

VILLAGE OF BROOKFIELD  
BROOKFIELD, ILLINOIS 60513

**BROOKFIELD VILLAGE BOARD – COMMITTEE OF THE WHOLE MEETING**  
**Monday, June 23, 2008**

**7:00 p.m. or Immediately following Village Board Meeting**  
**Edward Barcal Hall**  
**8820 Brookfield Avenue**  
**Brookfield, IL 60513**

**AGENDA**

- I. Discussion** – Proposed Ordinance Changes
- II. Discussion** – Public Safety Recommendation
- III. Discussion** – Outdoor Café and Liquor License Ordinances
- IV. Discussion** – ZBA – Case 08-04, 3325 Park Avenue
- V. Discussion** – ZBA Case 08-03, 9545 Ogden Avenue
- VI. Addresses from the Audience** – Any member of the audience who wishes to address the President and Village Board may do so at this time
- VII. Adjournment**



# COMMITTEE ITEM MEMO

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**ITEM:** Proposed Ordinance Changes

**COMMITTEE DATE:** June 23, 2008

**PREPARED BY:** Chief Steven Stelter

**PURPOSE:** To rescind Village Ordinance, SS 22-1, Certain village officers designated as conservators of the peace, & SS 22-37, auxiliary police, paragraphs (d), (e), (f), (g), (h) & (i).

**BUDGET AMOUNT:** N/A

**BACKGROUND:**

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Recent changes in Illinois law, precipitated by the passage of Public Act 94-984, effectively altered the manner by which municipal auxiliary police officers, classified as "Conservator of the Peace" are trained. Currently the Village President, members of the Board of Trustees, the Chief Building Inspector, the Fire Chief as well as Auxiliary Police Officers are all classified as "Conservators of the Peace."

The Illinois Law Enforcement Training and Standards Board set forth administrative procedures pertaining to auxiliary police officers. One of these procedures states, "*Auxiliary Police Officers with Conservator of the Peace powers will be directed to attend the 400 hour Basic Law Enforcement Training Course at a certified State academy.*" Also, municipalities that train Auxiliary Officers at State certified academies are responsible for all costs; there are no reimbursable State funds available.

**ATTACHMENTS:**

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1. None

**STAFF RECOMMENDATION:**

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The Chief recommends that Village Ordinance 22-37 be rescinded and/or changed as follows:

- paragraph (d): To perform police duties as assigned by the Chief of Police or the Chief's designee;
- paragraph (e): Eliminate
- paragraph (f): Eliminate
- paragraph (g): Eliminate
- paragraph (h): Eliminate
- paragraph (i): Eliminate

Chapter 22, Section 22-1, Certain village officers designated as conservators of the peace;

Eliminate – "*The president, members of the board of trustees, the chief building inspector and the fire chief,*" per Illinois Municipal Code 50 ILCS 705 Sec. 10.5.

**REQUESTED COURSE OF ACTION:**

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The board would recommend approval for the requested changes.



## COMMITTEE ITEM MEMO

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**ITEM:** PUBLIC SAFETY RECOMMENDATION  
**COMMITTEE DATE:** June 23, 2008  
**PREPARED BY:** Riccardo F. Ginex, Village Manager *R.F. Ginex*  
**PURPOSE:** Parking restriction 4100 Dubois  
**BUDGET AMOUNT:** N/A

### **BACKGROUND:**

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The Public Safety Committee heard input regarding the parking situation on the 4100 block of Dubois. Residents have come forward and complained about commuters parking on both sides of the street during the day not allowing residents to park there. The police, fire and public works departments provided input to the committee and recommended approving a Residential "B" parking permit for residents only on Dubois from Ogden Avenue south to Rochester between the hours of 7 am – 9 am for both sides of the street. This would solve the issue by not allowing the commuters to park on that block.

### **ATTACHMENTS:**

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1. Public Safety Recommendation Correspondence

### **STAFF RECOMMENDATION:**

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The Board approves the recommendation.

### **REQUESTED COURSE OF ACTION:**

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The Code is amended by ordinance to reflect the new permit and signage at the July 14<sup>th</sup> Board Meeting.

May 27, 2008

Riccardo Ginex  
Village Manager, Village of Brookfield  
8820 Brookfield Ave.  
Brookfield, IL 60513

Dear Mr. Ginex,

During the Public Safety Meeting on March 25, 2008 residents addressed the committee from the 4100 block of DuBois requesting residential B parking permit, 7:00am – 9:00am, on Dubois Avenue south of Ogden Avenue to Rochester Avenue. Concerns expressed were the speed of the vehicles in the mornings as the vehicles parked on the street in front of their residences, safety for the children as they play outside while the vehicles block the view of oncoming vehicles and the inability for residents to park in front of or within a reasonable proximity of their own residences.

After receiving input from the Police Department, Fire Department and Public Works, the Public Safety Committee is recommending approval of the request of the residents for the B Parking Permit, from 7:00am to 9:00am, on DuBois Avenue from Ogden Avenue south to Rochester Avenue. This letter is being forwarded to you for consideration and approval of the Village Board.

Sincerely,



Gerald Giovanoni  
Chairman, Public Safety Committee



# COMMITTEE ITEM MEMO

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**ITEM:** Board Discussion of Outdoor Café and Liquor License Ordinances

**COMMITTEE DATE:** June 23, 2008

**PREPARED BY:** Keith Sbiral, AICP, Assistant Village Manager *KJS*

**PURPOSE:** Discuss enforcement and potential modifications to Outdoor Café regulations.

**BUDGET AMOUNT:** N/A

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This is a continuation of the discussion that was started at the May 27, 2008 meeting and continued at the June 9, 2008 meeting. Staff will provide additional information and presentation at the June 23 meeting.

Following 2008 application period and enforcement relative to outdoor cafes and related liquor licenses, several Village Trustees voiced concern with the standards and requirements in the existing code. Staff seeks direction with respect to potential code modifications for both Outdoor Café sections of the Village Code as well as the related sections in the Liquor Code.

Following the meeting on June 9, Staff spent time to undertake further review of the existing code and the ramifications for modifications of that code. We will make a full presentation at the next Board Meeting outlining the proposed changes to the requirements that were discussed at Monday's Committee Meeting.

After review of the ordinance two serious issues were discussed. The Outdoor cafés, with or without liquor, are prohibited by Code to operate beyond 10 p.m. The Village would not want to extend these hours any later than the 10 p.m. hour as that would be significantly inconsistent with standard practice for these uses (and would result in serious questions with respect to intensity of use). Staff would strongly recommend against changing these use and intensity requirements, which may eliminate the desire for outdoor cafes.

The second issue is that by not putting serious thought into the modification of the code and simply changing the 200' requirement, the Village runs the risk of creating uses that could not be eliminated in the future. The owners may obtain some vested rights in the project or at least some consideration of grandfathering rules specific to zoning. Staff believes this would be particularly shortsighted in light of the fact that it would be relatively unprecedented to essentially CREATE and "outdoor bar" use in the ordinance through a small modification in the liquor code. If the Village does indeed wish to create this type of use, it should ONLY be created with the benefit of the overall zoning ordinance review so that surrounding future compatibilities and further intensity regulations can be considered. If the Comprehensive Plan for the Village is a general road map, the Zoning Ordinance are the specific directions of how to get where you want to go, and making this change would rewrite those directions in a vacuum.

Additionally, since the last Committee Meeting, Staff has been informed by the Village Attorney that smoking is not permitted in outdoor cafes under Smoke Free Illinois Act. Under the Act, the outdoor café is an extension of the workplace environment. Current establishments will be notified of this within the next few weeks.

**ATTACHMENTS:**

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1. "Smoke Free Illinois Act" Section from Village of Brookfield Liquor Control Manual, Storino, Ramello, and Durkin 2008.

**STAFF RECOMMENDATION:**

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Staff is recommending against any change in the Liquor Control Ordinance or Zoning Ordinance of the Village of Brookfield at this time. The use issue should be further developed during discussions relative to the comprehensive review of the Zoning Ordinance.

**REQUESTED COURSE OF ACTION:**

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The Board of Trustees will be presented with a formal ordinance if directed to create such ordinance based on input of the Board of Trustees for formal Board consideration.

# VILLAGE OF BROOKFIELD

## LIQUOR CONTROL MANUAL

STORINO, RAMELLO & DURKIN  
9501 West Devon Avenue, Suite 800  
Rosemont, Illinois 60018  
847-318-9500  
[www.srd-law.com](http://www.srd-law.com)

as provided in Section 03-42 of the Village of Brookfield Code of Ordinances, must be submitted to and approved by the Local Liquor Control Commissioner; a new application fee of \$500.00 is required. Section 03-30 of the Village of Brookfield Code of Ordinances sets liquor license application fee at \$500.00, however, no application fee is required for a Class 8 liquor license.

## **XII. Smoke-Free Illinois Act**

Effective January 1, 2008, the Smoke-free Illinois Act prohibits smoking in virtually all public places and workplaces, including offices, theaters, museums, libraries, educational institutions, schools, commercial establishments, enclosed shopping centers and retail stores, restaurants, bars, private clubs and gaming facilities. The Smoke-Free Illinois Act requires that public places and places of employment must be completely smoke-free inside and within 15 feet from entrances, exits, windows that open and ventilation intakes. Public places and places of employment include, but are not limited to, restaurants, bowling alleys, private clubs, bars and taverns and gaming facilities. Brookfield pursuant to the authority in the Smoke-Free Illinois Act adopted Article V of Chapter 14 of the Village of Brookfield Code of Ordinances which regulates smoking.

In attempting to comply with the Smoke-Free Illinois Act and with local ordinances adopted pursuant to the act, bars and restaurants have established smoking areas outside of their licensed premises. The Smoke-Free Illinois Act and local ordinances adopted pursuant to the Act prohibit smoking in “a public place or in any place of employment or within fifteen (15) feet of any entrance to a public place or place of employment.” A “public place” means that portion of any building or vehicle used by and open to the public.” While a “place of employment” is defined as “any area under the control of a public or private employer that employees are

required to enter, leave, or pass through during the course of employment.” The definition of a “place of employment” has created an issue whether smoking can be permitted in outdoor beer gardens and sidewalk cafes. The Illinois Department of Public Health has issued, **but not yet adopted**, proposed rules issue that would permit smoking in outdoor patios. The **proposed** rule states:

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

**Section 975.80 Outdoor Patios**

a) A proprietor may designate an area as an outdoor patio where smoking is permitted only if the area:

1) Is *15 feet* or more *from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.* (Section 70 of the Act)

2) Is a contiguous area of a place of employment or public place;

3) Is controlled by the proprietor of the place of employment or public place;

4) Has:

A) At least one side that consists of open space;

B) Permeable material;

C) A combination of open space and permeable material; or

D) A combination of open space, permeable material, and a nonpermeable wall;

5) If this area has four non-permeable walls, it shall have either no overhead covering or an overhead covering that consists of:

A) Permeable material; or

B) A combination of open space and permeable material.

b) If an outdoor patio where smoking is permitted has a doorway that provides access from the indoor/enclosed area to the patio for outdoor patio patrons and does not have a wall that prevents individuals from entering the outdoor patio, the proprietor shall:

1) Inform individuals that the doorway:

A) Is not an entrance to the indoor/enclosed area, and

B) Is a doorway for outdoor patio patrons; and

2) Direct individuals who are not outdoor patio patrons to an entrance to the indoor/enclosed area.

c) A proprietor may designate smoking and non-smoking sections of an outdoor patio only if the smoking section is clearly and conspicuously separated from the non-smoking section and if the smoking area is at least 15 feet away from the entrance, exit, windows that open, and ventilation intakes.

d) If a proprietor designates an area where smoking is permitted, the proprietor shall not permit tobacco smoke to drift into areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

e) A proprietor may designate an area where smoking is prohibited.

The intent of the proposed rule would permit smoking in beer gardens and outdoor cafes, however the definition of “place of employment” in the Act is contrary to the proposed rule if alcoholic liquor and/or meals are served to patrons in the outdoor patio. It may also be contrary to the definition of “place of employment” in the Act even if alcoholic liquor and/or meals are not served to patrons in the outdoor patio if employees are required to clean the outdoor patio in the course of their employment. At this time, no appellate court has ruled on the issue, so the question remains unresolved. Section 03-28.A of the Village of Brookfield Code of Ordinances requires that all alcoholic liquors be delivered in outdoor cafes by an employee or the owner of the licensed premise. That section also prohibits alcoholic liquors from being carries from the licensed premise to the outdoor café by the customer. Therefore, it appears that the definition of “place of employment” would prohibit smoking in outdoor cafes. While Section 03-28.B of the Village of Brookfield Code of Ordinances does not contain a similar provision for sidewalk cafes it is probable that the definition of “place of employment” would also prohibit smoking in sidewalk cafes.

### **XIII. Review and Processing of License Application**

The restrictions on the issuance of a local liquor license are found in Section 03-27 of the Village of Brookfield Code of Ordinances. These restrictions must be considered when reviewing a liquor license application. Those restrictions include, but are not limited to the proximity of the proposed liquor establishment to a church, school, hospital, or homes for the aged, indigent or veterans and residential areas and the proximity of the establishment to other liquor establishments with a liquor license of the same class located on the same block. When reviewing location restrictions special attention must also be paid to the location restriction



# COMMITTEE ITEM MEMO

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**ITEM:** ZBA CASE 08-04 3325 PARK AVENUE  
**COMMITTEE DATE:** June 23, 2008  
**PREPARED BY:** Meena Beyers ,Village Planner *MB*  
**PURPOSE:** To consider approval of a variance request to reduce the required front yard setback from 25 feet to 17.68 feet.  
**BUDGET AMOUNT:** N/A

## **BACKGROUND:**

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Raymond Williamson, owner of the property located at 3325 Park Avenue, requests a variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet in order to remove the existing front porch and build an addition to the house.

The Zoning Board of Appeals conducted the public hearing on June 5, 2008 and recommended approval of the request to reduce the required setback by a vote of 6-0.

## **ATTACHMENTS:**

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1. Staff Report dated June 5, 2008
2. ZBA Case 08-04 Application Materials
3. Minutes from the June 5, 2008 ZBA Meeting

## **STAFF RECOMMENDATION:**

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Based on the discussion included in the Staff Report dated June 5, 2008, staff recommends approval of the requested variance.

## **REQUESTED COURSE OF ACTION:**

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Ordinances approving the requested variances will be presented during the July 14, 2008 Board of Trustees meeting for review and vote.



# Village of Brookfield

## Zoning Board of Appeals Staff Report

**TO:** Village of Brookfield Zoning Board of Appeals

**HEARING DATE:** June 5, 2008

**FROM:** Building and Planning Department

**PREPARED BY:** Meena Beyers, AICP – Village Planner

### TITLE

**ZBA 08-04 – 3325 Park Avenue;** Raymond Williamson, owner of 3325 Park Avenue, requests a variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet in order to replace the existing covered porch with a living room addition.

### GENERAL INFORMATION

**APPLICANT:** Raymond Williamson  
3325 Park Avenue  
Brookfield, Illinois

**APPLICATION/NOTICE:** The application has been filed in conformance with applicable procedural and public notice requirements.

### PROPERTY INFORMATION

**EXISTING ZONING:** A (Single-Family Residential District)  
**EXISTING LAND USE:** Single Family Residence  
**PROPERTY SIZE:** 3765.6 square feet  
**PIN:** 15-34-216-010-0000

**SURROUNDING ZONING AND LAND USES:**

North:	A (Single-Family Residential District)
South:	A (Single-Family Residential District)
East:	A (Single-Family Residential District)
West:	A (Single-Family Residential District)

## ANALYSIS

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### SUBMITTALS

This report is based on the following documents, which are on file with the Building and Planning Department:

1. Application for Public Hearing and Required Fees
2. Plat of survey and Location Map
3. Certification of Legal Notice Published May 14, 2008 in the Landmark
4. Letters to Surrounding Property Owners indicating Public Hearing (provided by applicant)

### DESCRIPTION

The applicant requests a variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet in order to replace the existing covered porch with a living room addition.

### BACKGROUND

The subject property is a 3,756.6 square foot lot, zoned A (Single-Family) and improved with a single-family residence. The existing structure includes a front porch that may have originally been an open porch, but has been used as an enclosed porch for many years (the exact date of enclosure is unknown). The entire porch (approximately 7 feet by 17 feet) completely encroaches into the required 25-foot setback.

At this time, the applicant requests a variance in order to remove the porch and replace it with an addition to the living room. As the extent of the construction goes beyond ordinary repair and maintenance of a nonconforming structure, a variance is required in order to allow for the removal and replacement of this portion of the structure. The applicant's request includes removing the existing front porch and hip roof structure and utilizing the existing footprint to construct an addition with a gable roof. The applicant would additionally provide a landing and stairs for egress as required per building code.

### ZONING

The property is currently zoned A (Single-Family Residential District). The property is surrounded by A zoning.

### DISCUSSION

Staff has reviewed the application and finds that it meets the standards for granting zoning variances. As the proposed addition utilizes the footprint of the existing enclosed front porch, the requested variance will not cause an increase in the intensity of use or bulk of the structure.

### STANDARDS FOR GRANTING ZONING VARIANCES

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*As the front porch of the subject property has been enclosed for many years, the proposed addition is essentially a continuation of the same use of the property.*

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*The porch was constructed and enclosed within the required front yard of the property. It is unclear whether or not the enclosure and construction of the porch were permitted; however, the current owner acquired the property in its existing condition.*

3. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*A variance would be required to replace the existing porch, either as a roofed open-air porch or a fully enclosed addition. Only an open porch with an unsupported roof could be constructed in place of the existing porch, due to the encroachment.*

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property.*

5. That the variation sought will not unreasonably diminish the values of adjacent property;

*The Village does not have sufficient information to respond to the impact of the proposed addition on adjacent property values. Improvements such as those proposed generally increase the value of the improved property.*

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*The requested variance will not effect congestion or public safety.*

7. That the variation is in harmony with the general purpose and intent of this ordinance.

*Based on the analysis above, staff finds that the requested variance is in harmony with the purpose and intent of the Zoning Ordinance.*

## RECOMMENDATIONS

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Based on the analysis above, Staff finds that the proposed variances meet the standards for granting variances and recommends approval of the requested variance. The Zoning Board of Appeals should discuss the requested variances and determine whether the request should be recommended for approval or denial when presented to the Village Board of Trustees.

Staff Report Approved By:



Keith R. Sbiral, AICP  
Assistant Village Manager

Zoning Board of Appeals  
Village of Brookfield  
8820 Brookfield Avenue  
Brookfield, IL 60513

Raymond Williamson  
3325 Park Avenue  
Brookfield, IL 60513

Dear Zoning Board of Appeals

My name is Raymond Williamson. I have been a lifelong resident of Brookfield, growing up in the Hollywood section and currently living at 3325 Park Avenue. The reasons for my application for variance are several; hopefully, this cover letter will better explain them as well as include my plans for upgrading my home.

My primary plan involves my second floor bedroom over my living room. The floor has a severe sag making this room unusable. After making a hole in my living room ceiling, I found that the floor joists are made of 2" X 6" lumber which spans over 16 feet. This is too long of a span for sufficient support and the reason the upstairs bedroom floor sags; to remedy this, I plan on cutting in a micro-laminate beam and using joist hangers to secure the floor joists to the beam.

My primary reason for application for variance involves my front porch, which is fully enclosed. I would like to change the roof from a hip style to a gable roof to match the rest of the house. This roof change would also accommodate my desire to combine my front porch with my living room to make a larger living/gathering place in my house. To do this, I will need to raise the porch floor to be level with the living room, which will in turn, raise the front door, which would hit the current hip roof when opened. The front porch is built on a cinder block foundation. I am sure the lumber that was used directly on the foundation is not pressure treated and would need to be replaced with such lumber.

Another reason for variance application as you can see from my photos as well as my preliminary drawings, is that I plan on changing the size, number and location of my windows as well as the location of the front door. There are currently four large, single pane windows with louvers surrounding the porch; I would like to replace them with nicer looking and more energy efficient windows. In moving my front door over, I will be able to build a stoop that is code compliant with stairs coming off of the side instead of straight up to the house; currently, there is no stoop and therefore, not up to code.

I know you will have questions for me at the hearing for my case. I look forward to explaining my ideas and visions for my house to you. I would like to thank each of you in advance for considering my case.

Sincerely,

A handwritten signature in cursive script that reads "Ray Williamson". The signature is written in black ink and is positioned above the printed name.

Ray Williamson



Village of Brookfield
Zoning Board of Appeals Application Packet

Zoning Variance Application

Applicant Information:

- 1. Name and Phone Number of contact person for application process
2. Petitioner's Name
3. Petitioner's Address
4. Phone Number
5. Email Address
6. Fax Number
7. Owner of Record Name
8. Owner of Record Address

RAYMOND WILLIAMSON
3325 PARK AVE.
708-485-3235 Hm 708-670-1375 cell
SAME
SAME

Property Information:

- 9. Common Street Address
10. Legal Description
11. Permanent Tax Index Number
12. When did the owner acquire the property?

3325 PARK AVE
Single Family, Balloon FRAME
August 2000

13. Is the petitioner in the process of purchasing the property? Yes \_\_\_ No X
If so, is the purchase contingent on approval of variation? Yes \_\_\_ No \_\_\_

14. Is your property use presently (check one): Conforming X Non-conforming \_\_\_

15. If the property is a non-conforming use, please explain:
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

16. Surrounding Zoning and Land Use:

Table with 2 columns: Zoning District, Land Use. Rows: North (A, Residential), South (A, ), East (A, ), West (A, ).

