ENNES: You indicated that the potential purchaser, you know, if the subdivision is approved, agrees to allow this private easement through his lot for Lot 1?

MR. LAUBENSTEIN: Correct, and I've talked with his attorney as well, Neil Kaiser. He's seen all of these documents, all of the plans, they have no apprehensions.

COMMISSIONER ENNES: Are there provisions in that agreement to cover if the owner of Lot 1 needed to go in to that easement to repair, replace or, I forget what you so eloquently said, it's three or four points, if they need to go into that, it clearly states that the owner of Lot 1 has to pay for and replace to the original condition?

MR. LAUBENSTEIN: Correct. If you can search back to, there were two slides I didn't put on. I didn't want to have viewer fatigue.

COMMISSIONER ENNES: That's okay, I mean I just want to confirm.

MR. LAUBENSTEIN: It's actually contained in the second page of the plat of subdivision where it has all the easements. There is a paragraph that puts in there that we have to, everything that you just mentioned, that we have to take care of maintaining it. That would be covered as I said by the Village --

COMMISSIONER ENNES: The buyer of Lot 2 is okay with that?

MR. LAUBENSTEIN: Yes.

COMMISSIONER ENNES: My final question, and I think I raised this the last time we met, the fire hydrant that is across on the west side of Birchwood right off of Palatine --

MR. LAUBENSTEIN: Yes, sir.

COMMISSIONER ENNES: What is the distance from that to the residence on Lot 1?

MR. LAUBENSTEIN: I think the engineer came up with around 240.

COMMISSIONER ENNES: 240 feet.

MR. LAUBENSTEIN: There are two more hydrants directly to the south

across Palatine. There is one on Forest and one on Waterman. The one on Forest is under 200, the one on Waterman is longer so farther, about 260.

COMMISSIONER ENNES: I don't think they've ever run across --

MR. LAUBENSTEIN: I don't know what they would do. It would be a heck of a fire.

COMMISSIONER ENNES: But anyway, so about 240 feet.

MR. LAUBENSTEIN: Yes.

COMMISSIONER ENNES: Do you know, is that, have you looked at the houses in the neighborhood? There are, it appears to me that there's homes that are, at least are close to that far away from the hydrant right now?

MR. LAUBENSTEIN: There are at least two. I walked it today, there are at least two houses on Lilac when you're heading towards Jonquil that are farther. Then the distance between the hydrant which is by Palatine and Birchwood back to the one on Lilac is more than 400 feet. So, there are many houses there that are about the same distance or farther than Elroy's.

COMMISSIONER ENNES: Thank you. That's all I have.

CHAIRMAN LORENZINI: Commissioner Green?

COMMISSIONER GREEN: I tend to agree with the last three Commissioners here, and I just would like to add that the \$48,000 pushed me over. I like your explanation, I think that's onerous. Let it fall on the shoulders of the person who buys and wants to tear down the house. Just so you know, as an architect, if you don't like the way the house looks, you can always remodel it. So, I agree with the other Commissioners.

MR. LAUBENSTEIN: Thank you, sir.

CHAIRMAN LORENZINI: Commissioner Cherwin?

COMMISSIONER CHERWIN: Yes. I think based on the last meeting, we had a good synopsis of the circumstances. You came in and filled the gaps today. I appreciate that, addressing the issues. Nicely presented.

Sam, I would also say thank you, as always a nice presentation from the perspective of the Village. I get there are rationale bases for the code, but I think, you know, we're here to look at the circumstances where, you know, we need to make exceptions.

The one question I have for the Petitioner that Sam brought up a concern about, you know, notice to future property owners as to the relative rights under the easement, you know, the obligation that they would have to host essentially by the easement rights, the private line and the disruption that may cost. Can you explain how you plan to document that and the extent to which any purchaser of Lot 2 would be on notice as a matter of record of their obligations in the circumstances if a line would be put in and any relative liability provisions and such in the agreement?

