



1200 Wilmette Avenue  
Wilmette, Illinois 60091-0040

**MEETING MINUTES**

**ZONING BOARD OF APPEALS**

**WEDNESDAY, JULY 17, 2019**

**7:30 P.M.**

**COUNCIL CHAMBERS**

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**Members Present:** Acting Chairman Reinhard Schneider  
Mike Boyer  
John Kolleng  
Christine Norrick  
Ryrie Pellaton  
Bob Surman

**Members Absent:** None

**Staff Present:** Lisa Roberts, Assistant Director of Community Development

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**I. Call to Order**

Chairman Schneider called the meeting to order at 7:31 p.m.

**II. 2019-Z-26 416 Wilshire Drive West**

See the complete case minutes attached to this document.

**III. 2019-Z-25 204 9<sup>th</sup> Street**

See the complete case minutes attached to this document.

**IV. 2019-Z-20 1150 Central Avenue**

See the complete case minutes attached to this document.

**V. 2019-Z-21 400 Linden Avenue**

See the complete case minutes attached to this document.

**VI. 2019-Z-27 206 Girard Avenue**

See the complete case minutes attached to this document.

**VII. Approval of the June 5, 2019 Meeting Minutes**

Mr. Kolleng moved to approve the June 5, 2019 meeting minutes.

Mr. Schneider seconded the motion and the voice vote was all ayes and no nays. Motion carried.

**VIII. Approval of the June 19, 2019 Meeting Minutes**

Mr. Kolleng moved to approve the June 19, 2019 meeting minutes.

Mr. Surman seconded the motion and the voice vote was all ayes and no nays. Motion carried.

**IX. Public Comment**

There was no public comment.

**X. Adjournment**

The meeting was adjourned at 10:17 p.m.

Respectfully submitted,

Lisa Roberts  
Assistant Director of Community Development

### **3.0 TESTIMONY, COMMENTS, AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### **3.1 Persons appearing for the applicant**

3.11 Ms. Eunice Shapiro, applicant  
416 Wilshire Drive West

3.12 Dr. Jerry Shapiro, applicant  
416 Wilshire Drive West

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a 9.0' side yard air conditioner condenser setback variation to permit the installation of air conditioner condenser. The Village Board will hear this case on August 27, 2019.

3.22 Ms. Shapiro said they have lived in their house for 41 years. They have had at least 2 or 3 air conditioner condensers in the proposed location. Their property is small and there is no other place for the unit. They need to replace their air conditioner.

3.23 Chairman Schneider asked if a variation was needed for previous condenser replacements.

Ms. Shapiro said they never needed a variation for prior replacements.

3.24 Chairman Schneider asked how the issue of needing a variation came up.

Ms. Shapiro said that the air conditioner salesperson told them he had to apply for a permit. A permit could not be issued because the request required a variation. The code was written after they moved into their house.

3.25 Mr. Boyer asked when the last condenser was replaced.

Ms. Shapiro said it was 10 to 15 years ago.

3.26 Mr. Surman asked if codes changed since the last replacement.

Ms. Roberts said that there was no change in the code. It has been at least 10' for a long time.

3.27 Mr. Boyer said that this is a corner lot. There are limited areas for the installation. There are areas where they could not install or other less-desirable areas where they would still need a variance.

3.28 Chairman Schneider said that the neighbor has a condenser across from the

applicants. Were there any objections from the neighbors?

Ms. Shapiro said it is very close to their unit. No one has ever objected to her unit.

3.29 There was no one in the audience to discuss this case.

**5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Surman said this is a straightforward case. The unit has been in that location for at least 40 years. There are restrictions due to lot shape. The unit is near their patio. The adjacent neighbor has their unit within 10’ of this unit. He can support the request.

5.2 Mr. Pelton said that if the neighbor has no objection and because of the proximity of the neighbor’s unit, he sees no reason not to recommend approval.

5.3 Chairman Schneider said that when he and Ms. Norrick were back there, to the east of the corner of the house between the patio and the condenser unit, there is a patio door. It wouldn’t work well if the condenser was in front of the door.

**6.0 DECISION**

6.1 Mr. Surman moved to recommend granting a request for a 9.0’ side yard air conditioner condenser setback variation to permit the installation of air conditioner condenser at 416 Wilshire Drive West in accordance with the plans submitted.