**Zoning Variance Application, continued**

17. What is the Zoning Classification of the subject property? RESIDENTIAL

18. List the variance(s) you are requesting:

(1) Section 30-b.01 I Variance requested to 17.68'

(2) Section 30-\_\_\_\_\_ Variance requested to \_\_\_\_\_

(3) Section 30-\_\_\_\_\_ Variance requested to \_\_\_\_\_

19. What is the proposed use of or improvement to the property? EXPAND LIVING RM ON TO ECLOSED FRONT PORCH, REPAIR SAGGING SECOND FLOOR

20. Is the building for (Check one): Personal Use  Rental \_\_\_ Resale \_\_\_

Please provide responses for the standards for granting zoning variances (attached).

Any person who shall knowingly make or cause to be made, or conspire, combine, aid or assist in, agree to, arrange for, or in any way procure the making of a false or fraudulent application, affidavit, certificate, or statement, shall be guilty of a misdemeanor as provided by statute by the State of Illinois.

Raymond C. Williams 5-9-08  
Petitioners Signature Date

Raymond C. Williams 5-9-08  
Owner's Signature (or authorized agent) Date

## STANDARDS FOR GRANTING ZONING VARIANCES

Village Code Section 30-11.03 C

Please provide responses to the best of your ability

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

THE SECOND FLOOR BEDROOM OVER THE LIVING ROOM HAS A SEVERE SAG IN THE FLOOR. THIS ROOM IS CURRENTLY NOT USED. IN ORDER TO FIX THIS PROBLEM THE LIVING ROOM WILL NEED TO BE GUTTED TO INSTALL NEW SUPPORTS. IN DOING THIS I MAY AS WELL UPGRADE THE FRONT PORCH MORE →

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

THE FRONT PORCH IS CURRENTLY FULLY ENCLOSED. I BOUGHT THE PROPERTY IN THIS CONDITION, THEREFOR THIS WILL BE CONTINUOUSLY USED AS INTERIOR SPACE.

3. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

IN DOING THIS WORK MY PROPERTY WILL BE MORE PLEASING TO THE EYE FOR MY NEIGHBOR. MY HOUSE WILL BE OF BETTER USE OF LIVING SPACE FOR MYSELF AS WELL AS ANY FUTURE OWNERS. LASTLY MY FRONT PORCH STOOP WILL BE BROUGHT UP TO CODE WITH AN ACTUAL STOOP (CURRENTLY JUST STAIRS UP TO FRONT DOOR)

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

THIS WILL NOT BE AFFECTED

5. That the variation sought will not unreasonably diminish the values of adjacent property;

IF ANYTHING THIS WILL INCREASE PROPERTY VALUES IN THE AREA OF MY HOUSE AS WELL AS MY HOUSE.

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

THIS WILL NOT BE AFFECTED

7. That the variation is in harmony with the general purpose and intent of this ordinance.

SINCE MY FRONT PORCH IS CURRENTLY ENCLOSED, I FEEL THAT THE UPGRADES TO THE HOME WILL MAKE IT MORE APPEALING TO THE NEIGHBORHOOD, AS WELL AS A MORE SOUND STRUCTURE.

AFFADAVIT OF OWNERSHIP

COUNTY OF COOK )  
 ) SS

STATE OF ILLINOIS )

I, (print name) RAYMOND C. WILLIAMSON under oath, state that I am (check one):

the sole owner of the property

an owner of the property

an authorized officer for the owner of the property

commonly described as (full address): 3325 PARK AVE, BROOKFIELD, IL, 60513

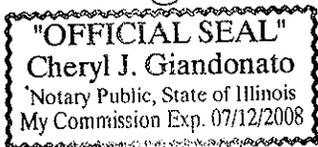
and that such property is owned by (print owner's name) RAYMOND C. WILLIAMSON  
as of this date.

Raymond C. Williams  
(Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS

12 DAY OF May, 2008

Cheryl J. Giandonato  
(Notary Public)



**PAY ONLY THIS AMOUNT**

**\$ 1,690.79**

BY 03/04/08 (on time)

# 2007 First Installment Property Tax Bill

Property Index Number (PIN)	Volume	Code	Tax Year (Payable In)	Township
15-34-216-010-0000	176	31054	2007 (2008)	PROVISO

IF PAID LATE 03/05/08 - 04/01/08  
**\$ 1,716.15**

IF PAID LATE 04/02/08 - 05/01/08  
**\$ 1,741.51**

IF PAID LATE 05/02/08 - 06/01/08  
**\$ 1,766.87**

**TAX CALCULATOR**

PAY THIS BILL AT [COOKCOUNTYTREASURER.COM](http://COOKCOUNTYTREASURER.COM) OR AT ANY CHASE BANK.

LATE PENALTY IS 1.5% PER MONTH, BY STATE LAW.

**Property location and classification for this PIN**

3325 PARK AVE

BROOKFIELD IL 60513

Property Classification 2-02

2006 TOTAL TAX 3,381.58  
 2007 ESTIMATE X 50%  
 2007 1ST INSTALLMENT  
 = 1,690.79

**Cook County Treasurer**  
[cookcountytreasurer.com](http://cookcountytreasurer.com)  
 312.443.5100

DEAR FELLOW TAXPAYER,

This 2007 First Installment Property Tax Bill is due on or before Tuesday, March 4, 2008. We now offer more options and more convenience in paying your tax bill - and in checking your tax balance.

Payments may be made:

- Online at [cookcountytreasurer.com](http://cookcountytreasurer.com) - you can now pay two tax years online
- At more than 300 Chase Bank locations across Chicagoland
- At 216 participating Community Banks - list available at [cookcountytreasurer.com](http://cookcountytreasurer.com)

For tax balance, refund and property-tax information, join the taxpayers who have made:

- 15 million visits to our Web site - [cookcountytreasurer.com](http://cookcountytreasurer.com)
- 2 million calls to our 24-hour automated phone system at 312.443.5100, which provides support in English, Spanish, and Polish
- Over 60,000 e-mail inquiries through our Web site by selecting "Contact Us"

In addition, you can check the five previous tax years for available refunds, and view a PIN's exemption history for the previous three tax years by visiting [cookcountytreasurer.com](http://cookcountytreasurer.com).

Sincerely,

*Maria Pappas*  
 Maria Pappas  
 Cook County Treasurer

RAYMOND WILLIAMSON  
 3325 PARK AV  
 BROOKFIELD IL 60513-1325

**IF YOUR TAXES ARE PAID BY MORTGAGE ESCROW, BE SURE NOT TO DOUBLE PAY.**

**PAYMENT COUPON**

**\$ 1,690.79**

BY 03/04/08 (on time)  
If paying later, refer to amounts above.

See the reverse side of this bill for detailed payment instructions. Please include only one check and one original payment coupon per envelope. Use of this coupon authorizes Treasurer's Office to reduce check amount to prevent overpayment.

Property Index Number (PIN)	Volume
15-34-216-010-0000	176

Amount Paid

Name/Mailing Address change? Check box and complete form on back to update your name and/or mailing address.

Include name, PIN, address, location, phone and e-mail on check payable to Cook County Treasurer.

00001690797 153421601000008 00710 00001716152 00001741510 00001766877



RAYMOND WILLIAMSON  
 OR CURRENT OWNER  
 3325 PARK AV  
 BROOKFIELD IL 60513-1325

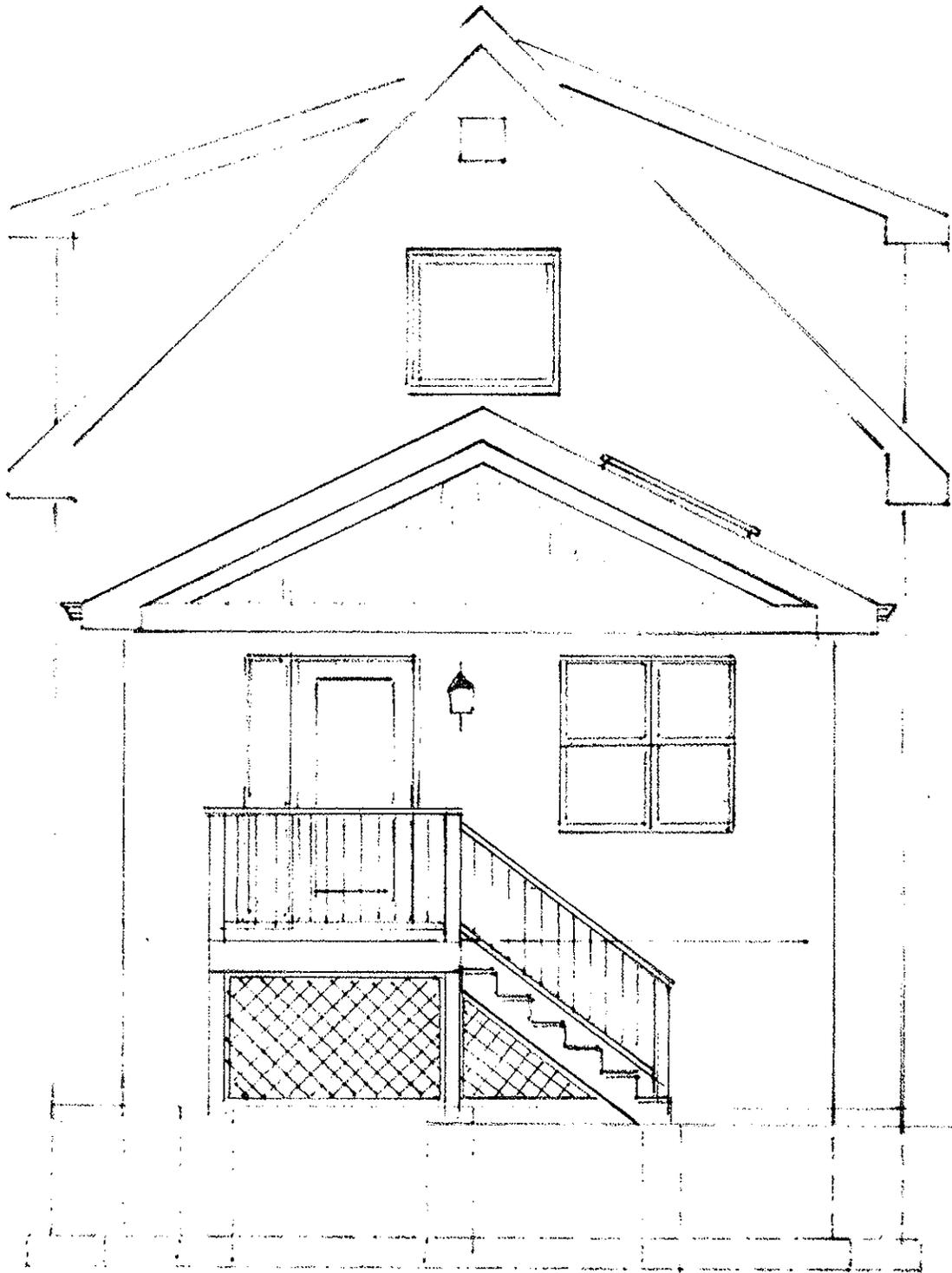
COOK COUNTY TREASURER  
 PO BOX 4468  
 CAROL STREAM IL 60197-4468



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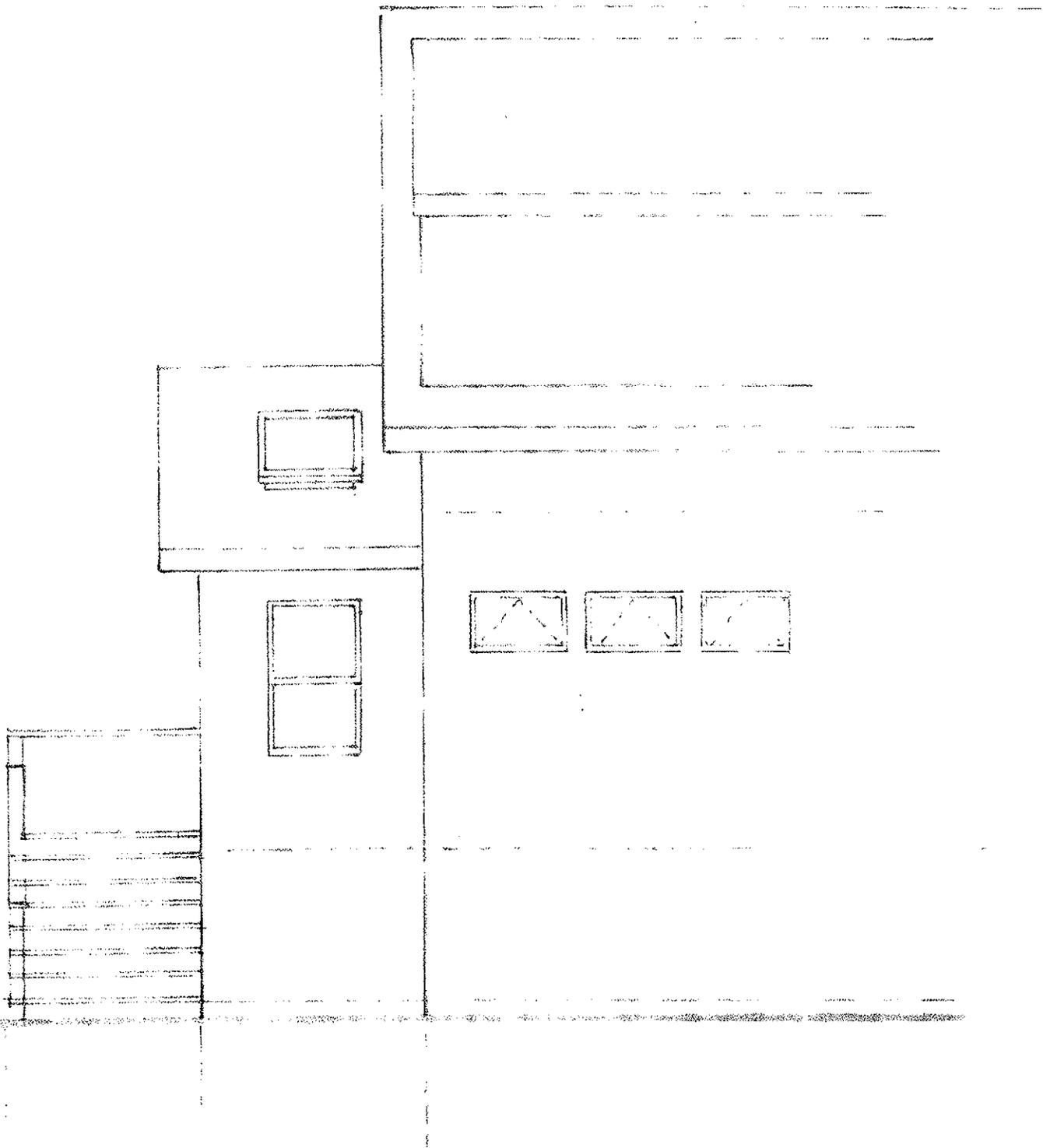






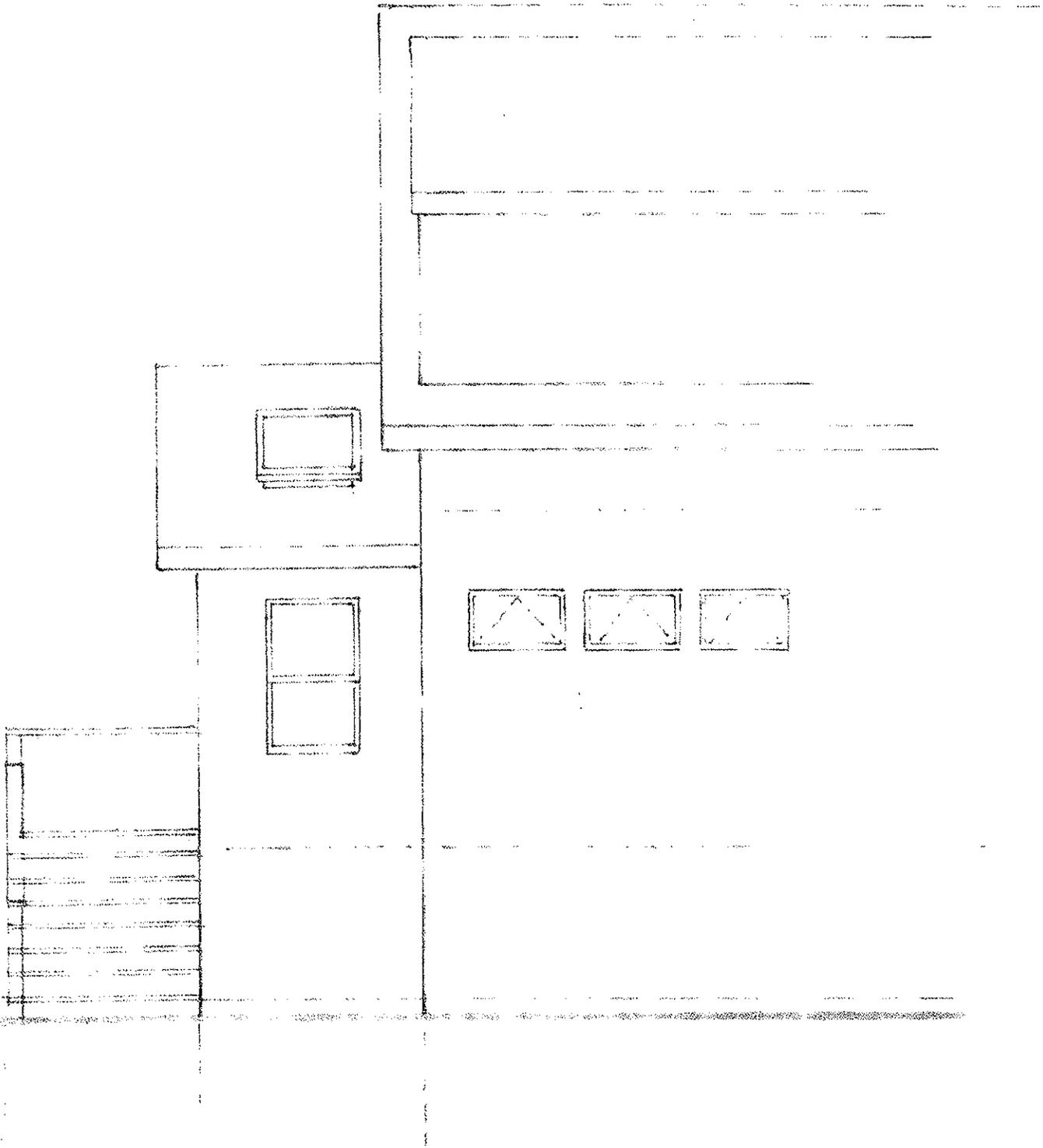
WEST ELEVATION

SCALE 1/4" = 1'-0"



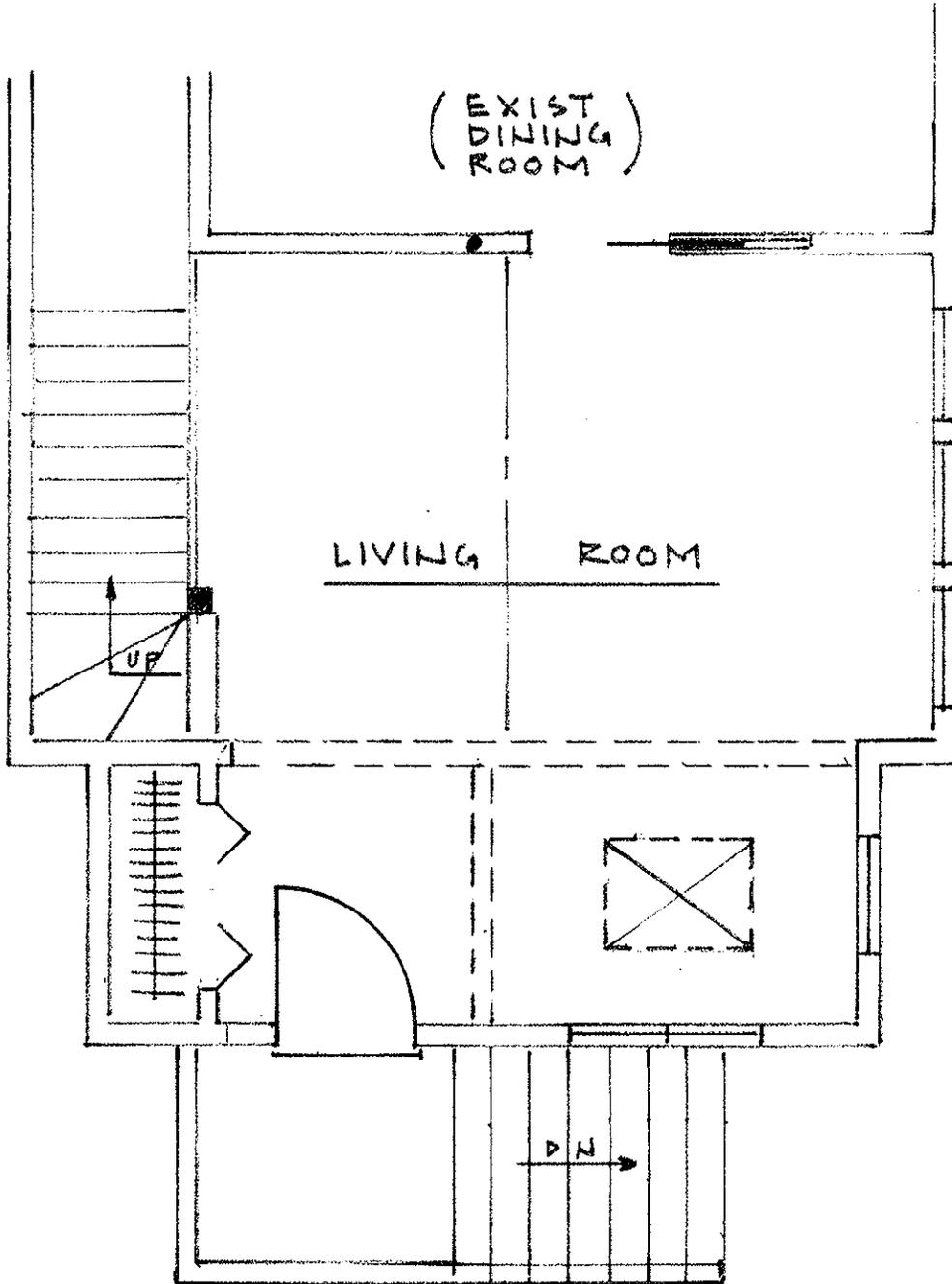
SOUTH ELEVATION

SCALE 1/4" = 1'-0"