MR. LAUBENSTEIN: This is something that I deal with on a daily basis. My primary concentration is in commercial and residential real estate, helping people buy, sell, build properties. The way that this would be, the way that a future buyer would be alerted to this is threefold. First, when the plat of subdivision gets recorded, new lot descriptions are set forth, and the document that recorded the plat itself is now part of the public record. So, any buyer that buys a residential property requests a survey of the property. The survey is going to show, just like it does on this diagram, all of these easements. It's going to cross reference to the Village ordinance, recorded as document 1, 2, 3, 4 which they're free to pull up and look at in the comfort and privacy of their own home.

The Cook County Recorder has made things very user friendly. You can pull up right at your desk, read the entire ordinance, you can see all of the documents. So, you'll see in there if there's provisions that are put, for example, that you have to pay for a sidewalk in the future, or that there is an easement being in place for the construction of a water main.

The language on the plat of subdivision that will be repeated on the plats when people buy the individual lots specifically refers on the west side, the left side there, that 10-foot easement, that it's an easement not just for Commonwealth Edison and for the cable company and the gas company, but it says specifically in there it's reserved to the Village for the construction, maintenance, use, preservation, repair of a water main. If a new buyer buys land and doesn't know that that's on the property, shame on the attorney that represented them or just shame on them for not reading the plethora of documents that are available that will set this forth.

So, any new buyer will see the public record, they'll see the ordinance, they'll see the plat. They'll get a depiction just as this when they buy it with dotted lines. For an extra couple of hundred dollars, the surveyor will go out with that red paint, and paint and mark and draw all over their yards. They can see where the various easements are located.

CHAIRMAN LORENZINI: Commissioner Sigalos?

COMMISSIONER SIGALOS: I was not at the last meeting. I want to commend you for an excellent presentation that put me up to speed on it. Also, Sam, for the excellent presentation. But I agree, I have no further comments at this point.

CHAIRMAN LORENZINI: Commissioner Dawson?

COMMISSIONER DAWSON: Can you clarify what the Village is going to do regarding the sidewalk? I just want to make sure I heard it correctly, Sam.

MR. HUBBARD: So, I guess you can see here that the Petitioner would construct the sidewalk from here to here, and then the Village would construct the sidewalk to connect up to the sidewalk that comes east to west.

COMMISSIONER DAWSON: So, it still wouldn't, it would connect there but then it would dead end and it wouldn't curve around, correct?

MR. HUBBARD: Right. Yes.

COMMISSIONER DAWSON: Can you remind me, is there a sidewalk on Birchwood Lane at all?

MR. HUBBARD: Yes, there is. There is a sidewalk that starts here at a dead-end and then comes down, it's a kind of a carriage walk that goes down this way.

COMMISSIONER DAWSON: Is there a reason why the Village wouldn't connect that sidewalk as well?

MR. HUBBARD: I believe, I don't know --

COMMISSIONER DAWSON: I understand cost, whoever whispered that. But beyond cost?

MR. HUBBARD: I don't have an answer to that. When I was explaining the situation to our Village Engineer, he thought a connection to the east would be more reasonable, and that's what he mentioned as what the Village would do. I don't have an answer as to why they won't go to the west as well.

COMMISSIONER DAWSON: What is the cost of connecting to the east, do you have any idea?

MR. HUBBARD: Well, if it's about \$2,000 to go from here to here, I would say \$1,500 to \$2,000.

COMMISSIONER DAWSON: Right, so maybe another \$2,000 to connect around the corner?

MR. HUBBARD: Sure, maybe, yes.

COMMISSIONER DAWSON: I'm just not a big fan in any subdivision of sidewalks being chopped up like this. I no longer have to push a stroller around the neighborhood and I have had to do that, but I do have to walk, you know, teaching my daughter to ride a bike. When sidewalks stop, dead-end, it's very frustrating. I can imagine other people that have issues walking and were looking for sidewalks.

So, I am in agreement with the Village that the sidewalk should be there considering the position that the Village is willing to connect it. I'd like to see, though certainly I wouldn't make it part of a motion this evening, but I would encourage the Village consider connecting them both sides so we have a fully functioning sidewalk. But to the point that if we are going to connect the sidewalk, then I certainly think a sidewalk should go in front of Lot 2 because at least it's connecting a little bit further along the lines of trying to create a full sidewalk there.