6.11 Mr. Pelton seconded the motion and the vote was as follows:

Chairman Reinhard Schneider	Yes
Mike Boyer	Yes
John Kolleng	Yes
Christine Norrick	Yes
Ryrie Pelton	Yes
Bob Surman	Yes

Motion carried.

6.2 Ms. Norrick moved to authorize the chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2019-Z-26.

6.21 Mr. Surman seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the variation standards of Section 5.4.F of the Zoning Ordinance. The physical conditions of the property, the condition as a corner lot and the siting of the house on the lot, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the unique development of the lot. The difficulty prevents the owner from making reasonable use of the property with the replacement of an air conditioner condenser. The proposed variation will not impair an adequate supply of light and air or otherwise injure adjacent property. The variation, if granted, will not alter the essential character of the neighborhood. The proposed condenser replaces an existing unit in a location where a unit has existed for many years.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 9.0' side yard air conditioner condenser setback variation to permit the installation of air conditioner condenser at 416 Wilshire Drive West in accordance with the plans submitted.

### **3.0 TESTIMONY, COMMENTS, AND ARGUMENTS ON BEHALF OF THE APPLICANTS**

#### **3.1 Persons appearing for the applicant**

3.11 Mr. Andrew Venamore, Mach 1, applicant  
602 Academy Drive, Northbrook

3.12 Mr. Drew Stephen, owner  
204 9<sup>th</sup> Street

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a 119.3 square foot (7.48%) rear yard pavement impervious surface coverage variation and a 40.8 square foot (2.56%) rear yard total impervious surface coverage variation to permit the construction of a detached two-car garage. The Village Board will hear this case on August 27, 2019.

3.22 Mr. Venamore said that the project scope is to provide a replacement garage to the current garage that is small and one car. The proposed garage is two car and 20' x 20' with access from the side of the garage, which is off the alley. The garage is side loaded from the north of the property. The one car garage is in poor condition. The overall amount of impervious surface will be reduced by 340 square feet.

The variations relate to impervious surface. He referenced the existing and proposed site plans. The new garage is in the approximate location as the current garage. There is a large asphalt parking pad on the property. Current access is heading westbound. The setback for the existing garage is about 17' or 18'.

The current way to get into the existing garage is not practical. His communication discussed challenges of getting into the current garage.

He went through the proposed plan. To make the garage accessible, the civil engineer suggested turning the garage on its axis, so it faces to the north side of the property. It will have a parking pad of similar size to what exists. One will drive south down the alley and pull into the garage. To exit the garage, one will reverse back out and drive out to Gregory Avenue.

The idea behind the project from an engineering standpoint was to deal with the narrow alley of about 10'. There is a concrete retaining wall that was established for the neighbor on the east side of the alley. The wall is 16" to 18" in height. It is adjacent to the applicant's property. As a result of that wall, it is difficult to turn into the property going westbound. The engineer wanted to change the garage location and make it accessible to the north. It was easier for the applicants to get in and the amount of impervious surface was reduced. The hardship is tied to the

way that the alley lays out most particularly as it ties into the existing concrete wall on the east side of the alley. It has been challenging to get access into the current garage. They tried to open up the lot by altering the entrance side of the garage and limiting the amount of impervious surface that is on the lot.

The water sheds directly to the east from the current impervious surface. The owners are aware of drainage challenges. The focus was to reduce the impervious surface as much as possible while providing a structure that can be accessed in a measurable fashion vs. trying to drive straight west off of the alley.

They recognize that there are drainage concerns. They wanted to reduce runoff into the alley by reducing the amount of impervious surface. This is a rather unusual garage design. The limitations are the alley width and the height of the concrete retaining wall.

- 3.23 Chairman Schneider said that Mr. Venamore talked about the reduction from the existing configuration. By how much?

Mr. Venamore said that the reduction is about 340 square feet.

- 3.24 Chairman Schneider noted that the existing garage with the approach is 40' from the property line.

Mr. Venamore said that the existing garage is 17' in from the rear property line plus 22' garage depth so that number is accurate.

- 3.25 Chairman Schneider said they are pulling the garage back to 23' including the apron. There is a net reduction in impervious surface with the new proposal.

- 3.26 Mr. Surman said that he understands the layout and the reasoning behind it. Is that turnaround area the smallest that it can be?