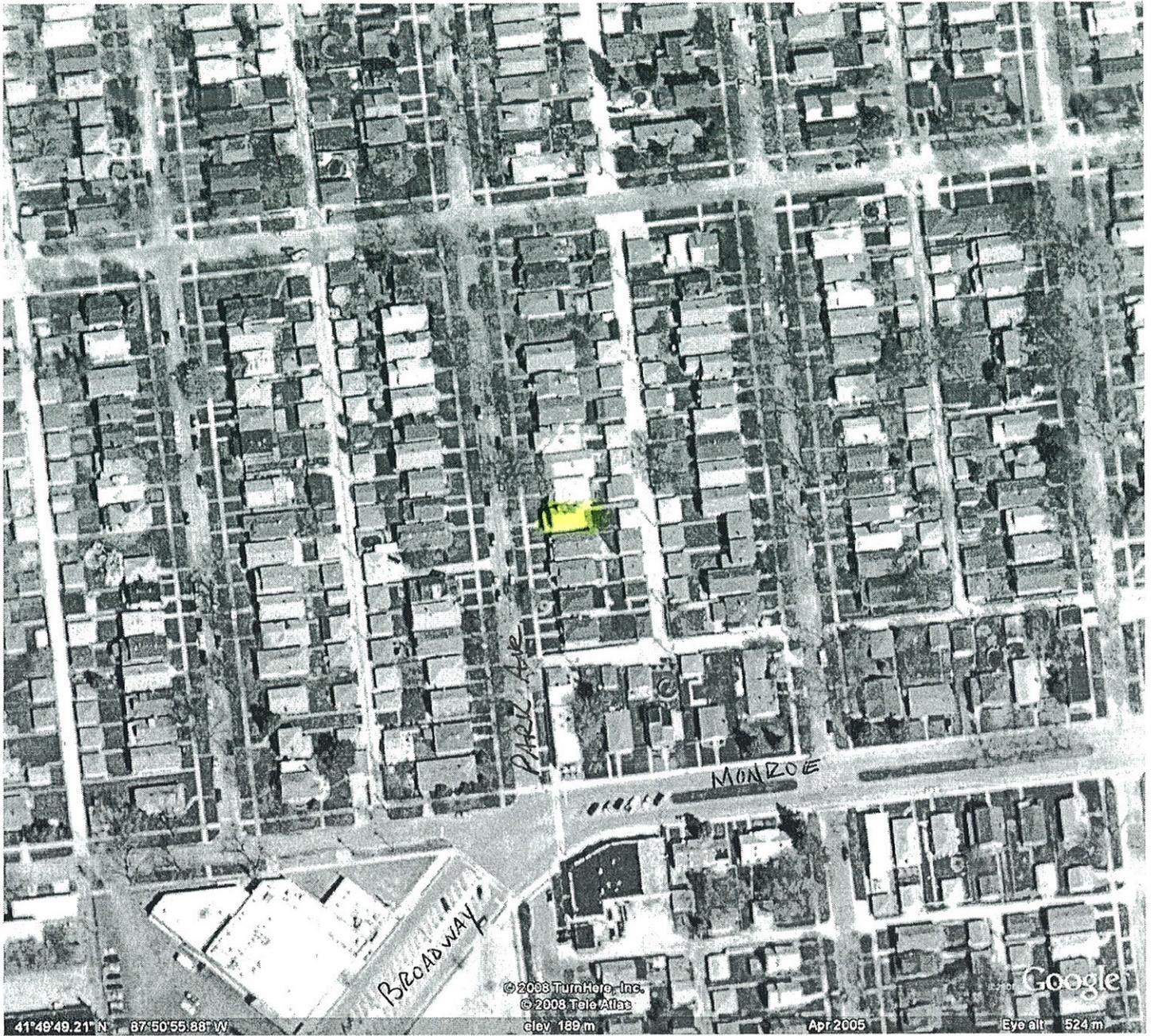
SOUTH ELEVATION

SCALE 1/4" = 1'-0"



FIRST FLOOR PLAN

SCALE  $\frac{1}{4}'' = 1'-0''$



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3325 PARK AVE

VILLAGE OF BROOKFIELD  
BROOKFIELD, ILLINOIS 60513

ZONING BOARD OF APPEALS  
MINUTES OF PUBLIC HEARING  
THURSDAY, JUNE 5, 2008 AT 7:00 P.M.

---

**Members Present:** Chairperson Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom.

**Absent:** Commissioner Ligeikis.

**Others Present:** Assistant Village Manager Keith Sbiral, Village Planner Meena Beyers.

The Zoning Board of Appeals Meeting of June 5, 2008 was called to order by Chairperson Sinde at 7:00 P.M. Upon roll call vote, a quorum was determined.

**ZBA Case No. 08-04 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet.**

**Note: Audio recording began half-way through Chairman Sinde's reading of the published Legal Notice.**

**Correspondence**

**Chairman Sinde read the following correspondence into the record:**

1. Certification of Legal Notice Published May 14, 2008 in the Landmark
2. Affidavit of Letters sent to surrounding Property Owners advising date and time of Public Hearing.
3. Letter from Applicant stating his reason for requesting variance.

Motion by Commissioner Hletko, seconded by Commissioner MacDonald to approve acceptance of correspondence as read pertinent to ZBA Case No. 08-04 regarding 3325 Park Avenue. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

## **Presentation by Staff**

Village Planner Meena Beyers stated that the applicant requests a variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet in order to replace the existing covered porch with a living room addition. Staff finds that the applicant meets the standards set for such variance and recommends approval.

## **Presentation by Petitioner/Open Public Discussion**

Chairman Sinde administered the Oath to applicant, Raymond Williamson, 3325 Park Avenue, Brookfield, Illinois, who addressed the Commissioners to attest to the reason for the requested variance.

## **Close Public Discussion**

Motion by Commissioner Digan, seconded by Commissioner Wahlstrom to close Public Discussion on 08-04 - 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

## **Close Public Hearing**

Motion by Commissioner Hendricks, seconded by Commissioner Wahlstrom, to close Public Hearing on 08-04 - 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

## **Conclusions**

### **STANDARDS FOR GRANTING ZONING VARIANCES**

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*As the front porch of the subject property has been enclosed for many years, the proposed addition is essentially a continuation of the same use of the property.*

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*The porch was constructed and enclosed within the required front yard of the property. It is unclear whether or not the enclosure and construction of the porch were permitted; however, the current owner acquired the property in its existing condition.*

3. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*A variance would be required to replace the existing porch, either as a roofed open-air porch or a fully enclosed addition. Only an open porch with an unsupported roof could be constructed in place of the existing porch, due to the encroachment.*

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property.*

5. That the variation sought will not unreasonably diminish the values of adjacent property;

*The Village does not have sufficient information to respond to the impact of the proposed addition on adjacent property values. Improvements such as those proposed generally increase the value of the improved property.*

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*The requested variance will not effect congestion or public safety.*

7. That the variation is in harmony with the general purpose and intent of this ordinance.

*Based on the analysis above, staff finds that the requested variance is in harmony with the purpose and intent of the Zoning Ordinance.*

### **Motions to Grant Variance**

Motion by Commissioner Hendricks, seconded by Commissioner MacDonald, to grant a variation from Section 30-6.01 to allow for a front yard setback of 17.68 feet at the property located at 3325 Park Avenue, Brookfield, Illinois.

Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

Item to be on agenda for discussion at the Committee of the Whole Meeting scheduled for June 23, 2008.

**ZBA Case No. 08-03 - 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet.**

**Correspondence**

**Chairman Sinde read the following correspondence into the record:**

1. Certification of Legal Notice Published May 7, 2008 in the Landmark
2. Project Summary Re: Express Car Wash and requested variance
3. Letter from Car Wash Services, Inc. Re: Noise
4. Affidavit of Letters to Surrounding Property Owners indicating Public Hearing (provided by applicant)
5. Drawing of proposed addition and supporting illustrations (provided by applicant)

Motion by Commissioner Digan, seconded by Commissioner Hletko to approve acceptance of correspondence as read pertinent to ZBA Case No. 08-03 regarding 9545 Ogden Avenue. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

**Presentation by Staff**

Village Planner Meena Beyers stated that the applicant requests a variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet in order to construct an 80-foot addition to the southernmost car wash bay. The purpose of the addition is to incorporate an automatic car washing and drying bay, rather than the existing manual bays.

Ms. Beyers informed the Zoning Board Commissioners that staff has received a number of questions as to how this requested variance relates to the proposed TIF District on Ogden Avenue, stating that it was important to note that Section 30-11 of the Village Zoning Ordinance lays out specific standards for granting variances and that what is being presented at this meeting is just whether or not the requested variance meet those standards and has no relation to the proposed TIF District or any other activity on Ogden Avenue at this time.

Staff Report details the process used and results for consideration of requested variance. Two variances have previously been granted to this property to date, as detailed in the Staff Report.

**STANDARDS FOR GRANTING ZONING VARIANCES**

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

8. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*The property is a large tract of land that may be redeveloped in a manner in which to meet the setback requirements for the zoning district. Although many existing properties along Ogden Avenue are non-conforming, they will be required to meet the current code at the time of any renovation that will increase building square footage. The property itself does not pose difficulties preventing the full use of the property. Staff does not believe that this standard is met.*

9. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*As one variance does not set a precedent for another, any previously granted variance does not establish a hardship as the basis for a variation to allow for another addition to the property encroaching upon the required setback. In this case, the hardship is self-imposed as the petitioner requests to build an addition, and not replace or remedy an existing condition. Staff does not believe that this standard is met.*

10. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*The applicant may explore eliminating the rear bay and building the addition within the buildable area of the lot. This would still allow for a reasonable use of the property. Staff does not believe that this standard is met.*

11. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property. Staff believes that this standard is met.*

12. That the variation sought will not unreasonably diminish the values of adjacent property;

*Staff does not have sufficient information to respond to the impact of the proposed improvements on adjacent property values.*

13. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*As the proposed improvements include adequate stacking spaces at the new bay, it is not anticipated that the variation sought will increase congestion in the public streets or endanger public safety. Staff believes that this standard is met.*

14. That the variation is in harmony with the general purpose and intent of this ordinance.

*One of the purposes of the Zoning Ordinance is to "prevent such additions to, alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed [hereunder]" (Section 30-2). As such, the variation is not in harmony with the general purpose and intent of the ordinance. Staff does not believe this standard is met.*

Ms. Beyers stated that Staff does not recommend approval of proposed variance and should the Zoning Board of Appeals choose to recommend approval for the variance, the Zoning Board should, at minimum, adopt the petitioner's findings for those four standards, or adopt their own findings in order to move a positive recommendation forward to the Village Board of Trustees. Ms. Beyers addressed the questions posed by the Zoning Board Commissioners.

### **Presentation by Petitioner/Open Public Discussion**

Chairman Sinde administered the Oath to applicant, William Klump, 8705 Lake Ridge Drive, Darien, Illinois, and his attorney, James Storino, 8436 Creekside, Mayberry, Illinois who addressed the Commissioners to attest to the reason for the requested variance.

Those who wished to speak on requested variance were sworn in and given opportunity to address the Zoning Board.

### **Close Public Discussion**

Motion by Commissioner MacDonald, seconded by Commissioner Wahlstrom to close Public Discussion on ZBA Case No. 08-03 regarding 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Close Public Hearing**

Motion by Commissioner Digan, seconded by Commissioner Hendricks, to close Public Hearing on ZBA Case No. 08-03 regarding 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Conclusions**

Commissioners discussed the requested variation and staff findings and recommendations.

### **Motions to Grant Variance**

Motion by Commissioner Hendricks, seconded by Commissioner Digan to grant a variation from Section 30-6.02 to reduce the required rear yard setback to 1.87 feet for the purpose of to construct an addition and the existing building located at 9545 Ogden Avenue, Brookfield, Illinois. Upon roll call, **the motion failed as follows:** Ayes: Commissioner Digan; Nays: Chairman Sinde, Commissioner Hendricks, Hletko, MacDonald and Wahlstrom. Absent: Commissioner Ligeikis.

ZBA Case 08-03 Re: 9545 Ogden to be on agenda for discussion at the Committee of the Whole Meeting scheduled for June 23, 2008.

## New Business

### Review of Appeal of Denial of Zoning Interpretation: 8420 Brookfield Avenue

**Note: Staff requested New Business portion of June 5, 2008 Zoning Board of Appeals meeting be transcribed verbatim.**

## Correspondence

**Assistant Village Manager Keith Sbiral:** "For the record, I've not been before the Zoning Board for about a year so I will introduce myself. I am Keith Sbiral, Assistant Village Manager for the Village of Brookfield and I am a member of American Association of Certified Planners. My capacity here tonight is as a Zoning official, appointed by the Village Manager Rick Ginex.

The issue before the Zoning Board this evening is that of an appeal – the review of an appeal of a denial of a zoning interpretation. I am going to read some correspondence. Hopefully, it won't get too lengthy. I can read it into the record and provide my information as I read.

On March 27, 2008, the petitioner, Steve Campbell, wrote a letter regarding the property at 8420 Brookfield Avenue: 'Mr. Sbiral, I am requesting your interpretation of the approval of a restaurant use in the C-6 Zoning District at the address of 8420 Brookfield Avenue' That is written on the bottom of a business license dated June 1, 2007 for The Station – that's the restaurant. 'I am making this request for interpretation from Staff under Section 30-11-01.' That is, of course, of the Zoning Ordinance. 'Respectfully, Steven D. Campbell.'

That request for an interpretation of the issuance of a business license was made, as I mentioned, on March 27. On April 30<sup>th</sup>, following the statutory period in which the Village had to respond, I made my finding on that request in a letter – and, I'll read that letter now:

Re: An interpretation request regarding 8420 Brookfield Avenue

Dear Mr. Campbell:

This letter is in response to your March 27, 2008 request for interpretation of the approval of a restaurant use in the C-6 Zone under Section 30-11-01 of the Village of Brookfield Village Code.

Section 30-11-01 states that, 'The Village Manager, or his agent, shall review and act upon all applications requesting an interpretation of a zoning ordinance provided that the application has been properly filed and the person can establish a direct and substantial interest in the matter of the requested interpretation.'

submitted letter, attached,' which I just read to you, '...indicates no direct nor substantial interest in the matter requested for interpretation. Your request is denied on that basis. If you have any questions with respect to this letter, do not hesitate to call me directly.' I've listed my phone number and e-mail address.

Subsequently to that, Mr. Campbell submitted two letters outlining his belief that I was in error.

'May 12, 2008

Dear Sir:

Pursuant to Section 30-11-01 of the Village of Brookfield Zoning Ordinance, please consider this letter as formal request and application to seek a review and decision by the Zoning Board of Appeals regarding the matter of interpretation made by Village staff as specifically related to the allocation to The Station, located at 8420 Brookfield Avenue, Brookfield, Illinois, for issuance of a business license to operate, as stated in the business license application, for a 'dine-in and carry-out restaurant with lounge serving pizza, sandwiches, dinners, specials and cocktails' within a C-6 Special Service Restricted District which, according to the current zoning ordinance use table , prohibits a restaurant within said zone district.

When fee schedule was moved from Chapter 30 to Chapter 2, Ordinance 2007-76, the Planning and Zoning Service Fee Section did not include any provision for zoning review and interpretations.

Please inform me, within five working days from the date of this letter, of any fee is required for the above requested and I shall submit immediately. Please inform me as to when I might have this matter placed on the Zoning Board of Appeals for review.'

Subsequently, the next day, Mr. Campbell wrote me a letter that said,

'Mr. Sbiral:

As the largest private sector real property owner in Brookfield, and someone who has been intimately involved with Chapter 30, the application process that involves Chapter 30 is something that I am directly involved in. This gives me a direct interest in the process that was used to allow the current use.....(inaudible).

I believe that your denial of my interpretation request of March 28, 2008 was in error and once again I request to be heard on this issue before the Zoning Board of Appeals, as stated in my May 12, 2008 submission to you.'

That is the extent of the correspondence that has passed back and forth between the petitioner and myself. To give you a little background from the Village staff perspective and the Zoning..."

**Chairman Sinde:** "Hold on. Hold on for a minute. Do you have any correspondence you want to add to this? Do you have anything written out that can go..."

**Steve Campbell:** "I have no additional documentation...(inaudible.)"

**Chairman Sinde:** "I need to have a motion to accept correspondence as read by Staff regarding this."

Motion by Commissioner Digan, seconded by Commissioner MacDonald, to accept the correspondence as read into the record pertinent to the Review of Appeal of Denial of Zoning Interpretation regarding 8420 Brookfield Avenue, Brookfield, Illinois. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

**Chairman Sinde:** "What we are going to do in this process now -- do you have any more additional comments?"

**Assistant Village Manager Keith Sbiral:** "Yes."

**Chairman Sinde:** "Based on that, Mr. Campbell we'll have you come up and make your presentation and then the Board will then ask you questions."

**Assistant Village Manager Keith Sbiral:** "To the greater extent, in my position as zoning official, as laid out in my letter, the terms 'direct and substantial interest' are not defined in the zoning code and, therefore, I used my professional judgment to determine what I believe the direct and substantial interest is.

In most cases, in my professional history, 'direct and substantial interest' has meant either owning the property or adjacent property. In this situation, the petitioner does not own said property – that property.

With respect to the process at hand this evening, the question, although it may be interesting as to whether or not a business license should have been issued, that question really is not at hand here. The question here is the denial of writing an interpretation for Mr. Campbell. Our attorneys, at the Village level, have informed us that this is the next step in the process – reviewing my denial before the Board and the Zoning Board of Appeals can either uphold my written denial or request that an interpretation be made by turning down my written denial. Those are the actions that could be put forth.

Really, that is all I have at this point. If you have any questions for me, I'd be happy to answer them."

**Chairman Sinde:** "Neil?"

**Commissioner Neil MacDonald:** "Yes. Just so I understand what the controversy is. Let me get through the substance of it and then back up to the question that I think is at issue here.

A business license is issued to give a restaurant the license to operate in the neighborhood. There is also a provision in the zoning code that permits somebody, a citizen, with an interest in the transaction, to challenge the license – the issuance of the license..."

**Assistant Village Manager Keith Sbiral:** "Actually, the provision is to challenge the interpretation of the zoning ...."

**Commissioner Neil MacDonald:** "...that would authorize the issuance of the license?"

**Assistant Village Manager Keith Sbiral:** "I would never pretend to understand what is in Mr. Campbell's head, but I think the request is that – as part of the business license application, several things are checked. The water service through the Village, zoning, building codes – things like that. One of those check-offs is whether or not it conforms with the zoning and I think that is the logical connection between requesting an interpretation of zoning code under Chapter 30 for something that is actually in another Chapter."

**Chairman Sinde:** "We can ask Mr. Campbell that when..."

**Commissioner Neil MacDonald:** "Sure. But, the question that is now before the Board is this – whether the letter that he sent you, asking for...challenging your interpretation, was sufficient on its face – whether it gave you enough facts for you to determine whether he had an interest in this thing. For instance, it is one thing to send a letter that's got a Brookfield return address on it and saying, 'Hey, I'm challenging your interpretation on this. Please provide an explanation.' It's another thing to say, 'I have an adjacent property to this and therefore I believe that my property would be diminished by this – by this issuance of the license, and therefore I'm challenging your interpretation of the statute that would permit you to authorize the issuance of the license.' Is that it?"

**Assistant Village Manager Keith Sbiral:** "Right. It gets lost in reading correspondence..."

**Chairman Sinde:** "Excuse me. You'll have a chance to talk."

**Assistant Village Manager Keith Sbiral:** "...but the facts of the case are that the zoning code says 'The Village Manager, or agent, shall review and act upon all applications requesting an interpretation of a zoning ordinance provided that the application has been properly filed and the person can establish a direct and substantial interest in the matter of the requested interpretation.'

And that is the question – 'direct and substantial interest'. Mr. Campbell, on May 13, 2008 put forth in a letter to me that the 'direct and substantial interest' is that he is, '...the largest private sector real property owner...' and there wasn't necessarily any evidence given for

that, but also that he is, '...intimately involved with Chapter 30...' and I don't know to what degree this intimacy is with Chapter 30."

**Commissioner Neil MacDonald:** "So, the 'properly filed' is not an issue here – but whether his letter shows a substantial and direct..."

**Assistant Village Manager Keith Sbiral:** "Right. I think everyone agrees that the process ...here in general ...there aren't any fees for it and it was (inaudible)..."

**Chairman Sinde:** "The key thing is, and what we have to decide now whether or not he has met the qualification of having substantial..."

**Commissioner Neil MacDonald:** "And, 'direct or substantial' is nowhere defined in the code or any place else..."

**Chairman Sinde:** "No. It is not."

**Commissioner Neil MacDonald:** "OK. I just wanted to understand what the controversy was."

**Chairman Sinde:** "All right. Eric. Anything?"

**Commissioner Eric Wahlstrom:** "No."

**Chairman Sinde:** "All right. Jennifer?"

Commissioner Hendricks: "No."