With respect to the water main, I absolutely understand Staff's position, I really do. But I think this is a very good example of when a justification for waiving the requirement is needed. So, I am in favor of the sidewalk position, you know, Motion 1 I guess, Motion Sheet 1 would be where my head is at the moment.

CHAIRMAN LORENZINI: Thank you. I tend to agree with Commissioner Dawson with what she just said. I didn't realize there was a continuous sidewalk along Birchwood, so I would recommend putting the sidewalk in by Lot 2 if the Village is going to connect it to the east. But then I would also suggest, if we do want them to put a sidewalk in, the Village should also connect it to the west, too. It would be kind of silly to do that portion off. That would be my recommendation.

So, I tend to agree, too, with most of the sentiment of the Commissioners about the water line and the burden that it causes. So, what the Petitioner is proposing is the new building on Lot 2 will have its own water feed off of Birchwood Lane and sewer line?

MR. LAUBENSTEIN: Yes, sir.

CHAIRMAN LORENZINI: Okay, and it would be written such that the existing water and sewer line on the east side and feeding Lot 1 could stay in place?

MR. LAUBENSTEIN: Correct.

CHAIRMAN LORENZINI: So, when Lot 1 gets rebuilt, what are you suggesting, what are you proposing?

MR. LAUBENSTEIN: I'm trying to have a crystal ball that none of us really know what's going to happen in the future. So, what I'm proposing is let's put in place now an easement that can be used in the future if it's needed.

CHAIRMAN LORENZINI: An easement where?

MR. LAUBENSTEIN: Pardon me?

CHAIRMAN LORENZINI: Easement where in this?

MR. LAUBENSTEIN: Along the entire west side, the 10 feet on the west side which is specifically, there, thank you, Sam. That's where the water main could go in. If someone does knock down the house, puts up a larger house and if it is needed or warranted at that time, I presume 40 or 50 years from now or whenever this house does need to be replaced, they'll come in front of the board at that time for what they might need.

CHAIRMAN LORENZINI: Would that be, are you agreeable to putting that in the documents or whatever, the deeds or whatever, you could put that into the sale of Lot 1 and 2, that if the building on Lot 1 ever got torn down, they would have to give up the easement on the west side --

MR. LAUBENSTEIN: That easement would be there for Comcast, for the electric company, for the cable anyhow. So, I'm not creating a new easement, just allowing an addition to Comcast, the Village.

CHAIRMAN LORENZINI: Right, but would you also write in, are you also agreeable to writing it into your documents that if Lot 1 is ever built on a new home, that that owner will have to pay the cost, the \$50,000 cost or so?

MR. LAUBENSTEIN: That doesn't get written in our contracts. That's part of the ordinance that the Village attorney and presumably I'll get some input, but that the Village attorney and I will cobble together.

CHAIRMAN LORENZINI: But you're willing to do that?

MR. LAUBENSTEIN: I have to. Because I'm asking for a variance, the variance can only be granted if it's specifically set forth in the ordinance. That goes back to Commissioner Cherwin's question.

CHAIRMAN LORENZINI: I could see leaving the existing line in for Lot 1 until it's rebuilt. Sam, I know what you're saying, the Village has great codes, but I do think this is one time also that we can probably waive that, as long as they agree to put it in the future at the new builder's expense, not at the Village's expense.

Now, why do you just want a preliminary approval tonight?

MR. LAUBENSTEIN: I can't get final approval tonight because I don't have the documents signed.

MR. HUBBARD: Right, there is no, I mean --

MR. LAUBENSTEIN: I don't have the Mylar with us.

MR. HUBBARD: There is no Mylar tonight, there is no, we hadn't decided on whether or not the bonds would be approved as waived or required. So, that was something that had to be determined tonight before moving forward with final.

MR. LAUBENSTEIN: If the board is willing to go full approval and give me the week or two to get these things signed before I get in front of the Village Board, it saves us a step. But I'm just trying to follow the rules.

CHAIRMAN LORENZINI: Can we do that, Sam?

MR. HUBBARD: Can you give final subdivision approval this evening?