Mr. Venamore said that the setback requirements from the south pushed the garage a certain distance, which lessened the amount of impervious surface. The turnaround is squared off on the northeast corner. There is still a little concern about the second car that may require a three-point turn to get into the garage. That is why there is the squaring off.

- 3.27 Mr. Surman said that sometimes people build new garages and then decide they want a new walk to the backyard which increases impervious surface. Are the applicants planning on using the existing walk or making it wider?

The owner said they plan on replacing the existing walk. They recently did construction on the back of their house. The whole back is torn up. There is a walkway there that would be replaced in a like manner.

Mr. Venamore said the sidewalk width would be 2' and the current width is 2'.

- 3.28 Mr. Pellaton said that the applicants dealt with alley narrowness by setting the current garage back on the property, so they had an area to turn into. They could do that with the new garage and if it was the same depth as the current garage, they would have less impervious surface than what they are proposing. He does not know if he sees anything wrong with the garage as proposed, but he is curious as to why the proposed solution is better than the existing garage in terms of entrance.

The owner said they have not been able to get a car into their garage. The village dug out the alley to lower it down to improve drainage. That is when the concrete walls went up. Since then it has been hard to get in and out because of the walls. To the south of his house the alley is 8'8" wide. At this house it is 9'2" wide. They have hit the wall several times just getting cars onto the parking pad. The people who lived there before him damaged the rear of their car. The spot is tight and sloped.

Mr. Venamore said if the solution was to locate the garage in that approximate spot it would be pushed further back into the rear yard. There would be a 20' width of asphalt. The issue is the concrete wall on either side which puts limits on designs and ideas.

- 3.29 Mr. Pellaton talked about a solution of driving past it and backing in.

Mr. Venamore said they will enter the garage southbound, drive in, reverse out, and continue southbound.

- 3.30 Mr. Pellaton noted that it will take good driving to get in and out of the garage.

The applicant said it is a tight alley that he would like someone to address, but that might not be realistic.

- 3.31 Mr. Pellaton referenced the 3' x 3' pad for the proposed garage. Is that a step entrance by the door?

Mr. Venamore said there is a step entrance.

- 3.32 Mr. Surman said he understands the raised curb on the other side of the alley. Is there one that goes along the applicant's property line in the alley?

The owner said that there is a raised curb on his side that will be eliminated with the proposal. There is one directly south of them on their side but behind the neighbor's yard.

- 3.33 Ms. Roberts said that there is a letter at board members' places. The letter is about drainage.

The applicant said that the village required the neighbors to put in rain barrels.

#### **4.0 INTERESTED PARTIES**

##### **4.1 Persons speaking on the application**

4.11 Ms. Kathy Shanley  
214 9<sup>th</sup> Street

4.12 Ms. Debbie Peterson  
210 9<sup>th</sup> Street

##### **4.2 Summary of presentations**

4.21 Ms. Shanley said that she and her husband have lived in their home since 1993. Their house is the second house to the north of 204 9<sup>th</sup> Street. She sent the letter today. She just had a garage built on their property and had the inspection this week. She enclosed pictures of her garage. They did not need a variation. She sees that the applicant needs a new garage. She agrees with her neighbor in that the alley is a problem as it is very narrow. The neighbor has the particular issue of the wall. The neighbors on the east side put up a fence along the alley. In the winter there is nowhere to push snow. When she built her garage, the driveway is longer than they wanted but they needed it to turn in and not hit the fence.

The main concern she has is flooding in the alley. There has never been work done by the village in the alley since they moved in. All of the water settles behind her house. For three months, it was full of water. It doesn't drain at all. She is concerned and asked that this project not add to additional water problems.

When they built their garage, the village asked that they put in rain barrels to help reduce the flow from a heavy storm into the street. Why isn't the applicant required to put in rain barrels?

The village should repair alleys when needed so that the water drains out. She has called several times to complain and was told that it is not a priority alley. Most of the alleys have garages on either side. This is a strange block with the two houses and a long lot in between. She looked through the capital plan and there is nothing in the plan about repairing her alley.

Mr. Kolleng clarified that the alley currently gets a lot of water. He said that the proposal will reduce impervious surface by 340 square feet. That should provide more land for water to soak into.

Mr. Pellaton thought that the math was a little fuzzy and he came up with something closer to 200 square feet. But there is more area for water to absorb as a result of building the new garage.

The neighbor said she does not understand why she was asked to put in rain barrels.