**Chairman Sinde:** "Bernie?"

**Commissioner Hletko:** "Someone applied for a business license, right?"

**Assistant Village Manager Keith Sbiral:** "At The Station, 8420 Brookfield Avenue."

**Commissioner Hletko:** "And Mr. Campbell wanted that reviewed – for the application of the business license?"

**Assistant Village Manager Keith Sbiral:** "Mr. Campbell's original request was to inquire as to why that business license was approved under Chapter 30 – why that use was approved..."

**Commissioner Hletko:** "And he asked why it was approved because it is not the right district for that business to be in?"

**Assistant Village Manager Keith Sbiral:** "That's Mr. Campbell's contention."

**Commissioner Hletko:** "OK. That's what I needed to know."

**Chairman Sinde:** "Lee Ann?"

**Commissioner Digan:** "Will we be determining whether or not it was O.K. for you to say, 'I'm not going to provide you with detailed information?..."

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Digan:** "Just based on the fact of no direct or substantial interest?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Chairman Sinde:** "Mr. Campbell, would you please step up – raise your right hand?"

**Chairman Sinde:** "Do you swear to tell the whole truth and nothing but the truth, so help you God?"

**Steve Campbell:** "I do."

**Chairman Sinde:** "Please state your name and address."

**Steve Campbell:** "Steven Campbell. My home address is 372 Fairlane Road in Riverside."

**Chairman Sinde:** "Please sign in. Mr. Campbell, please tell us why your are here tonight."

**Steve Campbell:** "I learned early this year that there was a building permit issued for the installation of a hood and I supplied the Village with a Freedom of Information request on this issue...I think it's a lovely thing, but based upon the Section 30 that I've come to be familiar with over the past twelve years, it was a non-allowed use.

All I have asked is for the Zoning Enforcement Administrator, Mr. Sbiral, to provide me with a written explanation of how a non-allowed use is allowed in this Zoning District and I own property next door. I have been before this Board, I don't know – eight or ten times. The last changes to Chapter 30, I was involved in 2000 when we made a coffee shop a legal and conforming use – and that's the only legal and conforming use in the district.

I felt that my involvement in the community, and with property and zoning gave me standing to ask for interpretation on how non-allowed uses is allowed. If the ZBA or staff doesn't feel my property holdings are sufficient to merit status, then so be it. As far as Mr. Sbiral being unaware of my property holdings, while his Department and I have been intimately involved with a number of property violations so, at least they are familiar with \_\_\_\_ (inaudible) \_\_\_\_.

All I'm looking for is an explanation of the process."

**Chairman Sinde:** "Let me ask you a question right now. The Village has come to you and said, 'We do not recognize you because you do not have a direct or substantial interest in this property, so – interpretation-wise. So, can you show to this Board how you have a direct and substantial interest in 8420 Brookfield Avenue? Do you have evidence?'"

**Steve Campbell:** "No. I cannot."

**Chairman Sinde:** "So, in reality, the Village Staff saying that they didn't need to respond to you is because you did not have a direct and substantial interest in the property. You didn't. Am I right or am I wrong? Yes or No."

**Steve Campbell:** "No – I think this is a question of the use, it's not..."

**Chairman Sinde:** "No. Their rejection was because you did not have a direct and substantial interest. Am I right? That is what they're... Am I right (did not hear name of person to whom he directed this statement.)"

Unknown person: "Right."

**Chairman Sinde:** "And your comment coming back was that, 'I'm a major property holder...' as your only basis for having direct and substantial interest in the property."

**Steve Campbell:** "I also believed that being involved in the community grants me the right to question what appears to be actions of the Village staff that directly contradict the Chapter 30 – the you people look at. And all I'm asking for is an explanation of how a non-allowed use was allowed in that district."

If you want to distort things and say that I don't have an interest, do people deserve an answer because I don't have property next door? But, that's a pretty narrow field for questioning staff's actions. So, if that's the parameter...I'm saying, if you must own property next door, or own the property to have a say in it, that seems to be a very narrow interpretation that is not in existence in the code."

**Chairman Sinde:** "I want you to answer 'Yes' or 'No' to this question. Given the 8420 Brookfield Avenue – you have no direct or substantial interest in that property. Yes or no."

**Steve Campbell:** "No."

**Chairman Sinde:** "No. OK. That is all I wanted to say. Now, what do you want to say?"

**Assistant Village Manager Keith Sbiral:** "I certainly don't want it to be construed that staff's judgment, or the only factor for determining substantial or direct interest is whether or not you have adjacent property. I simply used that in my presentation as one reason – when one item isn't directly spelled out in the ordinance. But, I might use my professional judgment and I don't say that you have to own property immediately next door."

I will point out, however, that Village staff is well aware of Mr. Campbell's process requests and procedures and one of our concerns isn't that we reasonably provide him with information as to why something was done. Our primary request was that as staff, and as the Zoning official, I believe that the 'direct and substantial' clause is in the Zoning ordinance for a reason and that is because if we simply say that anyone has a reason to file for these type of zoning reliefs, we could simply hire an entire department to request every single business license be questioned in this way and it could very easily get out of hand say – like an unfounded mandate for a Freedom of Information request, or something like that...so there is some method to this madness ..."

**Chairman Sinde:** "All we are here to talk about is 8420, but – so right now, your denial is because of no direct or substantial interest. You presented the reason why you feel you should have an explanation to it. Now, what I am going to ask the Board to do is – you've heard both sides. You've heard the Village's and Mr. Campbell's – now I want you to ask any questions of either of the people.

Just remember, your focus should only be on 8420 Brookfield Avenue. Not about how much property he owns, or anything like that. The question is does he have direct and substantial interest that would require him to question or ask for denial on his own."

**Commissioner Neil MacDonald:** "I would ask you, Mr. Sbiral, a couple questions. You did not, in your rejection of that letter, address the merits of that request of Mr. Campbell's request. That is, whether it was a validly issued license or an improperly issued license. Is that correct? That was not part of your consideration?"

**Assistant Village Manager Keith Sbiral:** "No."

**Commissioner Neil MacDonald:** "The only consideration you were making when you denied the request in the letter was a determination, based on the letter itself, whether he had demonstrated the statutory interest or basis for being able to submit the request in the first place. Is that correct?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Neil MacDonald:** "O.K. Then let's spell it out here. The Village may have been way off base when they issued the license, but that is neither here nor there in your view because he hasn't demonstrated the legal interest necessary to be able to challenge you – right?"

**Assistant Village Manager Keith Sbiral:** "I certainly don't think the Village was way off base, but that is neither here nor there."

**Commissioner Neil MacDonald:** "So, that wouldn't prevent, for instance, somebody who lived in the neighborhood from filing that same request and stating in the letter, 'Hey, I live in the neighborhood. I think the license was improperly issued. I'd like to challenge your interpretation of that license.' Correct?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Neil MacDonald:** "OK. Those were my only questions."

**Chairman Sinde:** "And remember, too, what we are talking about here is not 'Is it a liquor license.' Only the zoning of it."

**Commissioner Neil MacDonald:** "The standing issues are what we're here for...denied on the basis of no standing."

**Chairman Sinde:** "That's right. Eric?"

**Commissioner Eric Wahlstrom:** "I have no comment right now."

**Chairman Sinde:** "Jennifer?"

**Commissioner Jennifer Hendricks:** "Mr. Campbell, I have a question for you. You said that you'd filed a Freedom of Information Act request and your question was not answered through that request? Or..."

**Steve Campbell:** "Actually, the question was answered through my request about this zoning district and about the use that was going in. I own a similar building. But, tonight was just my standing – whether I have legal standing to ask the question...(last few words inaudible)."

**Chairman Sinde:** "OK. Anything more?"

**Commissioner Jennifer Hendricks:** "No."

**Chairman Sinde:** "Bernie?"

**Commissioner Hletko:** "Direct and substantial; where did that come from?"

**Assistant Village Manager Keith Sbiral:** "That's from Village Code, Section 30-11-01..."

**Commissioner Hletko:** "But that has no definition..."

**Assistant Village Manager Keith Sbiral:** "Yes. Unfortunately, a lot of the codes..."

**Note: Speaking simultaneously:**

{**Commissioner Digan:** "So, you can interpret directives...:"

{

{**Commissioner Hletko:** "So, the Village's interpretation.....Mr. Campbell....are two  
{different {things."

**Chairman Sinde:** "I will say something right now. I've chaired two interpretation hearings, and I don't think any of you have been on the Board for this. The first one was the six-story condominium where they came before us and the Village and they said that the variances were granted but the Village took their time to approve plans, or whatever it was, and the ordinance expired, supposedly.

They came before the Board for a legal interpretation, as in a court of law, with a lawyer representing and (inaudible phrases.... And, at that point, in that interpretation hearing, it was the petitioner who had the six-story condominium versus the Village to see if they would interpret that we were wrong by the delaying. And, in that situation, the Board voted against the Village and said the petitioner was wrong.

The other interpretation hearing also involved the six-story condominium. What it involved was interpreting – the Village thought there were three variances that needed to be added on and the petitioner said, 'No, I don't think you need to have these – because they are already incorporated.' At that interpretation hearing, of those three, only one was required to go into a variation hearing. So, you know what I mean..."

**Assistant Village Manager Keith Sbiral:** "The difference between those and this is those were actually the next step in the process. If you were to say, 'Write the interpretation' and I write the interpretation, Mr. Campbell can also disagree with the interpretation and come before you to overturn the actual interpretation."

**Chairman Sinde:** "What I'm saying though is those people who came before the interpretation hearing had direct and substantial interest. They were the petitioners of that six-story. So, to just let you know, they were parties that were...(2 words inaudible). Anything more?"

**Commissioner Hletko:** "I do wish I had time to think about this. I don't know how anyone else feels about it but I do struggle with his direct and substantial -- does that mean the owner of the property next door or someone who lives in the Village? Or, if its not coming from three villages over and he knows that the Village mishandled it – or, what difference does it make if its not handled property because its not in the correct district, then we have a problem. And, that's where I struggle and I wish I had some time to ponder over this..."

**Chairman Sinde:** "Leanne?"

**Commissioner Digan:** "Are there any privacy issues that we need to consider with regards to a person's business license and with you giving out to anybody who requests it? I mean..."

**Assistant Village Manager Keith Sbiral:** "The Village is typically careful about how personal information is given out. I mean, a matter of how a zoning ordinance is enforced is typically public information."

**Commissioner Hletko:** "I've got a couple of follow-up questions. Either you or the office that you work for are charged with interpreting and applying the zoning and licensing application processes?"

**Assistant Village Manager Keith Sbiral:** "Correct. And the Business License Application process is a little outside of the zoning ordinance itself. There is one aspect of the licensing process that is zoning related. So... But, yes, as a zoning official, I am charged with interpretation any gray area in the zoning code.

Typically, on a day-to-day basis that just moves forward. I can tell you there aren't very many times where I've had to actually interpret the zoning code. In fact, I make it a point not to do that. I think it is better to change the code and make it clear than to have someone willy-nilly interpreting it. That's my personal, professional approach, but in my previous positions, I've also had a few interpretations.

But, like I said, there are some ambiguities in the code that have been brought forward and made a decision on because the zoning official is a management position, appointed by the Village Manager or is the Village Manager in some instances. They do have these clauses in the ordinances that they come before a public body, such as yourselves."

**Chairman Sinde:** "For clarification..."

**Commissioner Hletko:** "Are we the right Board for this?"

**Commissioner Digan:** "Yes, because it is a zoning..."

**Chairman Sinde:** "Yes."

**Commissioner Hletko:** "I guess I'm still stuck on the problem that it was not... (inaudible)..."

**Chairman Sinde:** "Bernie only heard the discussion..."

**Assistant Village Manager Keith Sbiral:** "The process is directly outlined in the Zoning Code that it comes to the Zoning Board of Appeals."

**Commissioner Wahlstrom:** "I guess what I'm asking is if I'm driving through town and see something that I find – a business that is not applicable to the zoning of that area, which is the reason you came for us, if I don't live near that property or own that property you're asking for us to interpret whether or not I have the right to ask for an interpretation of that?"

**Assistant Village Manager Keith Sbiral:** "I'll go over it one more time..."

**Commissioner Wahlstrom:** "OK, OK, just so..."

**Commissioner Digan:** "Let's say you I to Danny's Hot Dogs and there is no hood and you say, 'Hey, I know that's illegal.' So I call Keith and say, ...."

**Assistant Village Manager Keith Sbiral:** "That's a building code issue."

**Commissioner Wahlstrom:** "OK. I find a business and I know that it is in a place that it is not zoned for and there are no variances for, OK? Just as your average citizen happens to notice this thing. And, I ask you, 'Is this appropriate?' And, if I'm not an adjacent property holder or the property owner, you're going to tell me I have no right to ask that question,"

**Commissioner Digan:** "No..."

**Assistant Village Manager Keith Sbiral:** "Actually, 99% of the time, if you just come to the front counter, it will probably be answered directly and straightforwardly..."

**Commissioner Wahlstrom:** "I realize that. I realize that..."

**Assistant Village Manager Keith Sbiral:** "If you submit a formal request and start sighting sections of code, we as a Village getting very careful about what we're doing and our attorneys get involved. And then, we are very careful about how we respond. Obviously, if you are just asking a question about something and it is very informal. If it appears to us that either the Village could be in a position that is questionable legally, or actions could put one of our property owners or business owners in a position that could be questionable legally, then we are very careful about how we went through the process because we want to make sure that everyone's due process is respected.

**Commissioner Wahlstrom:** "This is difficult. Let's say we are a crooked and dishonest town, OK? And there is ... OK...I don't like that example either. But, – something that the Village didn't want to answer my question. Unless I'm an adjacent property owner, then I have no right to ask about that, if the Village does not want to answer it..."

**Assistant Village Manager Keith Sbiral:** "I'm going to be very clear on that – adjacent property owner ...direct and substantial does, because I think it is this, and you can shut me down if you want to – I look at the letter that was provided to me and it's made very clear that Mr. Campbell owns a large amount of property and he's right, we – as a department – are well aware of all his properties because he has a lot of property maintenance issues.

But, the reality of the letter that he sent is – he owns a lot of property and he is 'intimate' with Chapter 30. I was prepared tonight to hear that he owns property in a similar zoning district, he owns property in the same building district, he owns property relatively close – maybe some sort of argument other than, 'I own property in town and I'd like to badger staff about the zoning district. That, to me is not a 'substantial interest' – and that is where, as a zoning official, I have to use my judgment as far as what we're doing as processes in the village with respect to building...excuse me, business licenses."

**Commissioner Wahlstrom:** "This essentially falls under the same category as the unfounded FOIA mandate."

**Assistant Village Manager Keith Sbiral:** "It could."

**Chairman Sinde:** "OK. Are everybody's questions answered?"

**Commissioner Digan:** "I have some more questions – sorry. So, what is your definition then of 'direct and substantial interest'?"

**Assistant Village Manager Keith Sbiral:** "I think the question of 'direct and substantial interest', because it is not defined in the code, is something that can change depending on the case. And, I think in this case, that's how I find it. I said I don't know, or believe, that there is, in my opinion, a direct and substantial interest and that's the position I'm in as zoning official if something isn't clear."

Might I now go back and say this is not really worth all of our time and suggest a code amendment to the Board of Trustees that says, 'These are the standards under which you can question these specific things and these are the standards. You know, as the rules goes, its \_\_\_\_\_(inaudible)."

**Chairman Sinde:** "I agree."

**Commissioner Digan:** "I do have another question. I do know its probably...(inaudible), but are we answering whether Mr. Campbell has an interest or are we answering whether you were right in..."

????: "Denying his request"

**Assistant Village Manager Keith Sbiral:** "I think it's the same thing, in a sense."

**Chairman Sinde:** "Yes."

**Assistant Village Manager Keith Sbiral:** "I think you can either say that the Village is correct in denying the request – there is no substantial interest. Or, you can say there is a substantial interest and the Village should move forward with providing the interpretation."

**Commissioner Digan:** "My question is – based on the ...are we basing this on the letter that you were given or on ..."

**Assistant Village Manager Keith Sbiral:** "The letter we were provided by Mr. Campbell and his testimony this evening. Is what our Village Attorney...."

**Commissioner Digan:** "So, he could say now, actually, 'I own property next door...'"

**Assistant Village Manager Keith Sbiral:** "Correct. Yes."

**Commissioner Digan:** "...and then we would change our minds..."

**Commissioner Hletko:** "(background noise)...use a different example, because I think that's going to be...(too many speaking at once).

**Commissioner Hendricks:** "Or, a similar business in town, or..."

**Assistant Village Manager Keith Sbiral:** "That's the point of this hearing."

**Chairman Sinde:** "Any other questions?"

**Steve Campbell:** "I have one question."

**Chairman Sinde:** "Yes."

**Steve Campbell:** "I may have erred in this and, if so, I wish to apologize to staff. I'm really interested in an interpretation of just the in the district. I may have been too specific in looking at this address – and if I ask for an interpretation of just the use in the district..."

And, this is the first time I've ever made – actually, this is the second interpretation request I've made. There was one having to do with a piece of residential property – but, that would make me like staff... I don't know if ...(inaudible)...

**Chairman Sinde:** "Mr. Campbell, all we are here tonight for is to address the letter that was given to you there. If you want to add something else, or if you want to come back later..."

**Steve Campbell:** "It was just a question for staff..."

**Commissioner Hletko:** "So, his testimony is not in addition to -- can't that be used in addition to that letter?"

**Assistant Village Manager Keith Sbiral:** "His testimony tonight was that he had no direct or substantial interest..."

**Chairman Sinde:** "We're not here about whether it is conforming to use or anything like that..."

**Commissioner Hletko:** "That's not what I'm saying. I'm saying that, as a business owner, if you see something different because somebody else is getting ... something that he could, as a business owner in the future, ask how that was done..."

**Chairman Sinde:** "That's not what we are here to do. We are here to look at the denial of 8420 Brookfield Avenue for the cause of direct and substantial interest. If he wants to resubmit and says, "I want..."

**Assistant Village Manager Keith Sbiral:** "That's not really an issue. The question asked was, more or less, he requested the approval of a restaurant use in the C-6 Zoning District, at the address of 8420 Brookfield Avenue."

**Chairman Sinde:** "Any other questions?. OK, I'll suggest what the motion should be and then call for the motion. ' to uphold the written denial of the zoning interpretation on the property located at 8420 Brookfield Avenue, Brookfield, Illinois, to Mr. Campbell.' Staff agree with that? "

### **Motion to Uphold Denial of Zoning Interpretation**

Motion by Commissioner MacDonald, seconded by Commissioner Digan to uphold the written denial of the zoning interpretation on the property located at 8420 Brookfield Avenue, Brookfield, Illinois, to Mr. Campbell. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks and MacDonald. Nays: Commissioners Hletko and Wahlstrom. Absent: Commissioner Ligeikis.

### **Old Business - Approval of Minutes – ZBA April 3, 2008**

Commissioner Hletko, seconded by Commissioner Wahlstrom, to approve the Minutes of the April 3, 2008 Zoning Board of Appeals meeting. Upon roll call, the motion carried as follows: Ayes: Commissioners Hendricks, Hletko, Wahlstrom and Sinde. Abstain: Commissioners Digan and MacDonald. Nays: None. Absent: Commissioner Ligeikis.

### **Adjourn**

Motion by Commissioner Digan seconded by Commissioner Wahlstrom to adjourn the Zoning Board of Appeals meeting of June 5, 2008 at 9:00 p.m. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

\*Note: Time meeting began and ended was not note on motion sheets. Time adjourned estimated by length of audio recording provided – 1 hour 55 minutes.

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**Matthew Sinde, Jr., Chairman  
Zoning Board of Appeals**

**/s/**



# COMMITTEE ITEM MEMO

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**ITEM:** ZBA CASE 08-03 9545 OGDEN AVENUE  
**COMMITTEE DATE:** June 23, 2008  
**PREPARED BY:** Meena Beyers, Village Planner *MB*  
**PURPOSE:** To consider approval of a variance request to reduce the required rear yard setback from 5 feet to 1.87 feet.  
**BUDGET AMOUNT:** N/A

## **BACKGROUND:**

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William Klump, owner of the property located at 9545 Ogden Avenue (The Brookfield Express Car Wash), requests a variance from Section 30-6.02 of the Zoning Ordinance to reduce the required rear yard setback from 5 feet to 1.87 feet for the purposes of constructing an 80-foot addition to the existing car wash facility.

The Zoning Board of Appeals conducted the public hearing on June 5, 2008 and recommended denial of the request to reduce the required setback by a vote of 1-5.

## **ATTACHMENTS:**

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1. Staff Report dated June 5, 2008
2. ZBA Case 08-03 Application Materials
3. Minutes from the June 5, 2008 ZBA Meeting

## **STAFF RECOMMENDATION:**

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Based on the discussion included in the Staff Report dated June 5, 2008, staff recommends denial of the requested variance.

## **REQUESTED COURSE OF ACTION:**

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Ordinances approving the requested variances will be presented during the July 14, 2008 Board of Trustees meeting for review and vote.



# Village of Brookfield

## Zoning Board of Appeals Staff Report

**TO:** Village of Brookfield Zoning Board of Appeals  
**HEARING DATE:** June 5, 2008  
**FROM:** Building and Planning Department  
**PREPARED BY:** Meena Beyers, AICP – Village Planner

### TITLE

**ZBA 08-03 – 9545 W Ogden Avenue;** William Klump, owner of 9545 Ogden Avenue, requests a variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet for the purpose of constructing an addition to the existing structure 80 feet in length.

### GENERAL INFORMATION

**APPLICANT:** William Klump  
8705 Lake Ridge Drive  
Darien, Illinois

**APPLICATION/NOTICE:** The application has been filed in conformance with applicable procedural and public notice requirements.