CHAIRMAN LORENZINI: Yes.

MR. HUBBARD: No.

CHAIRMAN LORENZINI: No, okay. Thank you, that's all.

All right. Having said that, we're going to open up the public hearing portion of this.

MR. LAUBENSTEIN: Thank you.

CHAIRMAN LORENZINI: Is there anybody in the audience, in the public that have any questions? Anybody, raise your hand. I guess you're just here for the next one.

QUESTIONS FROM AUDIENCE

Okay, if there's no questions from the public, we'll close the public

portion of the meeting and go back to the Commissioners for final deliberation and/or recommendations. Lynn, do you want to start?

COMMISSIONER JENSEN: Just one question. If I take, I'm actually leaning toward doing something which you don't have, you have not given us a blue sheet for. I like what Commissioners Dawson and Lorenzini said, that if the Village were willing to go ahead and complete the portion of the sidewalk, it makes sense to me to approve having them do the other sidewalk. If the Village is not willing to do that, I think it's ridiculous to impose another \$2,000 cost on them that leaves it unequal to the situation. So, I'm not willing to require them to do that unless the Village steps up and does their part. So, you have not given us something that allows us to do that directly, but that's what I would like to have woven into what would be the final motion.

I'd like to take condition number two out because I think it looks silly, quite frankly, moving it three inches. So, I don't know what effect if that comes out, because I would then ask for approval of one, three, four and five. But I'd like something put in there that deals with the Village's obligation would be the thing that triggers the Petitioner having to put that extra sidewalk.

CHAIRMAN LORENZINI: Commissioner Warskow, anything else?

COMMISSIONER WARSKOW: No.

CHAIRMAN LORENZINI: Commissioner Ennes?

COMMISSIONER ENNES: Well, I think there is a general consensus on Motion 1. Lynn, I do agree with your, the Petitioner has indicated he doesn't care about the three-inch. If you just want to take it off, decide to take it out --

COMMISSIONER JENSEN: I do. I don't want the want the Village looking silly with a recommendation like that.

COMMISSIONER ENNES: We could just probably tie in this Motion 1 the sidewalk along Lilac until such time as the building permit for Lot 2 is received and the Village, and we could add in there the Village connects it to the existing sidewalk to the east.

MR. HUBBARD: If I could just jump in, the variation on Motion Sheet No. 1 that you would be approving, I'm sorry, the first variation I believe, a variation from Chapter 29, Section 29-501(b), to postpone the construction of a sidewalk along Lilac Lane until such time as a building permit for Lot 2 is received. So, that's the variation that would be granted, would be to waive the requirement now so that it would be required when the building permit, so I think it would be --

COMMISSIONER ENNES: Should it be stated as one of the conditions?

MR. HUBBARD: I don't think it would be necessary, no.

COMMISSIONER ENNES: But has the Village committed to completing the connection of the sidewalk?

MR. HUBBARD: That's a good question. When I spoke to the Village Engineer, he indicated that what the Village would do if the sidewalk was constructed on Lot 2 would be to connect it eventually up to the sidewalk on the east side. He did not give me a timetable. I don't know if that's in our capital improvement plan, I don't know if we have a funding. So, I wouldn't be able to answer that, I wouldn't be able to tell you at what point that would be constructed. It was his intention that if the sidewalk was put in, it would be constructed.

COMMISSIONER ENNES: I sense that the consensus is, from the Commissioners, that they would like to see the sidewalk put in so long as it's not just an independent floating slab as I think it's been referred to, but rather that it connects.

MR. HUBBARD: Understood.

COMMISSIONER ENNES: So, I mean if we're going to make this condition that they do put this in --

COMMISSIONER GREEN: I don't think the Village will do that.

MR. HUBBARD: I don't know if --

COMMISSIONER GREEN: Is there curb and gutter on Lilac?

MR. HUBBARD: I believe there is curb, yes.

COMMISSIONER GREEN: Is it a standard street? Is it what the Village calls a Village standard street? Because there's no sidewalks. Are there street lights along Lilac?

MR. HUBBARD: I don't know. Let's see.