### PROPERTY INFORMATION

**EXISTING ZONING:** C-1 General Service District  
**EXISTING LAND USE:** Car Wash Facility  
**PROPERTY SIZE:** 26,900 Square Feet  
**PINs:** 18-03-113-001; -002; -003; -004; -005; -006; -007; -008; -009; -010  
**SURROUNDING ZONING AND LAND USES:**  
North: C-1 General Service District  
South: A-1 Single Family Residential District  
East: C-1 General Service District  
West: Village of LaGrange Commercial District

## ANALYSIS

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### SUBMITTALS

This report is based on the following documents, which are on file with the Building and Planning Department:

1. Application for Public Hearing and Required Fees
2. Plat of survey and Location Map
3. Ordinance No. 1996-09 approving a setback variation for 9545 Ogden Avenue
4. Certification of Legal Notice Published March 7, 2008 in the Landmark
5. Letters to Surrounding Property Owners indicating Public Hearing (provided by applicant)
6. Drawing of proposed addition and supporting illustrations (provided by applicant)

### DESCRIPTION

The applicant requests a variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet in order to construct an 80-foot addition to the southernmost car wash bay.

### BACKGROUND

The subject property is a 26,900 square foot property zoned C-3 (General Service District) and currently improved with a car wash facility, which is a permitted use in the C-3 District. The subject property was granted a 20-foot variance in 1996 to construct the first addition to the original car wash structure within the required front yard setback (Ordinance 96-9). It should be noted that the property was also granted a variance from the sign ordinance in 1995 to have up to 4 free-standing signs on the property (Ordinance 95-5). That variance has since expired.

Ordinance 96-9 granted a variance from Section 6-4 of the Village Code reducing the setback from the center of Ogden Avenue from fifty feet to thirty feet, allowing for an addition at the front property line of Ogden Avenue. No prior ordinance was found granting relief from the rear yard setback requirement, allowing the existing structure to have been constructed 1.87 feet from the rear property line. According to the petitioner, the building may be been constructed prior to 1964, in which case the original building pre-dated the zoning ordinance.

At this time, the applicant requests a variance from the rear yard setback requirement in order to extend the existing car wash bay (which currently encroaches into the required rear yard setback) by a length of 80 feet in order to install an automatic car wash bay. The proposed addition would be in line with the existing structure located 1.87 feet from the rear property line.

### ZONING

The property is currently zoned C-1 (General Service District). The property is surrounded by C-1 zoning to the north and east, A-1 (Single Family) zoning to the south, and Village of LaGrange commercial zoning to the west.

### DISCUSSION

During pre-application meetings with the applicant, staff encouraged the petitioner to apply for a planned development rather than a zoning variance. Through a planned development, the Village would have the ability, through an ordinance and agreement, to have a binding site plan, architectural details, landscaping, signage, and lighting for the proposed development. Additionally, Staff would be able to ensure that appropriate curbs and drainage were installed to improve the overall appearance and functionality of the site. Further, the petitioner is experienced in the planned development process, through a car wash developed in another suburb that the petitioner provided

complete site planning for, including landscaping and architectural details. However, the petitioner preferred to apply for the zoning variance. As such, it should be noted that while the applicant has provided illustrations of architectural details, landscaping, and lighting, none of these can be attached as conditions to the zoning variance. Zoning variances are administrative exceptions to the adopted zoning ordinance. Without an appropriate "contractual" procedure such as a special use or planned development, applying conditions to zoning variances or rezoning requests is unconstitutional, as it negotiates police power authority.

Staff has reviewed the variance application and finds that it does not meet standards 1, 2, 3, and 7 of the "Standards for Granting Zoning Variances" outlined below. As variances granted in the past do not establish a basis for future variations, staff finds that the demonstrated hardship is self-imposed based on the applicant's desire to build an automatic car wash bay without redesigning the existing building layout. The applicant may explore eliminating the rear bay in order to accommodate the proposed addition and meet the setback requirements of the lot.

It should be noted that the extension of this use does not seem to be compatible with the long term viability of the Ogden Avenue commercial corridor, as it further extends a non-conforming building, eliminating opportunities to effectively allow for redevelopment of the vacant property to the south.

#### **STANDARDS FOR GRANTING ZONING VARIANCES**

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*The property is a large tract of land that may be redeveloped in a manner in which to meet the setback requirements for the zoning district. Although many existing properties along Ogden Avenue are non-conforming, they will be required to meet the current code at the time of any renovation that will increase building square footage. The property itself does not pose difficulties preventing the full use of the property. Staff does not believe that this standard is met.*

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*As one variance does not set a precedent for another, any previously granted variance does not establish a hardship as the basis for a variation to allow for another addition to the property encroaching upon the required setback. In this case, the hardship is self-imposed as the petitioner requests to build an addition, and not replace or remedy an existing condition. Staff does not believe that this standard is met.*

3. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*The applicant may explore eliminating the rear bay and building the addition within the buildable area of the lot. This would still allow for a reasonable use of the property. Staff does not believe that this standard is met.*

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property. Staff believes that this standard is met.*

5. That the variation sought will not unreasonably diminish the values of adjacent property;

*Staff does not have sufficient information to respond to the impact of the proposed improvements on adjacent property values.*

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*As the proposed improvements include adequate stacking spaces at the new bay, it is not anticipated that the variation sought will increase congestion in the public streets or endanger public safety. Staff believes that this standard is met.*

7. That the variation is in harmony with the general purpose and intent of this ordinance.

*One of the purposes of the Zoning Ordinance is to "prevent such additions to, alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed [hereunder]" (Section 30-2). As such, the variation is not in harmony with the general purpose and intent of the ordinance. Staff does not believe this standard is met.*

## RECOMMENDATIONS

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Based on the analysis above, Staff finds that the proposed variances do not meet standards 1, 2, 3, and 7, and therefore recommends against the approval of the variation. The Zoning Board of Appeals should discuss the requested variances and determine whether the request should be recommended for approval or denial when presented to the Village Board of Trustees.

The Zoning Board of Appeals must use the standards for review found above and in Section 30-11 of the Village Zoning Ordinance. The Zoning Board of Appeals may adopt staff's findings or propose new findings when making a recommendation to the Board of Trustees. If recommending approval, the Zoning Board should at a minimum adopt new findings for compliance with standards 1, 2, 3, and 7.

Should the Zoning Board of Appeals recommend approval of the requested variance, the Board should recommend including a variance for the existing structure in order to bring the original structure into compliance.

Staff Report Approved By:



Keith R. Sbiral, AICP  
Assistant Village Manager

**VILLAGE OF BROOKFIELD**

**ZONING BOARD OF APPEALS**

**ZONING VARIANCE  
APPLICATION AND  
ATTACHMENTS**

**BROOKFIELD EXPRESS  
CAR WASH  
9545 W. OGDEN AVENUE  
BROOKFIELD, ILLINOIS**

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**ZONING VARIANCE  
APPLICATION**



Village of Brookfield  
 Zoning Board of Appeals Application Packet

# Zoning Variance Application

Applicant Information:

1. Name and Phone Number of contact person for application process William J. Klump
2. Petitioner's Name William J. Klump
3. Petitioner's Address 8705 Lake Ridge Dr., Darien, IL 60561
4. Phone Number 630-878-9845
5. Email Address brookcarwash@juno.com
6. Fax Number 630-985-9691
7. Owner of Record Name Wayne Hummer Trust Company, as Successor Trustee to
8. Owner of Record Address ~~Hinsbrook Bank & Trust u/t/a #00-049 dated 11-30-2002~~  
10258 S. Western, Chicago, IL 60643-1948

Property Information:

9. Common Street Address 9545 W. Ogden, Brookfield, IL
10. Legal Description See attached Legal Description
11. Permanent Tax Index Number 18-03-113-001; 002; 003; 004; 005; 006; 007; 008; 009; and
12. When did the owner acquire the property? September 20, 2001 010.
13. Is the petitioner in the process of purchasing the property? Yes  No   
 If so, is the purchase contingent on approval of variation? Yes  No
14. Is your property use presently (check one): Conforming  Non-conforming
15. If the property is a non-conforming use, please explain: N/A

16. Surrounding Zoning and Land Use:

	Zoning District	Land Use
North	C-1	
South	A-1 Single Family	
East	C-1 General	
West	LaGrange Commercial Dist.	Vacant

**Zoning Variance Application, continued**

17. What is the Zoning Classification of the subject property? C-1 General Service District

18. List the variance(s) you are requesting:

(1) Section 30-6.02 Variance requested to reduce rear yard from five feet to 1.87 feet

(2) Section 30-\_\_\_\_\_ Variance requested to \_\_\_\_\_

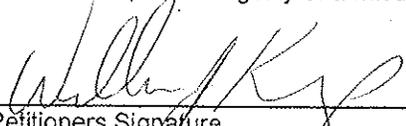
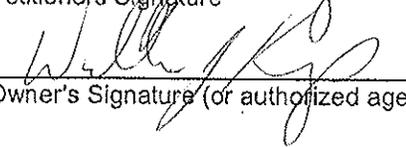
(3) Section 30-\_\_\_\_\_ Variance requested to \_\_\_\_\_

19. What is the proposed use of or improvement to the property? Expansion and enclosure of car wash facility.

20. Is the building for (Check one): Personal Use  Rental \_\_\_\_\_ Resale \_\_\_\_\_

Please provide responses for the standards for granting zoning variances (attached).

Any person who shall knowingly make or cause to be made, or conspire, combine, aid or assist in, agree to, arrange for, or in any way procure the making of a false or fraudulent application, affidavit, certificate, or statement, shall be guilty of a misdemeanor as provided by statute by the State of Illinois.

 _____ Petitioners Signature	<u>4-30-08</u> Date
 _____ Owner's Signature (or authorized agent)	<u>4-30-08</u> Date

## STANDARDS FOR GRANTING ZONING VARIANCES

### Village Code Section 30-1 1.03 C

Please provide responses to the best of your ability

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

The existing car wash extends uniformly to within 1.87 feet of the south property line; Petitioner's predecessor owner obtained a variance for this purpose pursuant to which your Petitioner continues to maintain the facility. Petitioner needs to upgrade the current facility by enclosing all car wash operations which will substantially reduce noise, re-direct traffic flow away from a residential street, and improve the overall visual esthetics of the property. Petitioner's requested variance, by allowing the rear yard to be reduced to 1.87 feet of the south lot line, will result in the seamless, attractive and uniform appearance of the facility's additional 80 linear feet.

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

The existing car wash facility is already built to within 1.87 feet of the south lot line. The Village already granted an identical variance as that sought by your Petitioner, that is, to within 1.87 feet of the south lot line, to the previous owner of the car wash. This condition was not caused by the Petitioner. Rather, it was in existence before he ever purchased the property. He cannot enclose, expand, modify, modernize or otherwise improve the existing facility unless the variance is granted, because it is not feasible to do so unless he can extend the existing facility uniformly along the south 1.87 feet of the lot.

3. That there is no other means other than the requested variance by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

The intended expansion, enclosure, internalization, modernization and improvement of the existing car wash operation cannot physically be accomplished unless the intended new expansion is permitted to extend to within 1.87 feet of the south lot line. There is not sufficient space available within the existing usable square footage of the lot to permit the proposed improvements. Allowing the variance will enable the property to be developed to its full potential.

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

The intended expansion will add 80 linear feet to the car wash facility along the east-west axis to within 1.87 feet of the south property line. It will have a maximum height of 22 feet at the intended tower at the far east end of the property. This will not impair light or air to the adjacent property. Please see the attached photometric site plan for further answer.

5. That the variance sought will not unreasonably diminish the values of adjacent property;

Petitioner believes the variance will actually increase adjacent property values. If the variance is granted, all operations currently performed manually, out in the open, will be fully enclosed and hidden from view within a mason constructed building. Noise levels will be significantly reduced and the entire operation will be much more esthetically pleasing.

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

The present operation permits vehicular traffic from Blanchan, a residential street. The proposed expansion will actually result in the elimination of all traffic away from Blanchan.

7. That the variation is in harmony with the general purpose and intent of this ordinance.

The expansion to within 1.87 feet of the south lot line is entirely consistent with the existing location of most of the neighboring commercial properties immediately east and west on Ogden Avenue and will provide for a more symmetrical alignment of Petitioner's property with neighboring properties.

**PRE-APPLICATION MEETING  
NOTES**



Village of Brookfield  
Zoning Board of Appeals Application Packet

Pre-application Meeting Notes

Feb ? 2008

Date of Visit: Friday April 11, 2008, Tues April 23, 2008  
 Property Address: 9545 W. Ogden  
 Assisting Staff: Meena + Keith

Zoning Issue: Rear Yard setback  
 Code Section(s): 30-6.02F  
 Variance(s):

reduce 5' rear yard setback to 0' to allow for expansion of existing car wash facility

Other Notes: Staff: Keith R. SBIRAL, AICP  
ASST. Village manager  
meena D. Beyers, AICP  
Village planner

Feb meeting:

- met with staff showing preliminary site plan, no elevations. After the meeting, meena called to advise 5' setback needed from rear yard, also asked for copy of village correspondence from 1996 construction, re ~~curbing~~ curbing or stacking.
  - ~~Feb~~ <sup>April</sup> 11<sup>th</sup> meeting - staff outlined choice of Planned Development or variance, Pros + cons. Satisfied staff in regards to curbing or stacking from previous construction.
  - submitted revised site plan, submitted elevations.
  - April 23<sup>rd</sup> meeting - submitted final site plan + elevations, indicated landscape areas, defined desire to pursue variance rear yard setback.
- ALL 3 meetings both Keith + meena attended.

**CERTIFIED AND CURRENT  
PLAT OF SURVEY**



# **PROOF OF OWNERSHIP**



 **PRINT**  
Click icon to send page to printer.



**Office of the Cook County Treasurer - Maria Pappas**

Cook County Property Tax & Payment Information

Printed copies of this information may not be used as a tax bill.

Payments must be submitted with original tax bill.

Property Index Number (PIN): **18-03-113-001-0000**

2007 Tax Year Information - Payable in 2008				
Tax Year: 2007    Tax Type: Current Tax    Volume: 074    PCL: 5-90				
<b>Property Location</b>				
9547 OGDEN AVE BROOKFIELD, IL 60513-1851				
<b>Mailing Information</b>				
WAYNE HUMMER TR 00 049 10258 S WESTERN AVE CHICAGO, IL 60643-1948				
<b>Exemption Information</b>				
Exemptions do not become effective until 2nd installment.				
<b>Tax Payment Information</b>				
Installment	Tax Amount Billed	Tax Due Date	Last Payment Received	Date Received
1st	\$1,163.10	03/04/2008	\$1,163.10	03/04/08
Balance Due	<b>\$0.00</b>			
The balance due, including any penalty, is as of: 4/23/2008 Payments processed are posted through: 4/22/2008				

2006 Tax Year Information - Payable in 2007				
Tax Year: 2006    Tax Type: Current Tax    Volume: 074    PCL: 5-90				
<b>Property Location</b>				
9547 OGDEN AVE BROOKFIELD, IL 60513-1851				
<b>Mailing Information</b>				
WAYNE HUMMER TR 00 049 10258 S WESTERN AVE				

CHICAGO, IL 60643-1948

**Exemption Information**

Exemptions do not become effective until 2nd installment.

Homeowner Exemption Received: NO

Senior Citizen Exemption Received: NO

Senior Freeze Exemption Received: NO

**Tax Payment Information**

Installment	Tax Amount Billed	Tax Due Date	Last Payment Received	Date Received
1st	\$1,128.15	03/01/2007	\$1,128.15	02/26/07
2nd	\$1,198.05	12/03/2007	\$1,198.05	12/03/07
Balance Due	<b>\$0.00</b>			

The balance due, including any penalty, is as of: 4/23/2008  
 Payments processed are posted through: 4/22/2008

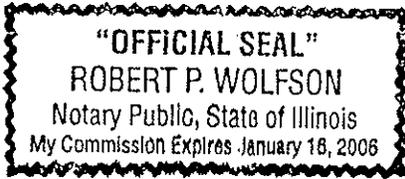
**Printed copies of this information may not be used as a tax bill.  
 Payments must be submitted with original tax bill.**



STATE OF ILLINOIS )  
 )SS  
COUNTY OF DUPAGE )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO  
HEREBY CERTIFY that WILLIAM J. KLUMP and MARIA KLUMP, as Trustees  
personally known to me to be the same person(s) whose name(s) subscribed to the foregoing  
instrument appeared before me this day in person, and acknowledged that they signed, sealed and  
delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 14th day of May, 2003.



  
\_\_\_\_\_  
Notary Public

RECEIVED a duplicate of the foregoing assignment and acceptance at Willowbrook, Illinois this  
14 day of May, 2003

HINSBROOK BANK AND TRUST

  
\_\_\_\_\_  
Trust Officer

**Assignment  
of Beneficial Interest  
in Hinsbrook Bank and Trust  
Trust Number 00-049, dated 11/30/2000**

EXHIBIT A

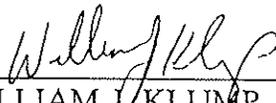
DESCRIPTION OF ASSIGNEES  
AND RESPECTIVE INTERESTS ASSIGNED

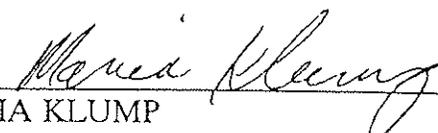
Fifty Percent (50%) interest to:

WILLIAM J. KLUMP and/or MARIA KLUMP, Trustees,  
or their successors in trust, under the WILLIAM J.  
KLUMP LIVING TRUST, dated May 14, 2003, and any  
amendments thereto.

Fifty Percent (50%) interest to:

MARIA KLUMP and/or WILLIAM J. KLUMP, Trustees,  
or their successors in trust, under the MARIA KLUMP  
LIVING TRUST, dated May 14, 2003, and any  
amendments thereto.

  
\_\_\_\_\_  
WILLIAM J. KLUMP

  
\_\_\_\_\_  
MARIA KLUMP

# LOCATION MAP



LOCATION MAP  
 NO SCALE



**BROOKFIELD EXPRESS CAR WASH**  
 9545 OGDEN AVENUE  
 BROOKFIELD, ILLINOIS 60513

**arsa** ASSOCIATES  
 ALAN R. SCHNEIDER ARCHITECTS P.C.  
 1411 WEST PETERSON AVENUE, SUITE 208  
 PLAZA BLDG., ILLINOIS 60088  
 TEL: 847-698-4258 FAX: 847-698-8889

# **PROJECT SUMMARY**

## **Brookfield Express Car Wash Expansion Project Summary**

Village of Brookfield  
Zoning Board of Appeals

RE: 9545 W. Ogden Avenue

To the Zoning Board of Appeals:

This Project Summary is submitted in support of the Zoning Variance Application filed on behalf of William J. Klump, owner of Brookfield Express Car Wash, 9545 W. Ogden Avenue, Brookfield, Illinois, in support of its Application seeking a variance of the rear yard of the property from 5 feet to 1.87 feet.

Brookfield Express Car Wash, as presently constructed, has been operated by your Petitioner for 13 years. It was also constructed and operated in the same manner for approximately 25 years prior to the Petitioner's purchase of the property from King Realty. The property has already been granted the exact same zoning variance reducing the rear yard from 5 feet to 1.87 feet where the existing building is now located. This was given to the prior owner of the property who sold it to Petitioner.

In order to enhance the appearance, streamline and make more efficient the existing operation, reduce noise, and completely enclose all aspects of the car wash process, an additional 80 foot of linear feet needs to be added to modernize and upgrade the facility. The purpose of the additional 80 feet will be to completely enclose and automate all functions which are currently being performed manually outdoors. Fully modernized state of the art car wash equipment will be installed, which will provide greater, more efficient cleaning. The proposed expansion will completely eliminate all outdoor manual pre-wash vehicle preparation and towel drying which are currently performed by personnel standing outside of the car wash tunnel.

The proposed expansion will result in all operations being performed within an enclosed, attractive, decorative masonry building. By enclosing operations the current noise levels will be reduced. Please see April 21, 2008 letter from Car Wash Services, Inc. further explaining this point. The proposed addition will also incorporate more green space landscaping to make the resulting property more attractive.

The proposed improvements cannot be implemented without the requested variance. As the attached overhead sketch of the property shows, the existing L shape car wash facility already extends to within 1.87 feet of the south lot line by virtue of a variance which was granted to the prior owner of the property. This is the exact same variance sought by your Petitioner. The proposed 80 foot expansion, in order to be symmetrical and in order to allow cars to pass through the tunnel, must extend to within 1.87 feet of the south property lot line over the existing 5 foot existing rear yard set back. As the attached photographs show, most of the properties immediately east of your Petitioner's property already extend all the way to the south lot line. In addition to the other benefits described, granting the variance will create a perfectly symmetrical sight line when looking east or west from the south Ogden alley.



carwash equipment sales & service  
1338 enterprise drive • romeoville, il 60446  
630-771-0735                      fax: 630-771-1852  
www.carwashservices.com

April 21, 2008

Village of Brookfield

Re: Brookfield Express Car Wash

To whom it may concern:

In regards to concerns about noise or decibel readings at the entrance end of the proposed expansion of Brookfield Express Car Wash located at 9545 Ogden Avenue; I would like to point out the following information:

The type of car wash equipment that produces the most noise is the 15hp dryer motors located inside the exit end of the Tunnel. Since the existing car wash uses these same 15hp motor dryers, there should be no increase in noise coming from the car wash tunnel.

In addition, the owner is proposing a 80' addition to the entrance end of the existing tunnel. This addition will serve as an additional barrier to the noise from the exit end of the tunnel, and should help to reduce the noise at the entrance end.

Furthermore; there is no other equipment, existing or proposed, that could increase the noise levels at the entrance end of the site.

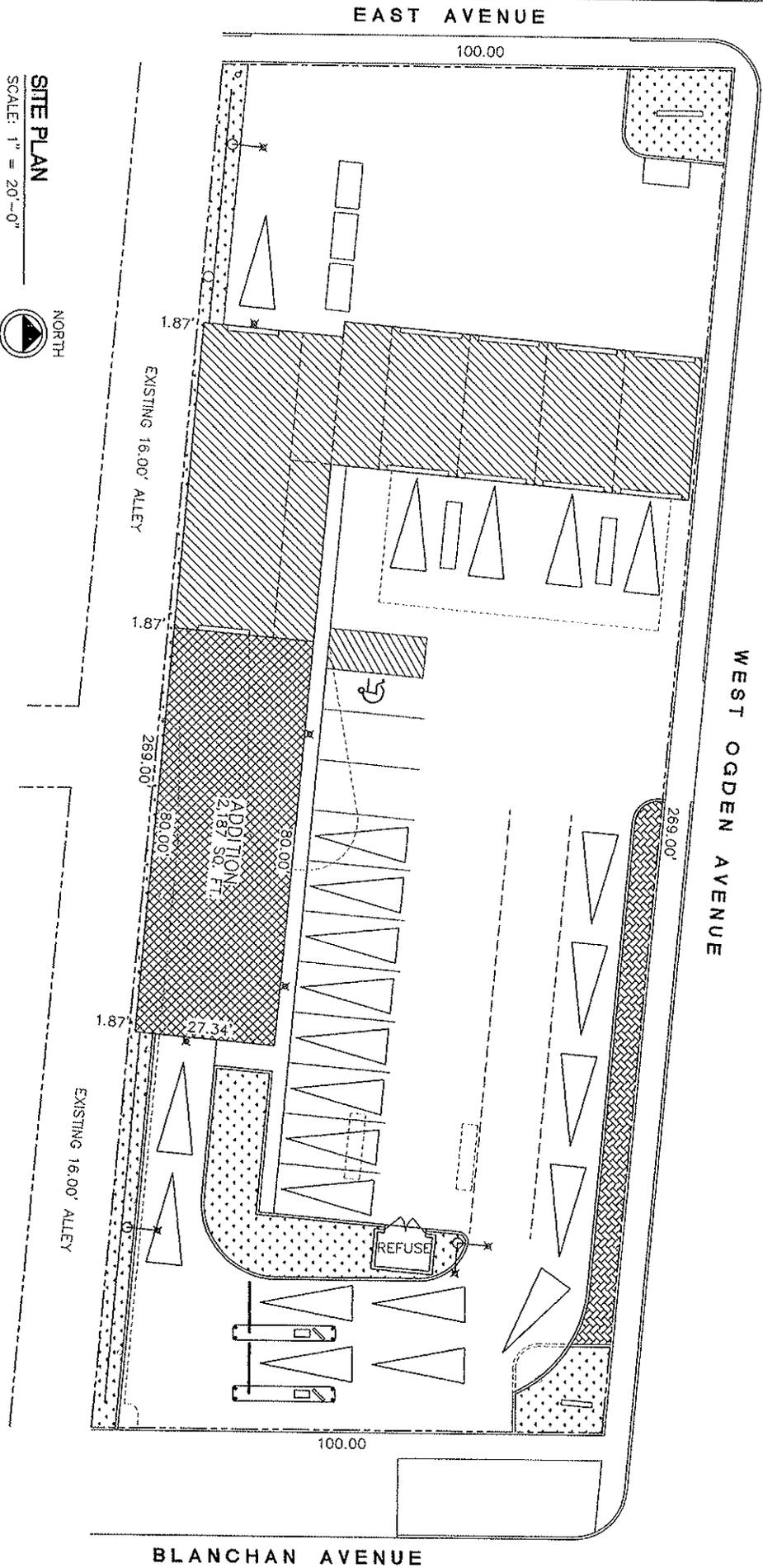
Please feel free to contact me if you wish to discuss this matter further.

With best regards:

A handwritten signature in dark ink, appearing to read "Dave Dalesandro". The signature is fluid and cursive, written over a light-colored background.

Dave Dalesandro  
President - Carwash Services, Inc.

*"Total Commitment To The Carwash Industry"*



**SITE PLAN**  
 SCALE: 1" = 20'-0"



**BROOKFIELD EXPRESS CAR WASH**  
 9545 OGDEN AVENUE  
 BROOKFIELD, ILLINOIS 60513

**arsa** ASSOCIATES  
 ALAN R. SCHNEIDER ARCHITECTS P.C.  
 1411 WEST PETERSON AVENUE, SUITE 203  
 PARK RIDGE, ILLINOIS 60068  
 TEL: 847-639-4489 FAX: 847-639-9889

# **SUPPORTING ILLUSTRATIONS**

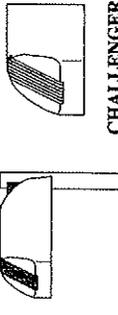


South Ogden ALLEY, Blanchaw looking East



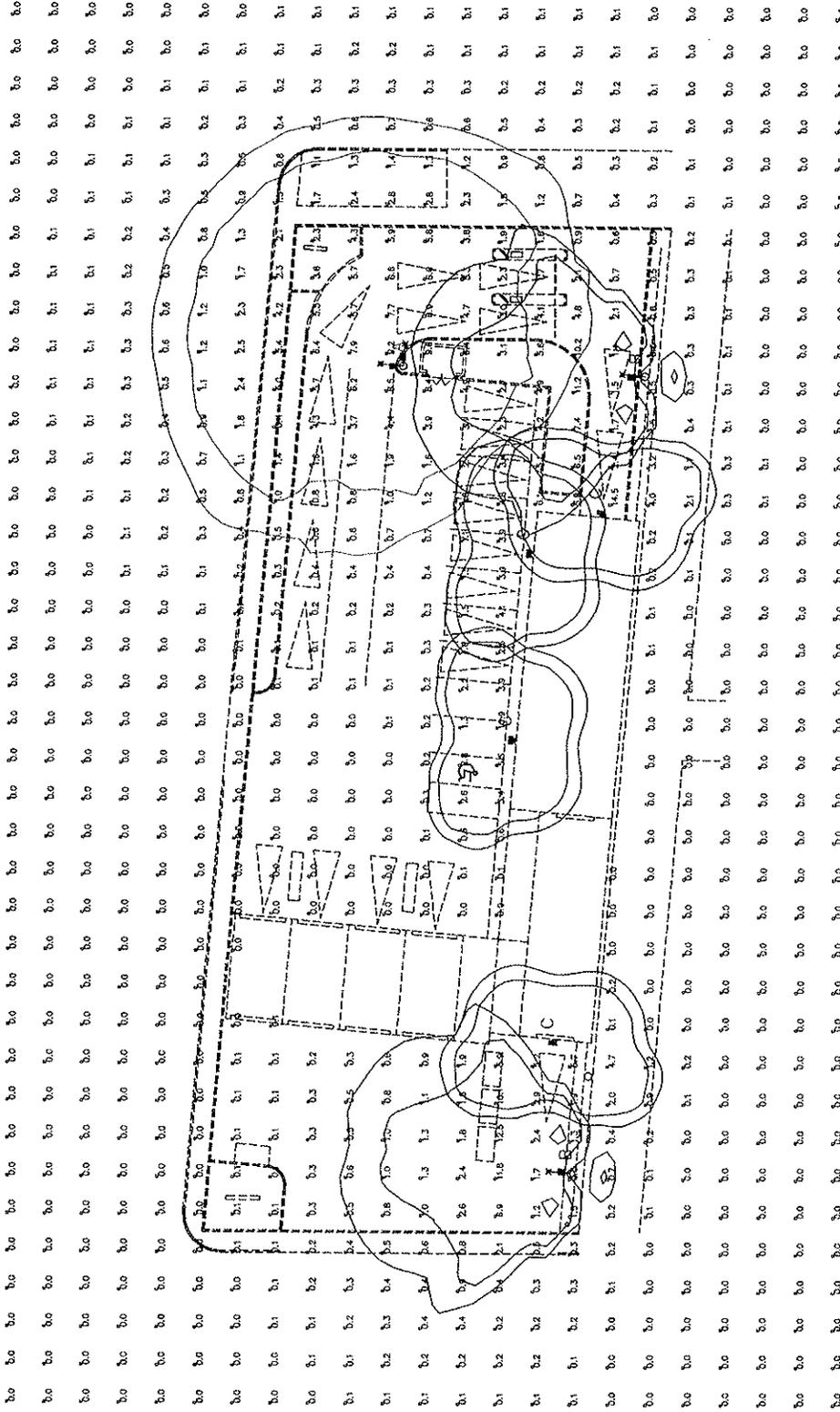
South Ogden ALLEY, De 70 looking west

Luminaire Schedule Maintained Footcandle levels at grade.							
Symbol	Qty	Label	Arrangement	Lumens	LLF	Description	Total Watts
B	2	SINGLE		32000	0.720	CH2HM-FT-400-MHR-F-HSS-SINGLE-20' POLE 2' BASE	458
C	4	SINGLE		12800	0.720	CHWS-3-175-MH-F-WALL MOUNT @ 10'	210
A	1	2 @ 90 DEGREES		32000	0.720	CH2HM-FT-400-MHR-F-SINGLE-20' POLE 2' BASE	916



CHALLENGER WALL SCONCE

CHALLENGER



**PHOTOMETRIC SITE PLAN**  
SCALE: 1" = 30'-0"



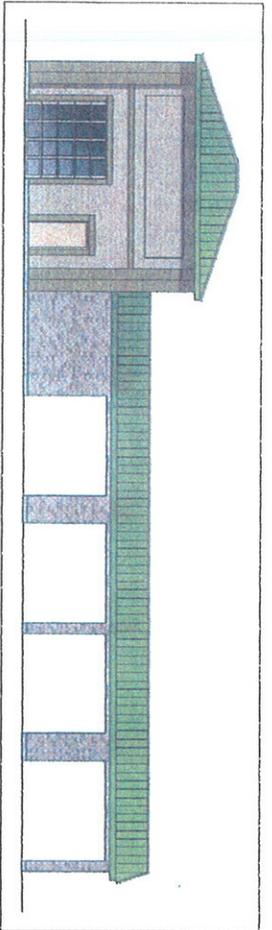
**BROOKFIELD EXPRESS CAR WASH**  
9545 OGDEN AVENUE  
BROOKFIELD, ILLINOIS 60513



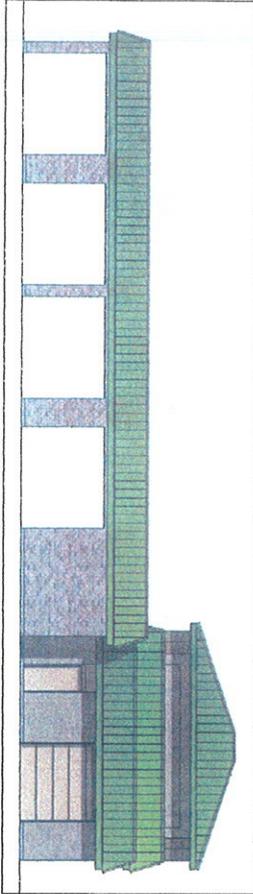
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TEL: 847-898-4488 FAX: 847-698-9889

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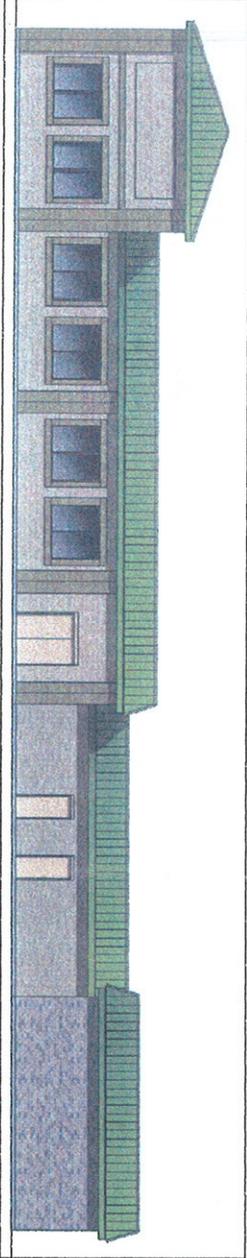




**EAST ELEVATION**  
NO SCALE



**WEST ELEVATION**  
NO SCALE



**NORTH ELEVATION**  
NO SCALE

**BROOKFIELD EXPRESS CAR WASH**  
9545 OGDEN AVENUE  
BROOKFIELD, ILLINOIS 60513

**arsa** ASSOCIATES  
ALAN R. SCHNEIDER ARCHITECTS P.C.  
1411 WEST PETERSON AVENUE, SUITE 208  
PARK RIDGE, ILLINOIS 60068  
TEL. 847-698-4438 FAX. 847-698-9889

**AFFIDAVIT OF PUBLIC NOTICE  
TO SURROUNDING  
PROPERTY OWNERS**

**AFFIDAVIT OF PUBLIC NOTICE  
TO SURROUNDING PROPERTY OWNERS**

The undersigned petitioner, on oath states that the undersigned notified, in writing, the owners of all property within 250 feet, excluding rights of way, in each direction of the property to which his petition relates, by personal delivery or by mail; that a public hearing would be held to consider such petition; that such notice was given no less than 15 days prior to such hearing; and that the owners so notified, are those shown on the last available tax records of the county. (Please attach a list of notified property owners).

William J. Klump as Beneficiary of Trust #00-049 dated 11-30-02.  
(Print Name)

\_\_\_\_\_  
(Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS

\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

Legal Notice to Surrounding Property Owners

\_\_\_\_\_, 2008

Dear Neighboring Property Owner:

The Village of Brookfield requires that applicants for a zoning variance notify owners of the property within 250 feet of the subject property of the nature of the proposal, and the date, time, and place of the public hearing.

I am requesting a variance from Section 30-6.02 of the Village of Brookfield Zoning Ordinance governing rear yard requirements as related to the proposed addition to and enclosure of the existing car wash structure known as Brookfield Express Car Wash.

The public hearing before the Zoning Board of Appeals will take place on \_\_\_\_\_, 2008 at 7:00 P.M. in the Brookfield Village Hall, located at 8820 Brookfield Avenue. The hearing is open to the public and comments from the public on the proposal are welcome.

The premises in question are legally described as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 in Steinback's addition to West Grossdale, being a Subdivision of the North 1096.95 feet of the West 333.4 feet of that part of the west half of the northwest quarter of Section 3, Township 38 North, Range 12 East of the Third Principal Meridian lying South of Ogden Avenue, in Cook County, Illinois, commonly known as 9545 Ogden.

Individuals with disabilities and who require certain accommodations to participate at this hearing are required to contact the ADA Coordinator at 708-485-7344, Extension 1445 to allow the Village to make reasonable accommodations.

Interested parties may address the Zoning Board in person or present written statements at the hearing or prior thereto. Further information may be obtained by contacting the Code Enforcement office of the Village of Brookfield weekdays between the hours of 9:00 A.M. and 5:00 P.M.

If you have any questions or concerns regarding this proposal, please contact me at 630-878-9845 prior to the public hearing.

Thank you for your time and consideration.

Respectfully,

William J. Klump

**LIST OF NOTIFIED PROPERTY OWNERS  
WITHIN 250 FEET OF THE PROPERTY**

Pin Number	Property Address	Mailing Address
18-03-113-069-0000	4111 EBERLY AVE BROOKFIELD, IL 60513-1847	ROBERT GABRIEL 5787 S ARCHER CHICAGO, IL 60638-1653
18-03-113-070-0000	4113 EBERLY AVE BROOKFIELD, IL 60513-1847	ROBERT GABRIEL 5787 S ARCHER CHICAGO, IL 60638-1653
18-03-113-071-0000	4129 EBERLY AVE BROOKFIELD, IL 60513-1847	KEVIN & KARI CANTWELL 4129 EBERLY BROOKFIELD, IL 60513-1847
18-03-113-072-0000	4131 EBERLY AVE BROOKFIELD, IL 60513-1847	ANTONIO HERNANDEZ 4131 EBERLY BROOKFIELD, IL 60513-1847
18-03-113-073-0000	4133 EBERLY AVE BROOKFIELD, IL 60513-1847	GREGORY A LIVORSI 4133 EBERLY AV BROOKFIELD, IL 60513-1847
18-03-113-074-0000	4135 EBERLY AVE BROOKFIELD, IL 60513-1847	FRANK G SPATAHORA 4135 EBERLY AV BROOKFIELD, IL 60513-1847
18-03-113-040-0000	4110 BLANCHAN AVE BROOKFIELD, IL 60513-1802	ROBERT HART 4110 BLANCHAN BROOKFIELD, IL 60513-1802
18-03-113-041-0000	4110 BLANCHAN AVE BROOKFIELD, IL 60513-1802	ROBERT HART 4110 BLANCHAN BROOKFIELD, IL 60513-1802
18-03-113-042-0000	4116 BLANCHAN AVE BROOKFIELD, IL 60513-1802	HELEN CHUNG 4116 BLANCHAN BROOKFIELD, IL 60513-1802
18-03-113-043-0000	4120 BLANCHAN AVE BROOKFIELD, IL 60513-1802	A JONAS & E CWIAN 4120 BLANCHAN RD BROOKFIELD, IL 60513-1802
18-03-113-044-0000	4124 BLANCHAN AVE BROOKFIELD, IL 60513-1802	LETTY REDIS 4124 BLANCHAN BROOKFIELD, IL 60513-1802
18-03-113-045-0000	4124 BLANCHAN AVE BROOKFIELD, IL 60513-1802	LETTY REDIS 4124 BLANCHAN AV BROOKFIELD, IL 60513-1802
18-03-113-046-0000	4126 BLANCHAN AVE BROOKFIELD, IL 60513-1802	KASSEM SAAD 4126 BLANCHAN AV BROOKFIELD, IL 60513-1802
18-03-113-047-0000	4130 BLANCHAN AVE BROOKFIELD, IL 60513-1802	PILARCZYK DANIEL 4130 BLANCHAN AV BROOKFIELD, IL 60513-1802
18-03-101-031-0000	9540 OGDEN AVE BROOKFIELD, IL 60513-1852	AGENCY FACILITIES 11 155 E ROOSEVELT RD ELMHURST, IL 00000-0000
18-03-101-001-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836

18-03-101-002-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836
18-03-101-003-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836
18-03-101-004-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836
18-03-101-005-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836
18-03-101-006-0000	4015 EBERLY AVE BROOKFIELD, IL 60513-1836	DOUGLAS FIALA 4015 EBERLY AV BROOKFIELD, IL 60513-1836
18-03-101-013-0000	4016 BLANCHAN AVE BROOKFIELD, IL 60513-1827	CHARLES E NICOLAI 4016 S BLANCHAN BROOKFIELD, IL 60513-1827
18-03-101-014-0000	4016 BLANCHAN AVE BROOKFIELD, IL 60513-1827	CHARLES E NICOLAI 4016 S BLANCHAN BROOKFIELD, IL 60513-1827
18-03-101-015-0000	4018 BLANCHAN AVE BROOKFIELD, IL 60513-1827	ROBERT DRTINA 4018 BLANCHAN AV BROOKFIELD, IL 60513-1827
18-03-102-011-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BRIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-012-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-018-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-019-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-020-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-021-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-022-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-029-0000	9500 OGDEN AVE BROOKFIELD, IL 60513-1860	HENRY & LAURA GIURINI 2524 NOTTINGHAM LN NAPERVILLE, IL 60565-5353

18-03-102-025-0000	9500 OGDEN AVE BROOKFIELD, IL 60513-1860	HENRY & LAURA GIURINI 2524 NOTTINGHAM LN NAPERVILLE, IL 60565-5353
18-03-102-032-0000	4011 BLANCHAN AVE BROOKFIELD, IL 60513-1857	SKS 5737 KENSINGTON COUNTRYSIDE, IL 60525-3524
18-03-102-033-0000	9526 OGDEN AVE BROOKFIELD, IL 60513-1842	RUSSELL R BRIXIE 9526 OGDEN AV BROOKFIELD, IL 60513-1842
18-03-102-028-0000	9508 OGDEN AVE BROOKFIELD, IL 60513-1859	C SQUARED HOLDINGS 9508-10 W OGDEN AVE BROOKFIELD, IL 60513-1859
18-03-102-026-0000	9500 OGDEN AVE BROOKFIELD, IL 60513-1860	HENRLY & LAURA GIURINI 2524 NOTTINGHAM LN NAPERVILLE, IL 60565-5353
18-03-114-073-0000	4116 DUBOIS AVE BROOKFIELD, IL 60513-1810	RONALD J CADA 4116 DUBOIS BROOKFIELD, IL 60513-1810
18-03-114-069-0000	4118 DUBOIS AVE BROOKFIELD, IL 60513-1810	LAGRANGE BK TR 2907 4118 DU BOIS BLVD BROOKFIELD, IL 60513-1810
18-03-114-010-0000	4113 BLANCHAN AVE BROOKFIELD, IL 60513-1801	ALS RADIATOR SHOP 9521 W OGDEN AVE BROOKFIELD, IL 60513-1841
18-03-114-011-0000	4113 BLANCHAN AVE BROOKFIELD, IL 60513-1801	ALS RADIATOR SHOP 9521 W OGDEN AVE BROOKFIELD, IL 60513-1841
18-03-114-012-0000	4115 BLANCHAN AVE BROOKFIELD, IL 60513-1801	JUANITA VILLASENOR 4115 BLANCHAN BROOKFIELD, IL 60513-1801
18-03-114-013-0000	4115 BLANCHAN AVE BROOKFIELD, IL 60513-1801	JUANITA VILLASENOR 4115 BLANCHAN BROOKFIELD, IL 60513-1801
18-03-114-014-0000	4119 BLANCHAN AVE BROOKFIELD, IL 60513-1801	ADRIANA AGUIRRE 4119 BLANCHAN BROOKFIELD, IL 60513-1801
18-03-114-015-0000	4119 BLANCHAN AVE BROOKFIELD, IL 60513-1801	ADRIANA AGUIRRE 4119 BLANCHAN BROOKFIELD, IL 60513-1801
18-03-114-017-0000	4121 BLANCHAN AVE BROOKFIELD, IL 60513-1801	KEITH KRAWCHUK 4121 BLANCHAN AVE BROOKFIELD, IL 60513-1801
18-03-114-018-0000	4127 BLANCHAN AVE BROOKFIELD, IL 60513-1801	DAVID MAKAVESKIS 4127 BLANCHAN AV BROOKFIELD, IL 60513-1801
18-03-114-072-0000	9515 OGDEN AVE BROOKFIELD, IL 60513-1841	RICHARD C BARTULIS 4S715 KARNS RD NAPERVILLE, IL 60563-1506