I'm hearing that there are. I could go back to some of the pictures if that would help.

COMMISSIONER GREEN: My experience with sidewalks and improvements in front of properties, the Village won't pick up that cost. It's always a special assessment which is usually curb, gutter, street, sidewalk, street lights, whatever is lacking. So, until that special assessment, it makes everybody pay their fair share of whatever the improvement, so the Village, my experience has been they don't like to come and improve your property with a sidewalk just to connect it and make it a nice thing for walking down the street.

So, I would like to see the sidewalk removed and make it no issue because if and when the time comes that a special assessment is granted, then everybody is forced to make their fair share.

COMMISSIONER JENSEN: You're referring actually to Motion 2.

COMMISSIONER GREEN: Well, Motion Sheet 2, that gets rid of the sidewalk and just makes it the same as everybody else. Whenever that improvement comes along, everybody who doesn't have a sidewalk will pay whatever the frontage is, whatever the footage is along there so much a foot. So, then the whole neighborhood can have sidewalks equally. So, I would just get rid of it as an issue, go with Motion Sheet No. 2, that's just my view. Thank you.

CHAIRMAN LORENZINI: Okay, thank you. Commissioner Cherwin, anything else?

COMMISSIONER CHERWIN: I would agree with what Commissioner Green just said.

CHAIRMAN LORENZINI: Commissioner Sigalos?

COMMISSIONER SIGALOS: I agree with that also.

CHAIRMAN LORENZINI: Commissioner Dawson?

COMMISSIONER DAWSON: Yes, that makes sense to me. I do have one other comment though. The condition on the water main is only until such time as the home is demolished; however, they could put a significant addition upon it without demolishing it. So, I do think, in my opinion, that that wording needs to be changed to allow for a significant addition to the property also potentially triggering the need depending on how big of an addition it is. I don't know how, I would look to the engineer and architect. No? Why?

COMMISSIONER GREEN: You can't do that. How do you --

COMMISSIONER DAWSON: You have to get a building permit.

COMMISSIONER GREEN: Who's going to decide how big they can go before you have to put the water main in? You? Me?

CHAIRMAN LORENZINI: Well, I know what you're saying.

COMMISSIONER DAWSON: You know what I'm saying? I mean they

could essentially put the same size house on there, so what's the difference between --

CHAIRMAN LORENZINI: I know what you're saying and I agree with the point that you're saying. But practically, I don't think anybody who's going to double the size of the house is going to put a brand new addition onto this older house. I just don't think --

COMMISSIONER DAWSON: They might to avoid a \$50,000 water main.

COMMISSIONER JENSEN: Well, furthermore, increasing the size of the house doesn't have anything to do with, affect the water necessarily.

COMMISSIONER DAWSON: Then why do we care about the demolition?

COMMISSIONER JENSEN: Well, because there you have an opportunity to actually try to bring it more in line with what Village code is and bring it up to standard. But there is no reason, we're grand-fathering this in so there is no reason to impose costs that don't make any sense at this point. So, if they actually do want to demolish that and go to a different arrangement where they're building a nice new modern house, we would try to move closer to the code.

COMMISSIONER DAWSON: You realize they could just leave one wall up and it's not demolished?

COMMISSIONER GREEN: That doesn't work.

COMMISSIONER DAWSON: Okay.

COMMISSIONER GREEN: You can't do that anymore.

COMMISSIONER JENSEN: Furthermore, you don't make ordinances for the farthest outlier you can imagine --

COMMISSIONER DAWSON: No, I certainly don't want to draft that ordinance.

COMMISSIONER JENSEN: No, but I think what they've asked is reasonable, what he has asked is reasonable.

COMMISSIONER DAWSON: Okay, all right.

COMMISSIONER JENSEN: I don't think imposing extra costs makes any sense with --

COMMISSIONER DAWSON: Then I don't see the difference between a demolition and a 50 percent or more addition. We certainly already have code requirements that trigger at a 50 percent or more addition, so this wouldn't be any different than other code requirements that we have at that magnitude.

COMMISSIONER GREEN: Right, exactly.