18-03-114-001-0000	9521 OGDEN AVE BROOKFIELD, IL 60513-1841	ALS RADIATOR SHOP 9521 W OGDEN AVE BROOKFIELD, IL 60513-1841
18-03-114-002-0000	9521 OGDEN AVE BROOKFIELD, IL 60513-1841	ALS RADIATOR SHOP 9521 W OGDEN AVE BROOKFIELD, IL 60513-1841
18-03-114-068-0000	9517 OGDEN AVE BROOKFIELD, IL 60513-1841	DENNIS GORMAN 717 N LAGRANGE RD LAGRANGE PK, IL 60526-1508
18-03-114-072-0000	9515 OGDEN AVE BROOKFIELD, IL 60513-1841	RICHARD C BARTULIS 4S715 KARNS RD NAPERVILLE, IL 60563-1506
18-03-114-067-0000	9521 OGDEN AVE BROOKFIELD, IL 60513-1841	AL'S RADIATOR SHOP 9521 W OGDEN AVE BROOKFIELD, IL 60513-1841
18-03-114-006-0000	9509 OGDEN AVE BROOKFIELD, IL 60513-1841	KEITH & PAUL WOUK 10385 W 5TH AV COUNTRYSIDE, IL 60525-5006
18-03-114-007-0000	9507 OGDEN AVE BROOKFIELD, IL 60513-1841	THADDEUS DE CARLO 8440 ARCHER AVE WILLOW SPGS, IL 60480-1371
18-03-114-008-0000	9507 OGDEN AVE BROOKFIELD, IL 60513-1841	THADDEUS DE CARLO 8440 ARCHER AVE WILLOW SPGS, IL 60480-1371
18-04-223-035-0000	9601 W OGDEN AVE LA GRANGE, IL 60514-0000	ALLAN RLTY & BLDRS 187 N MARION ST OAK PK, IL 60301-1505
18-04-223-007-0000	27 WASHINGTON AVE LA GRANGE, IL 60525-2545	FIDEL FONSECA 27 S WASHINGTON AV LA GRANGE, IL 60525-2545
18-04-223-008-0000	29 WASHINGTON AVE LA GRANGE, IL 60525-2545	ARTURO GONZALEZ 29 WASHINGTON ST LA GRANGE, IL 60525-2545
18-04-223-009-0000	29 WASHINGTON AVE LA GRANGE, IL 60525-2545	ARTURO GONZALEZ 29 WASHINGTON ST LA GRANGE, IL 60525-2545
18-04-223-010-0000	33 WASHINGTON AVE LA GRANGE, IL 60525-2545	B O CLAY 33 WASHINGTON ST LA GRANGE, IL 60525-2545
18-04-223-022-0000	30 EAST AVE LA GRANGE, IL 60525-2555	RICKY SMITH & V WALLACE 30 EAST AV LAGRANGE, IL 60525-2555
18-04-223-023-0000	32 EAST AVE LA GRANGE, IL 60525-2555	VALANDRA WALLACE SMITH 30 EAST AV LAGRANGE, IL 60525-2555
18-04-223-025-0000	36 EAST AVE LA GRANGE, IL 60525-2555	CARMELA DELGADO 36 EAST AV LA GRANGE, IL 60525-2555

18-04-223-024-0000	34 EAST AVE LA GRANGE, IL 60525-2555	LUSTER R EMERSON 34 EAST AV LA GRANGE, IL 60525-2555
18-04-223-026-0000	40 EAST AVE LA GRANGE, IL 60525-2555	LUBERTHA GILBERT 40 EAST AVE LA GRANGE, IL 60525-2555
18-04-223-032-0000	42 EAST AVE LA GRANGE, IL 60525-2555	WATSON ALMETA BROWN 42 S EAST AV LAGRANGE, IL 60525-2555
18-04-213-013-0000	9540 W OGDEN AVE LA GRANGE, IL 60514-0000	7 ELEVEN TAX DEPT PO BOX 711 DALLAS, TX 75221-0711
18-04-213-012-0000	9540 W OGDEN AVE LA GRANGE, IL 60514-0000	7 ELEVEN TAX DEPT PO BOX 711 DALLAS, TX 75221-0711
18-04-213-010-0000	9600 W OGDEN AVE LA GRANGE, IL 60525-0000	STARKEY CHEMICAL 9600 OGDEN AVE LA GRANGE, IL 00000-0000
18-04-213-002-0000	9600 W OGDEN AVE LA GRANGE, IL 60525-0000	STARKEY CHEMICAL 9600 OGDEN AVE LA GRANGE, IL 00000-0000

VILLAGE OF BROOKFIELD  
BROOKFIELD, ILLINOIS 60513

ZONING BOARD OF APPEALS  
MINUTES OF PUBLIC HEARING  
THURSDAY, JUNE 5, 2008 AT 7:00 P.M.

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**Members Present:** Chairperson Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom.

**Absent:** Commissioner Ligeikis.

**Others Present:** Assistant Village Manager Keith Sbiral, Village Planner Meena Beyers.

The Zoning Board of Appeals Meeting of June 5, 2008 was called to order by Chairperson Sinde at 7:00 P.M. Upon roll call vote, a quorum was determined.

**ZBA Case No. 08-04 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet.**

**Note: Audio recording began half-way through Chairman Sinde's reading of the published Legal Notice.**

**Correspondence**

**Chairman Sinde read the following correspondence into the record:**

1. Certification of Legal Notice Published May 14, 2008 in the Landmark
2. Affidavit of Letters sent to surrounding Property Owners advising date and time of Public Hearing.
3. Letter from Applicant stating his reason for requesting variance.

Motion by Commissioner Hletko, seconded by Commissioner MacDonald to approve acceptance of correspondence as read pertinent to ZBA Case No. 08-04 regarding 3325 Park Avenue. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Presentation by Staff**

Village Planner Meena Beyers stated that the applicant requests a variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet in order to replace the existing covered porch with a living room addition. Staff finds that the applicant meets the standards set for such variance and recommends approval.

### **Presentation by Petitioner/Open Public Discussion**

Chairman Sinde administered the Oath to applicant, Raymond Williamson, 3325 Park Avenue, Brookfield, Illinois, who addressed the Commissioners to attest to the reason for the requested variance.

### **Close Public Discussion**

Motion by Commissioner Digan, seconded by Commissioner Wahlstrom to close Public Discussion on 08-04 - 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Close Public Hearing**

Motion by Commissioner Hendricks, seconded by Commissioner Wahlstrom, to close Public Hearing on 08-04 - 3325 Park Avenue - Variance from Section 30-6.01 to reduce the required front yard setback from 25 feet to 17.68 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Conclusions**

#### **STANDARDS FOR GRANTING ZONING VARIANCES**

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

1. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*As the front porch of the subject property has been enclosed for many years, the proposed addition is essentially a continuation of the same use of the property.*

2. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*The porch was constructed and enclosed within the required front yard of the property. It is unclear whether or not the enclosure and construction of the porch were permitted; however, the current owner acquired the property in its existing condition.*

3. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*A variance would be required to replace the existing porch, either as a roofed open-air porch or a fully enclosed addition. Only an open porch with an unsupported roof could be constructed in place of the existing porch, due to the encroachment.*

4. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property.*

5. That the variation sought will not unreasonably diminish the values of adjacent property;

*The Village does not have sufficient information to respond to the impact of the proposed addition on adjacent property values. Improvements such as those proposed generally increase the value of the improved property.*

6. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*The requested variance will not effect congestion or public safety.*

7. That the variation is in harmony with the general purpose and intent of this ordinance.

*Based on the analysis above, staff finds that the requested variance is in harmony with the purpose and intent of the Zoning Ordinance.*

### **Motions to Grant Variance**

Motion by Commissioner Hendricks, seconded by Commissioner MacDonald, to grant a variation from Section 30-6.01 to allow for a front yard setback of 17.68 feet at the property located at 3325 Park Avenue, Brookfield, Illinois.

Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

Item to be on agenda for discussion at the Committee of the Whole Meeting scheduled for June 23, 2008.

**ZBA Case No. 08-03 - 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet.**

**Correspondence**

**Chairman Sinde read the following correspondence into the record:**

1. Certification of Legal Notice Published May 7, 2008 in the Landmark
2. Project Summary Re: Express Car Wash and requested variance
3. Letter from Car Wash Services, Inc. Re: Noise
4. Affidavit of Letters to Surrounding Property Owners indicating Public Hearing (provided by applicant)
5. Drawing of proposed addition and supporting illustrations (provided by applicant)

Motion by Commissioner Digan, seconded by Commissioner Hletko to approve acceptance of correspondence as read pertinent to ZBA Case No. 08-03 regarding 9545 Ogden Avenue. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

**Presentation by Staff**

Village Planner Meena Beyers stated that the applicant requests a variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet in order to construct an 80-foot addition to the southernmost car wash bay. The purpose of the addition is to incorporate an automatic car washing and drying bay, rather than the existing manual bays.

Ms. Beyers informed the Zoning Board Commissioners that staff has received a number of questions as to how this requested variance relates to the proposed TIF District on Ogden Avenue, stating that it was important to note that Section 30-11 of the Village Zoning Ordinance lays out specific standards for granting variances and that what is being presented at this meeting is just whether or not the requested variance meet those standards and has no relation to the proposed TIF District or any other activity on Ogden Avenue at this time.

Staff Report details the process used and results for consideration of requested variance. Two variances have previously been granted to this property to date, as detailed in the Staff Report.

**STANDARDS FOR GRANTING ZONING VARIANCES**

With respect to Zoning Variance review, Section 30-11.03 of the Village Zoning Ordinance (Appeals) notes, "The following standards shall be met and proved by the applicant before any positive consideration is to be made granting of a variation" (*Staff Review in Italics*):

8. The hardship alleged as the basis for the variation must be derived from difficulties pertaining to the property itself which prevent full use of the property of the same extent other properties in close proximity in the same zoning district can be used;

*The property is a large tract of land that may be redeveloped in a manner in which to meet the setback requirements for the zoning district. Although many existing properties along Ogden Avenue are non-conforming, they will be required to meet the current code at the time of any renovation that will increase building square footage. The property itself does not pose difficulties preventing the full use of the property. Staff does not believe that this standard is met.*

9. The hardship alleged as the basis for a variation must not be self-created or self-imposed by the applicant or his agent nor by unauthorized and unpermitted acts of any prior owner;

*As one variance does not set a precedent for another, any previously granted variance does not establish a hardship as the basis for a variation to allow for another addition to the property encroaching upon the required setback. In this case, the hardship is self-imposed as the petitioner requests to build an addition, and not replace or remedy an existing condition. Staff does not believe that this standard is met.*

10. That there is no other means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property;

*The applicant may explore eliminating the rear bay and building the addition within the buildable area of the lot. This would still allow for a reasonable use of the property. Staff does not believe that this standard is met.*

11. That the variation sought will not impair an adequate supply of light or air to adjacent property;

*The variations sought do not impair adequate supply or light or air to the adjacent property. Staff believes that this standard is met.*

12. That the variation sought will not unreasonably diminish the values of adjacent property;

*Staff does not have sufficient information to respond to the impact of the proposed improvements on adjacent property values.*

13. That the variation sought will not unreasonably increase congestion in the public streets or otherwise endanger public safety;

*As the proposed improvements include adequate stacking spaces at the new bay, it is not anticipated that the variation sought will increase congestion in the public streets or endanger public safety. Staff believes that this standard is met.*

14. That the variation is in harmony with the general purpose and intent of this ordinance.

*One of the purposes of the Zoning Ordinance is to "prevent such additions to, alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed [hereunder]" (Section 30-2). As such, the variation is not in harmony with the general purpose and intent of the ordinance. Staff does not believe this standard is met.*

Ms. Beyers stated that Staff does not recommend approval of proposed variance and should the Zoning Board of Appeals choose to recommend approval for the variance, the Zoning Board should, at minimum, adopt the petitioner's findings for those four standards, or adopt their own findings in order to move a positive recommendation forward to the Village Board of Trustees. Ms. Beyers addressed the questions posed by the Zoning Board Commissioners.

### **Presentation by Petitioner/Open Public Discussion**

Chairman Sinde administered the Oath to applicant, William Klump, 8705 Lake Ridge Drive, Darien, Illinois, and his attorney, James Storino, 8436 Creekside, Mayberry, Illinois who addressed the Commissioners to attest to the reason for the requested variance.

Those who wished to speak on requested variance were sworn in and given opportunity to address the Zoning Board.

### **Close Public Discussion**

Motion by Commissioner MacDonald, seconded by Commissioner Wahlstrom to close Public Discussion on ZBA Case No. 08-03 regarding 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Close Public Hearing**

Motion by Commissioner Digan, seconded by Commissioner Hendricks, to close Public Hearing on ZBA Case No. 08-03 regarding 9545 Ogden Avenue - Variance from Section 30-6.02 to reduce the required rear yard setback from 5 feet to 1.87 feet. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

### **Conclusions**

Commissioners discussed the requested variation and staff findings and recommendations.

### **Motions to Grant Variance**

Motion by Commissioner Hendricks, seconded by Commissioner Digan to grant a variation from Section 30-6.02 to reduce the required rear yard setback to 1.87 feet for the purpose of to construct an addition and the existing building located at 9545 Ogden Avenue, Brookfield, Illinois. Upon roll call, **the motion failed as follows:** Ayes: Commissioner Digan; Nays: Chairman Sinde, Commissioner Hendricks, Hletko, MacDonald and Wahlstrom. Absent: Commissioner Ligeikis.

ZBA Case 08-03 Re: 9545 Ogden to be on agenda for discussion at the Committee of the Whole Meeting scheduled for June 23, 2008.

## New Business

### Review of Appeal of Denial of Zoning Interpretation: 8420 Brookfield Avenue

**Note: Staff requested New Business portion of June 5, 2008 Zoning Board of Appeals meeting be transcribed verbatim.**

## Correspondence

**Assistant Village Manager Keith Sbiral:** "For the record, I've not been before the Zoning Board for about a year so I will introduce myself. I am Keith Sbiral, Assistant Village Manager for the Village of Brookfield and I am a member of American Association of Certified Planners. My capacity here tonight is as a Zoning official, appointed by the Village Manager Rick Ginex.

The issue before the Zoning Board this evening is that of an appeal – the review of an appeal of a denial of a zoning interpretation. I am going to read some correspondence. Hopefully, it won't get too lengthy. I can read it into the record and provide my information as I read.

On March 27, 2008, the petitioner, Steve Campbell, wrote a letter regarding the property at 8420 Brookfield Avenue: 'Mr. Sbiral, I am requesting your interpretation of the approval of a restaurant use in the C-6 Zoning District at the address of 8420 Brookfield Avenue' That is written on the bottom of a business license dated June 1, 2007 for The Station – that's the restaurant. 'I am making this request for interpretation from Staff under Section 30-11-01.' That is, of course, of the Zoning Ordinance. 'Respectfully, Steven D. Campbell.'

That request for an interpretation of the issuance of a business license was made, as I mentioned, on March 27. On April 30<sup>th</sup>, following the statutory period in which the Village had to respond, I made my finding on that request in a letter – and, I'll read that letter now:

Re: An interpretation request regarding 8420 Brookfield Avenue

Dear Mr. Campbell:

This letter is in response to your March 27, 2008 request for interpretation of the approval of a restaurant use in the C-6 Zone under Section 30-11-01 of the Village of Brookfield Village Code.

Section 30-11-01 states that, 'The Village Manager, or his agent, shall review and act upon all applications requesting an interpretation of a zoning ordinance provided that the application has been properly filed and the person can establish a direct and substantial interest in the matter of the requested interpretation.'

submitted letter, attached,' which I just read to you, '...indicates no direct nor substantial interest in the matter requested for interpretation. Your request is denied on that basis. If you have any questions with respect to this letter, do not hesitate to call me directly.' I've listed my phone number and e-mail address.

Subsequently to that, Mr. Campbell submitted two letters outlining his belief that I was in error.

'May 12, 2008

Dear Sir:

Pursuant to Section 30-11-01 of the Village of Brookfield Zoning Ordinance, please consider this letter as formal request and application to seek a review and decision by the Zoning Board of Appeals regarding the matter of interpretation made by Village staff as specifically related to the allocation to The Station, located at 8420 Brookfield Avenue, Brookfield, Illinois, for issuance of a business license to operate, as stated in the business license application, for a 'dine-in and carry-out restaurant with lounge serving pizza, sandwiches, dinners, specials and cocktails' within a C-6 Special Service Restricted District which, according to the current zoning ordinance use table , prohibits a restaurant within said zone district.

When fee schedule was moved from Chapter 30 to Chapter 2, Ordinance 2007-76, the Planning and Zoning Service Fee Section did not include any provision for zoning review and interpretations.

Please inform me, within five working days from the date of this letter, of any fee is required for the above requested and I shall submit immediately. Please inform me as to when I might have this matter placed on the Zoning Board of Appeals for review.'

Subsequently, the next day, Mr. Campbell wrote me a letter that said,

'Mr. Sbiral:

As the largest private sector real property owner in Brookfield, and someone who has been intimately involved with Chapter 30, the application process that involves Chapter 30 is something that I am directly involved in. This gives me a direct interest in the process that was used to allow the current use.....(inaudible).

I believe that your denial of my interpretation request of March 28, 2008 was in error and once again I request to be heard on this issue before the Zoning Board of Appeals, as stated in my May 12, 2008 submission to you.'

That is the extent of the correspondence that has passed back and forth between the petitioner and myself. To give you a little background from the Village staff perspective and the Zoning..."

**Chairman Sinde:** "Hold on. Hold on for a minute. Do you have any correspondence you want to add to this? Do you have anything written out that can go..."

**Steve Campbell:** "I have no additional documentation...(inaudible.)"

**Chairman Sinde:** "I need to have a motion to accept correspondence as read by Staff regarding this."

Motion by Commissioner Digan, seconded by Commissioner MacDonald, to accept the correspondence as read into the record pertinent to the Review of Appeal of Denial of Zoning Interpretation regarding 8420 Brookfield Avenue, Brookfield, Illinois. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hietko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

**Chairman Sinde:** "What we are going to do in this process now -- do you have any more additional comments?"

**Assistant Village Manager Keith Sbiral:** "Yes."

**Chairman Sinde:** "Based on that, Mr. Campbell we'll have you come up and make your presentation and then the Board will then ask you questions."

**Assistant Village Manager Keith Sbiral:** "To the greater extent, in my position as zoning official, as laid out in my letter, the terms 'direct and substantial interest' are not defined in the zoning code and, therefore, I used my professional judgment to determine what I believe the direct and substantial interest is.

In most cases, in my professional history, 'direct and substantial interest' has meant either owning the property or adjacent property. In this situation, the petitioner does not own said property – that property.

With respect to the process at hand this evening, the question, although it may be interesting as to whether or not a business license should have been issued, that question really is not at hand here. The question here is the denial of writing an interpretation for Mr. Campbell. Our attorneys, at the Village level, have informed us that this is the next step in the process – reviewing my denial before the Board and the Zoning Board of Appeals can either uphold my written denial or request that an interpretation be made by turning down my written denial. Those are the actions that could be put forth.

Really, that is all I have at this point. If you have any questions for me, I'd be happy to answer them."

**Chairman Sinde:** "Neil?"

**Commissioner Neil MacDonald:** "Yes. Just so I understand what the controversy is. Let me get through the substance of it and then back up to the question that I think is at issue here.

A business license is issued to give a restaurant the license to operate in the neighborhood. There is also a provision in the zoning code that permits somebody, a citizen, with an interest in the transaction, to challenge the license – the issuance of the license..."

**Assistant Village Manager Keith Sbiral:** "Actually, the provision is to challenge the interpretation of the zoning ...."

**Commissioner Neil MacDonald:** "...that would authorize the issuance of the license?"

**Assistant Village Manager Keith Sbiral:** "I would never pretend to understand what is in Mr. Campbell's head, but I think the request is that – as part of the business license application, several things are checked. The water service through the Village, zoning, building codes – things like that. One of those check-offs is whether or not it conforms with the zoning and I think that is the logical connection between requesting an interpretation of zoning code under Chapter 30 for something that is actually in another Chapter."

**Chairman Sinde:** "We can ask Mr. Campbell that when..."

**Commissioner Neil MacDonald:** "Sure. But, the question that is now before the Board is this – whether the letter that he sent you, asking for...challenging your interpretation, was sufficient on its face – whether it gave you enough facts for you to determine whether he had an interest in this thing. For instance, it is one thing to send a letter that's got a Brookfield return address on it and saying, 'Hey, I'm challenging your interpretation on this. Please provide an explanation.' It's another thing to say, 'I have an adjacent property to this and therefore I believe that my property would be diminished by this – by this issuance of the license, and therefore I'm challenging your interpretation of the statute that would permit you to authorize the issuance of the license.' Is that it?"