COMMISSIONER DAWSON: So, I don't see, in my opinion, I think that just simply leaving it with demolition of property isn't far enough. But I am not going to make any --

COMMISSIONER GREEN: But you just hit it, Sue. When you add more than 50 percent of the value to the house, it's considered new construction.

COMMISSIONER DAWSON: But this says demolished. It doesn't say new construction.

COMMISSIONER GREEN: But if you add an addition that's 50 percent or larger, it's considered new construction. So, new construction I think is what is triggering this whole thing.

COMMISSIONER DAWSON: No, it says demolished and a new home is built. It does not say until new construction commences.

COMMISSIONER GREEN: The Building Department considers that

remodeling a new construction. So, demolished, however, if it's not --

COMMISSIONER DAWSON: It's not stated there.

COMMISSIONER GREEN: -- it's still considered new. So, if you go 50 percent or larger, it's going I think to be considered new and they have to put a sewer in. Or water main, excuse me.

MR. HUBBARD: If that's, I mean if that's the, let's just put the wording to say that then.

COMMISSIONER WARSKOW: Right, change the wording.

CHAIRMAN LORENZINI: Say that again, Sam?

MR. HUBBARD: Change the wording to say if the home is improved to 50, what was it?

COMMISSIONER DAWSON: 50 percent.

COMMISSIONER GREEN: 50 percent or larger, it's considered new construction.

COMMISSIONER DAWSON: There might be a code, it's a code defined term.

MR. HUBBARD: If the floor area of the home is expanded to greater than 50 percent of what it is today, then a new water main has to be put in.

COMMISSIONER DAWSON: Right.

COMMISSIONER GREEN: We do have the expert right here that can answer that.

MR. LAUBENSTEIN: If the existing grand-fathered-in house has fire damage that's 51 percent, it's no longer grand-fathered. It's considered new construction and the word built that we use here, so when it's demolished to remove the 50 percent fire damage, when you rebuild it, that's building it, it would kick in. Likewise, if you take an existing grand-fathered house, it's grand-fathered for a reason, it's an older house with older construction and older materials. When you put in new materials, if you make it, if you're doubling the size, it's considered new construction, it's built.

So, by putting in the word built, you could put until a new home is built --

COMMISSIONER DAWSON: I think you could certainly argue that many different ways. I mean as you said earlier, words have meaning, and you happen to find term in the code, then I would be much more comfortable if the proper term was used because very tricky, not tricky, I shouldn't say because I myself am a lawyer, but very good lawyers can make very many arguments with not specific wording. So, I'd rather that be in here because I don't think that it goes far enough. So, that's just my opinion, I'm only one member of the board.

MR. LAUBENSTEIN: Ultimately, it's what the Village attorney puts in the ordinance, that's what's going to control it. So, putting the change of words that the Village attorney understands what your intent is, I think that's fine. But if that helps you, the 50 percent damage or more is new construction.

CHAIRMAN LORENZINI: Okay, anything else, Susan?

COMMISSIONER DAWSON: No.

CHAIRMAN LORENZINI: I don't have anything further. Any motions or recommendations?

COMMISSIONER JENSEN: Can we take words out that if Sue's, can we take out the demolition and maybe until such time as a new home is built, because we have in

the code the definition of a new home? So, take the word demolish out so there's no confusion?

COMMISSIONER DAWSON: I'm looking to Staff for that. Do you think that would fall under the code requirement?

MR. HUBBARD: I think it's still a little vague. I think you could still argue that a new home is, is it a brand new home or is it, you know, adding over 50 percent of the floor area to the existing home? But I think you can --

COMMISSIONER DAWSON: I think we just add the words or 50 more percent of floor area is added, and then let that, like to the point, this is not the final ordinance, this is just our motion, then at least we're giving the direction and then Counsel for the Village can properly word it.

COMMISSIONER SIGALOS: Yes, I agree.

COMMISSIONER GREEN: I agree with that.

COMMISSIONER WARSKOW: Yes.

CHAIRMAN LORENZINI: Okay.

MR. HUBBARD: I'm sorry, what was specifically the language you wanted to add there?

COMMISSIONER DAWSON: It says demolish and a new home is built, or 50 percent or more, is it floor area?