**Assistant Village Manager Keith Sbiral:** "Right. It gets lost in reading correspondence..."

**Chairman Sinde:** "Excuse me. You'll have a chance to talk."

**Assistant Village Manager Keith Sbiral:** "...but the facts of the case are that the zoning code says 'The Village Manager, or agent, shall review and act upon all applications requesting an interpretation of a zoning ordinance provided that the application has been properly filed and the person can establish a direct and substantial interest in the matter of the requested interpretation.'

And that is the question – 'direct and substantial interest'. Mr. Campbell, on May 13, 2008 put forth in a letter to me that the 'direct and substantial interest' is that he is, '...the largest private sector real property owner...' and there wasn't necessarily any evidence given for

that, but also that he is, '...intimately involved with Chapter 30...' and I don't know to what degree this intimacy is with Chapter 30."

**Commissioner Neil MacDonald:** "So, the 'properly filed' is not an issue here – but whether his letter shows a substantial and direct..."

**Assistant Village Manager Keith Sbiral:** "Right. I think everyone agrees that the process ...here in general ...there aren't any fees for it and it was (inaudible)..."

**Chairman Sinde:** "The key thing is, and what we have to decide now whether or not he has met the qualification of having substantial..."

**Commissioner Neil MacDonald:** "And, 'direct or substantial' is nowhere defined in the code or any place else..."

**Chairman Sinde:** "No. It is not."

**Commissioner Neil MacDonald:** "OK. I just wanted to understand what the controversy was."

**Chairman Sinde:** "All right. Eric. Anything?"

**Commissioner Eric Wahlstrom:** "No."

**Chairman Sinde:** "All right. Jennifer?"

Commissioner Hendricks: "No."

**Chairman Sinde:** "Bernie?"

**Commissioner Hletko:** "Someone applied for a business license, right?"

**Assistant Village Manager Keith Sbiral:** "At The Station, 8420 Brookfield Avenue."

**Commissioner Hletko:** "And Mr. Campbell wanted that reviewed – for the application of the business license?"

**Assistant Village Manager Keith Sbiral:** "Mr. Campbell's original request was to inquire as to why that business license was approved under Chapter 30 – why that use was approved..."

**Commissioner Hletko:** "And he asked why it was approved because it is not the right district for that business to be in?"

**Assistant Village Manager Keith Sbiral:** "That's Mr. Campbell's contention."

**Commissioner Hletko:** "OK. That's what I needed to know."

**Chairman Sinde:** "Lee Ann?"

**Commissioner Digan:** "Will we be determining whether or not it was O.K. for you to say, 'I'm not going to provide you with detailed information?..."

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Digan:** "Just based on the fact of no direct or substantial interest?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Chairman Sinde:** "Mr. Campbell, would you please step up – raise your right hand?"

**Chairman Sinde:** "Do you swear to tell the whole truth and nothing but the truth, so help you God?"

**Steve Campbell:** "I do."

**Chairman Sinde:** "Please state your name and address."

**Steve Campbell:** "Steven Campbell. My home address is 372 Fairlane Road in Riverside."

**Chairman Sinde:** "Please sign in. Mr. Campbell, please tell us why your are here tonight."

**Steve Campbell:** "I learned early this year that there was a building permit issued for the installation of a hood and I supplied the Village with a Freedom of Information request on this issue...I think it's a lovely thing, but based upon the Section 30 that I've come to be familiar with over the past twelve years, it was a non-allowed use."

All I have asked is for the Zoning Enforcement Administrator, Mr. Sbiral, to provide me with a written explanation of how a non-allowed use is allowed in this Zoning District and I own property next door. I have been before this Board, I don't know – eight or ten times. The last changes to Chapter 30, I was involved in 2000 when we made a coffee shop a legal and conforming use – and that's the only legal and conforming use in the district.

I felt that my involvement in the community, and with property and zoning gave me standing to ask for interpretation on how non-allowed uses is allowed. If the ZBA or staff doesn't feel my property holdings are sufficient to merit status, then so be it. As far as Mr. Sbiral being unaware of my property holdings, while his Department and I have been intimately involved with a number of property violations so, at least they are familiar with \_\_\_\_ (inaudible) \_\_\_\_.

All I'm looking for is an explanation of the process."

**Chairman Sinde:** "Let me ask you a question right now. The Village has come to you and said, 'We do not recognize you because you do not have a direct or substantial interest in this property, so – interpretation-wise. So, can you show to this Board how you have a direct and substantial interest in 8420 Brookfield Avenue? Do you have evidence?'"

**Steve Campbell:** "No. I cannot."

**Chairman Sinde:** "So, in reality, the Village Staff saying that they didn't need to respond to you is because you did not have a direct and substantial interest in the property. You didn't. Am I right or am I wrong? Yes or No."

**Steve Campbell:** "No – I think this is a question of the use, it's not..."

**Chairman Sinde:** "No. Their rejection was because you did not have a direct and substantial interest. Am I right? That is what they're... Am I right (did not hear name of person to whom he directed this statement.)"

Unknown person: "Right."

**Chairman Sinde:** "And your comment coming back was that, 'I'm a major property holder...' as your only basis for having direct and substantial interest in the property."

**Steve Campbell:** "I also believed that being involved in the community grants me the right to question what appears to be actions of the Village staff that directly contradict the Chapter 30 – the you people look at. And all I'm asking for is an explanation of how a non-allowed use was allowed in that district."

If you want to distort things and say that I don't have an interest, do people deserve an answer because I don't have property next door? But, that's a pretty narrow field for questioning staff's actions. So, if that's the parameter...I'm saying, if you must own property next door, or own the property to have a say in it, that seems to be a very narrow interpretation that is not in existence in the code."

**Chairman Sinde:** "I want you to answer 'Yes' or 'No' to this question. Given the 8420 Brookfield Avenue – you have no direct or substantial interest in that property. Yes or no."

**Steve Campbell:** "No."

**Chairman Sinde:** "No. OK. That is all I wanted to say. Now, what do you want to say?"

**Assistant Village Manager Keith Sbiral:** "I certainly don't want it to be construed that staff's judgment, or the only factor for determining substantial or direct interest is whether or not you have adjacent property. I simply used that in my presentation as one reason – when one item isn't directly spelled out in the ordinance. But, I might use my professional judgment and I don't say that you have to own property immediately next door."

I will point out, however, that Village staff is well aware of Mr. Campbell's process requests and procedures and one of our concerns isn't that we reasonably provide him with information as to why something was done. Our primary request was that as staff, and as the Zoning official, I believe that the 'direct and substantial' clause is in the Zoning ordinance for a reason and that is because if we simply say that anyone has a reason to file for these type of zoning reliefs, we could simply hire an entire department to request every single business license be questioned in this way and it could very easily get out of hand say – like an unfounded mandate for a Freedom of Information request, or something like that...so there is some method to this madness ..."

**Chairman Sinde:** "All we are here to talk about is 8420, but – so right now, your denial is because of no direct or substantial interest. You presented the reason why you feel you should have an explanation to it. Now, what I am going to ask the Board to do is – you've heard both sides. You've heard the Village's and Mr. Campbell's – now I want you to ask any questions of either of the people.

Just remember, your focus should only be on 8420 Brookfield Avenue. Not about how much property he owns, or anything like that. The question is does he have direct and substantial interest that would require him to question or ask for denial on his own."

**Commissioner Neil MacDonald:** "I would ask you, Mr. Sbiral, a couple questions. You did not, in your rejection of that letter, address the merits of that request of Mr. Campbell's request. That is, whether it was a validly issued license or an improperly issued license. Is that correct? That was not part of your consideration?"

**Assistant Village Manager Keith Sbiral:** "No."

**Commissioner Neil MacDonald:** "The only consideration you were making when you denied the request in the letter was a determination, based on the letter itself, whether he had demonstrated the statutory interest or basis for being able to submit the request in the first place. Is that correct?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Neil MacDonald:** "O.K. Then let's spell it out here. The Village may have been way off base when they issued the license, but that is neither here nor there in your view because he hasn't demonstrated the legal interest necessary to be able to challenge you – right?"

**Assistant Village Manager Keith Sbiral:** "I certainly don't think the Village was way off base, but that is neither here nor there."

**Commissioner Neil MacDonald:** "So, that wouldn't prevent, for instance, somebody who lived in the neighborhood from filing that same request and stating in the letter, 'Hey, I live in the neighborhood. I think the license was improperly issued. I'd like to challenge your interpretation of that license.' Correct?"

**Assistant Village Manager Keith Sbiral:** "Correct."

**Commissioner Neil MacDonald:** "OK. Those were my only questions."

**Chairman Sinde:** "And remember, too, what we are talking about here is not 'Is it a liquor license.' Only the zoning of it."

**Commissioner Neil MacDonald:** "The standing issues are what we're here for...denied on the basis of no standing."

**Chairman Sinde:** "That's right. Eric?"

**Commissioner Eric Wahlstrom:** "I have no comment right now."

**Chairman Sinde:** "Jennifer?"

**Commissioner Jennifer Hendricks:** "Mr. Campbell, I have a question for you. You said that you'd filed a Freedom of Information Act request and your question was not answered through that request? Or..."

**Steve Campbell:** "Actually, the question was answered through my request about this zoning district and about the use that was going in. I own a similar building. But, tonight was just my standing – whether I have legal standing to ask the question...(last few words inaudible)."

**Chairman Sinde:** "OK. Anything more?"

**Commissioner Jennifer Hendricks:** "No."

**Chairman Sinde:** "Bernie?"

**Commissioner Hletko:** "Direct and substantial; where did that come from?"

**Assistant Village Manager Keith Sbiral:** "That's from Village Code, Section 30-11-01..."

**Commissioner Hletko:** "But that has no definition..."

**Assistant Village Manager Keith Sbiral:** "Yes. Unfortunately, a lot of the codes..."

**Note: Speaking simultaneously:**

{**Commissioner Digan:** "So, you can interpret directives...:"

{

{**Commissioner Hletko:** "So, the Village's interpretation.....Mr. Campbell....are two  
{different {things."}

**Chairman Sinde:** "I will say something right now. I've chaired two interpretation hearings, and I don't think any of you have been on the Board for this. The first one was the six-story condominium where they came before us and the Village and they said that the variances were granted but the Village took their time to approve plans, or whatever it was, and the ordinance expired, supposedly.

They came before the Board for a legal interpretation, as in a court of law, with a lawyer representing and (inaudible phrases.... And, at that point, in that interpretation hearing, it was the petitioner who had the six-story condominium versus the Village to see if they would interpret that we were wrong by the delaying. And, in that situation, the Board voted against the Village and said the petitioner was wrong.

The other interpretation hearing also involved the six-story condominium. What it involved was interpreting – the Village thought there were three variances that needed to be added on and the petitioner said, 'No, I don't think you need to have these – because they are already incorporated.' At that interpretation hearing, of those three, only one was required to go into a variation hearing. So, you know what I mean..."

**Assistant Village Manager Keith Sbiral:** "The difference between those and this is those were actually the next step in the process. If you were to say, 'Write the interpretation' and I write the interpretation, Mr. Campbell can also disagree with the interpretation and come before you to overturn the actual interpretation."

**Chairman Sinde:** "What I'm saying though is those people who came before the interpretation hearing had direct and substantial interest. They were the petitioners of that six-story. So, to just let you know, they were parties that were...(2 words inaudible). Anything more?"

**Commissioner Hletko:** "I do wish I had time to think about this. I don't know how anyone else feels about it but I do struggle with his direct and substantial -- does that mean the owner of the property next door or someone who lives in the Village? Or, if its not coming from three villages over and he knows that the Village mishandled it – or, what difference does it make if its not handled property because its not in the correct district, then we have a problem. And, that's where I struggle and I wish I had some time to ponder over this..."

**Chairman Sinde:** "Leanne?"

**Commissioner Digan:** "Are there any privacy issues that we need to consider with regards to a person's business license and with you giving out to anybody who requests it? I mean..."

**Assistant Village Manager Keith Sbiral:** "The Village is typically careful about how personal information is given out. I mean, a matter of how a zoning ordinance is enforced is typically public information."

**Commissioner Hletko:** "I've got a couple of follow-up questions. Either you or the office that you work for are charged with interpreting and applying the zoning and licensing application processes?"

**Assistant Village Manager Keith Sbiral:** "Correct. And the Business License Application process is a little outside of the zoning ordinance itself. There is one aspect of the licensing process that is zoning related. So... But, yes, as a zoning official, I am charged with interpretation any gray area in the zoning code.

Typically, on a day-to-day basis that just moves forward. I can tell you there aren't very many times where I've had to actually interpret the zoning code. In fact, I make it a point not to do that. I think it is better to change the code and make it clear than to have someone willy-nilly interpreting it. That's my personal, professional approach, but in my previous positions, I've also had a few interpretations.

But, like I said, there are some ambiguities in the code that have been brought forward and made a decision on because the zoning official is a management position, appointed by the Village Manager or is the Village Manager in some instances. They do have these clauses in the ordinances that they come before a public body, such as yourselves."

**Chairman Sinde:** "For clarification..."

**Commissioner Hletko:** "Are we the right Board for this?"

**Commissioner Digan:** "Yes, because it is a zoning..."

**Chairman Sinde:** "Yes."

**Commissioner Hletko:** "I guess I'm still stuck on the problem that it was not... (inaudible)..."

**Chairman Sinde:** "Bernie only heard the discussion..."

**Assistant Village Manager Keith Sbiral:** "The process is directly outlined in the Zoning Code that it comes to the Zoning Board of Appeals."

**Commissioner Wahlstrom:** "I guess what I'm asking is if I'm driving through town and see something that I find – a business that is not applicable to the zoning of that area, which is the reason you came for us, if I don't live near that property or own that property you're asking for us to interpret whether or not I have the right to ask for an interpretation of that?"

**Assistant Village Manager Keith Sbiral:** "I'll go over it one more time..."

**Commissioner Wahlstrom:** "OK, OK, just so..."

**Commissioner Digan:** "Let's say you I to Danny's Hot Dogs and there is no hood and you say, 'Hey, I know that's illegal.' So I call Keith and say, ...."

**Assistant Village Manager Keith Sbiral:** "That's a building code issue."

**Commissioner Wahlstrom:** "OK. I find a business and I know that it is in a place that it is not zoned for and there are no variances for, OK? Just as your average citizen happens to notice this thing. And, I ask you, 'Is this appropriate?' And, if I'm not an adjacent property holder or the property owner, you're going to tell me I have no right to ask that question,"

**Commissioner Digan:** "No..."

**Assistant Village Manager Keith Sbiral:** "Actually, 99% of the time, if you just come to the front counter, it will probably be answered directly and straightforwardly..."

**Commissioner Wahlstrom:** "I realize that. I realize that..."

**Assistant Village Manager Keith Sbiral:** "If you submit a formal request and start sighting sections of code, we as a Village getting very careful about what we're doing and our attorneys get involved. And then, we are very careful about how we respond. Obviously, if you are just asking a question about something and it is very informal. If it appears to us that either the Village could be in a position that is questionable legally, or actions could put one of our property owners or business owners in a position that could be questionable legally, then we are very careful about how we went through the process because we want to make sure that everyone's due process is respected.

**Commissioner Wahlstrom:** "This is difficult. Let's say we are a crooked and dishonest town, OK? And there is ... OK...I don't like that example either. But, – something that the Village didn't want to answer my question. Unless I'm an adjacent property owner, then I have no right to ask about that, if the Village does not want to answer it..."

**Assistant Village Manager Keith Sbiral:** "I'm going to be very clear on that – adjacent property owner ...direct and substantial does, because I think it is this, and you can shut me down if you want to – I look at the letter that was provided to me and it's made very clear that Mr. Campbell owns a large amount of property and he's right, we – as a department – are well aware of all his properties because he has a lot of property maintenance issues.

But, the reality of the letter that he sent is – he owns a lot of property and he is 'intimate' with Chapter 30. I was prepared tonight to hear that he owns property in a similar zoning district, he owns property in the same building district, he owns property relatively close – maybe some sort of argument other than, 'I own property in town and I'd like to badger staff about the zoning district. That, to me is not a 'substantial interest' – and that is where, as a zoning official, I have to use my judgment as far as what we're doing as processes in the village with respect to building...excuse me, business licenses."

**Commissioner Wahlstrom:** "This essentially falls under the same category as the unfounded FOIA mandate."

**Assistant Village Manager Keith Sbiral:** "It could."

**Chairman Sinde:** "OK. Are everybody's questions answered?"

**Commissioner Digan:** "I have some more questions – sorry. So, what is your definition then of 'direct and substantial interest'?"

**Assistant Village Manager Keith Sbiral:** "I think the question of 'direct and substantial interest', because it is not defined in the code, is something that can change depending on the case. And, I think in this case, that's how I find it. I said I don't know, or believe, that there is, in my opinion, a direct and substantial interest and that's the position I'm in as zoning official if something isn't clear."

Might I now go back and say this is not really worth all of our time and suggest a code amendment to the Board of Trustees that says, 'These are the standards under which you can question these specific things and these are the standards. You know, as the rules goes, its \_\_\_\_\_(inaudible)."

**Chairman Sinde:** "I agree."

**Commissioner Digan:** "I do have another question. I do know its probably...(inaudible), but are we answering whether Mr. Campbell has an interest or are we answering whether you were right in..."

????: "Denying his request"

**Assistant Village Manager Keith Sbiral:** "I think it's the same thing, in a sense."

**Chairman Sinde:** "Yes."

**Assistant Village Manager Keith Sbiral:** "I think you can either say that the Village is correct in denying the request – there is no substantial interest. Or, you can say there is a substantial interest and the Village should move forward with providing the interpretation."

**Commissioner Digan:** "My question is – based on the ...are we basing this on the letter that you were given or on ..."

**Assistant Village Manager Keith Sbiral:** "The letter we were provided by Mr. Campbell and his testimony this evening. Is what our Village Attorney...."

**Commissioner Digan:** "So, he could say now, actually, 'I own property next door...'"

**Assistant Village Manager Keith Sbiral:** "Correct. Yes."

**Commissioner Digan:** "..and then we would change our minds..."

**Commissioner Hletko:** "(background noise)...use a different example, because I think that's going to be...(too many speaking at once).

**Commissioner Hendricks:** "Or, a similar business in town, or..."

**Assistant Village Manager Keith Sbiral:** "That's the point of this hearing."

**Chairman Sinde:** "Any other questions?"

**Steve Campbell:** "I have one question."

**Chairman Sinde:** "Yes."

**Steve Campbell:** "I may have erred in this and, if so, I wish to apologize to staff. I'm really interested in an interpretation of just the in the district. I may have been too specific in looking at this address – and if I ask for an interpretation of just the use in the district..."

And, this is the first time I've ever made – actually, this is the second interpretation request I've made. There was one having to do with a piece of residential property – but, that would make me like staff... I don't know if ...(inaudible)...

**Chairman Sinde:** "Mr. Campbell, all we are here tonight for is to address the letter that was given to you there. If you want to add something else, or if you want to come back later..."

**Steve Campbell:** "It was just a question for staff..."

**Commissioner Hletko:** "So, his testimony is not in addition to – can't that be used in addition to that letter?"

**Assistant Village Manager Keith Sbiral:** "His testimony tonight was that he had no direct or substantial interest..."

**Chairman Sinde:** "We're not here about whether it is conforming to use or anything like that..."

**Commissioner Hletko:** "That's not what I'm saying. I'm saying that, as a business owner, if you see something different because somebody else is getting ... something that he could, as a business owner in the future, ask how that was done..."

**Chairman Sinde:** "That's not what we are here to do. We are here to look at the denial of 8420 Brookfield Avenue for the cause of direct and substantial interest. If he wants to resubmit and says, "I want..."

**Assistant Village Manager Keith Sbiral:** "That's not really an issue. The question asked was, more or less, he requested the approval of a restaurant use in the C-6 Zoning District, at the address of 8420 Brookfield Avenue."

**Chairman Sinde:** "Any other questions?. OK, I'll suggest what the motion should be and then call for the motion. ' to uphold the written denial of the zoning interpretation on the property located at 8420 Brookfield Avenue, Brookfield, Illinois, to Mr. Campbell.' Staff agree with that? "

**Motion to Uphold Denial of Zoning Interpretation**

Motion by Commissioner MacDonald, seconded by Commissioner Digan to uphold the written denial of the zoning interpretation on the property located at 8420 Brookfield Avenue, Brookfield, Illinois, to Mr. Campbell. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks and MacDonald. Nays: Commissioners Hletko and Wahlstrom. Absent: Commissioner Ligeikis.

**Old Business - Approval of Minutes – ZBA April 3, 2008**

Commissioner Hletko, seconded by Commissioner Wahlstrom, to approve the Minutes of the April 3, 2008 Zoning Board of Appeals meeting. Upon roll call, the motion carried as follows: Ayes: Commissioners Hendricks, Hletko, Wahlstrom and Sinde. Abstain: Commissioners Digan and MacDonald. Nays: None. Absent: Commissioner Ligeikis.

**Adjourn**

Motion by Commissioner Digan seconded by Commissioner Wahlstrom to adjourn the Zoning Board of Appeals meeting of June 5, 2008 at 9:00 p.m. Upon roll call, the motion carried as follows: Ayes: Chairman Sinde, Commissioners Digan, Hendricks, Hletko, MacDonald and Wahlstrom. Nays: None. Absent: Commissioner Ligeikis.

\*Note: Time meeting began and ended was not note on motion sheets. Time adjourned estimated by length of audio recording provided – 1 hour 55 minutes.

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**Matthew Sinde, Jr., Chairman  
Zoning Board of Appeals**

**/s/**