COMMISSIONER GREEN: Right.

COMMISSIONER DAWSON: 50 percent or more floor area.

COMMISSIONER GREEN: Added on to it to be considered new.

COMMISSIONER DAWSON: Right.

CHAIRMAN LORENZINI: Okay.

COMMISSIONER GREEN: Does that make sense?

COMMISSIONER DAWSON: Am I making that?

COMMISSIONER GREEN: Go ahead.

COMMISSIONER DAWSON: I make a motion.

A motion to recommend to the Village Board of Trustees approval of PC#17-002, a Preliminary Plat of Subdivision, to subdivide one single-family lot into two single-family lots; a Rezoning from R-1 One-Family Dwelling District to R-2 One-Family Dwelling District; a Variation from Chapter 29, Section 29-501(b), to waive the requirement for a sidewalk to be constructed along Lilac; a Variation from Chapter 29, Section 29-501(c) and (d), to postpone the construction of the water main and fire hydrant until such time as the home on Lot 1 is demolished and a new home is built or 50 percent is added on to be considered new construction; and a Variation from Chapter 29, Section 29-503(a), (b), and (c), to postpone the provision of the maintenance and public improvement bond for the water main and fire hydrant until such time as the existing home on Lot 1 is demolished.

Said development is conditioned upon the following:

- 1. Approval of the Final Plat of Subdivision.**
- 2. The existing shed on the proposed Lot 1 shall be moved three inches to the south in order to comply with the required five-foot rear yard setback or shall be removed.**

3. **Land contribution fees for Lot 2 shall be paid for park, school, and library, per Chapter 29 of the Municipal Code.**
4. **A fee in lieu of detention in the amount of \$9,476 shall be required as per the requirements of the Engineering Department.**
5. **The application shall comply with all applicable federal, state and Village codes, regulations, and policies.**

COMMISSIONER GREEN: Are we going to take out item two?

COMMISSIONER DAWSON: That wasn't my motion. My motion is not to take it out.

COMMISSIONER GREEN: Okay, all right.

CHAIRMAN LORENZINI: Is there a second?

COMMISSIONER WARSKOW: I second.

CHAIRMAN LORENZINI: Roll call vote please.

MR. HUBBARD: Commissioner Cherwin.

COMMISSIONER CHERWIN: Yes.

MR. HUBBARD: Commissioner Dawson.

COMMISSIONER DAWSON: Yes.

MR. HUBBARD: Commissioner Ennes.

COMMISSIONER ENNES: Yes.

MR. HUBBARD: Commissioner Green.

COMMISSIONER GREEN: Yes.

MR. HUBBARD: Commissioner Jensen.

COMMISSIONER JENSEN: Yes.

MR. HUBBARD: Commissioner Sigalos.

COMMISSIONER SIGALOS: Yes.

MR. HUBBARD: Commissioner Warskow.

COMMISSIONER WARSKOW: Yes.

MR. HUBBARD: Chairman Lorenzini.

CHAIRMAN LORENZINI: Yes. Just a clarification, we were also reading from Motion Sheet No. 2.

MR. HUBBARD: Okay, thank you.

CHAIRMAN LORENZINI: All right. Congratulations, you received a unanimous approval.

MR. LAUBENSTEIN: Thank you.

CHAIRMAN LORENZINI: But you've got to come back before us for final.

MR. HUBBARD: Yes, and we're tentatively targeting May 15th for the Village Board meeting, although that's subject to availability.

MR. LAUBENSTEIN: When is the next meeting here?

MR. HUBBARD: The next meeting of the Plan Commission?

COMMISSIONER WARSKOW: May 10th?

COMMISSIONER DAWSON: May 10th.

MR. HUBBARD: We will have to speak because I'm not sure if there's any items on the agenda. We have to get that in possibly quick. There may not be eligibility at that meeting.

MR. LAUBENSTEIN: We'll work with you. Thank you again for your time

and patience.

CHAIRMAN LORENZINI: Thank you. Good luck with everything.
(Whereupon, the public hearing on the above petition was adjourned
at 8:55 p.m.)