Ms. Roberts said that the neighbor's email was sent to the Engineering department. The Engineering reviewer said that the neighbor was asked to do best management practices for storm water. She knows that each homeowner is carefully assessed due to water issues in the area. She is sure that the applicant will be asked to do something, but she doesn't know what.

The neighbor said if they are just changing the design, she wants to make sure that no additional water is sent north instead of south.

Chairman Schneider said that there will be a net improvement and the board assumes that the runoff from the reduced impervious surface will not aggravate the neighbor's water situation.

Ms. Norrick confirmed that the plan would go to the Engineering department for further review and Ms. Roberts confirmed that it would.

- 4.22 Ms. Peterson said she is the applicant's neighbor and he is a wonderful neighbor. She has lived in her house for 35 years. She had flooding in her garage, so they rebuilt the garage higher. But the alley was dug down and the walls were put in. She has been waiting for someone to redo this project so that the wall being taken down would allow for drainage. She has a lot of water problems in her backyard.

The applicant putting in a pad will help her yard with drainage. She said he is willing to work with her so that both of them do not have more water problems. She said that the applicant's yard would get water that would drain into her yard and basement.

Her big concern was the larger pad. There was a big addition to the applicant's backyard since the project began. She said that the proposal should get water out of both of their yards. She is happy with that. The applicant has a hardship because of the walls. This has also been a major hardship for her. She talked about snow removal. No trucks can fit in her alley but it's never a project that needs to be done. They had problems with water freezing in the alley. It should not be a homeowner's responsibility to determine how water should drain out of the alley. Maybe an engineer comes to decide if the wall should be there or if landscape would have worked.

Chairman Schneider encouraged her to attend the board meeting to express her concerns about the alley.

Mr. Boyer clarified that the project, with the removal of the wall, will improve alley access for the block.

She said that the wall removal will help her, and she explained why.

Mr. Boyer said there were a lot of scars on the concrete walls.

The neighbor explained how the garbage man has to lug garbage down the alley in winter. His truck will not go down the alley in the winter. She plans to sell her house soon, but she feels responsible about the alley.

**5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Boyer said that existing conditions cause the hardship. The parking pad is an approach or runway to where the garage needs to be placed because of the walls. There is not a better placement for the garage that is better than the proposed placement. They are removing between 200 and 340 square feet of impervious surface. One of the neighbors said that this project is an improvement over the alley access for all neighbors on the block. All standards are met. He can support the request.

5.2 Mr. Pellaton think that the proposal is a net improvement. The neighbor’s concerns will be addressed by engineering and it not the board’s purview. The width of the alley is also not the board’s purview. He thinks that there is a hardship in this case. He can support the request.

5.3 Mr. Kolleng said that the board sees a lot of requests to build a two-car garage if there isn’t one. The village encourages two car garages so that cars are off of the streets. There are some novel challenges. Standards of review are met, and the proposal is an overall plus for the alley situation. He can support the request.

5.4 Chairman Schneider said that there is a clear hardship. He hopes that the village engineer does as much possible to improve the water situation in the alley. He asked the neighbor to come to the village board meeting to talk about the alley. He can support the request.

**6.0 DECISION**

6.1 Mr. Boyer moved to recommend granting a request for a 119.3 square foot (7.48%) rear yard pavement impervious surface coverage variation and a 40.8 square foot (2.56%) rear yard total impervious surface coverage variation to permit the construction of a detached two-car garage at 204 9<sup>th</sup> Street in accordance with the plans submitted.

6.11 Mr. Pellaton seconded the motion and the vote was as follows:

Chairman Reinhard Schneider	Yes
Mike Boyer	Yes
John Kolleng	Yes
Christine Norrick	Yes
Ryrie Pellaton	Yes

Bob Surman

Yes

Motion carried.

6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2019-Z-25.

6.21 Mr. Surman seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

## **7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the variation standards of Section 5.4.F of the Zoning Ordinance. The physical conditions of the property, the grade change between the property and the alley, the width of the alley, and the retaining walls on the side of the alley, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the conditions of the public alley. The difficulty applies to most properties along the alley but is not a common situation in the village. The difficulty prevents the owner from making reasonable use of the property with a detached garage that can be accessed and still minimizes the impervious coverage on the lot. The proposed variations will not impair an adequate supply of light and air or otherwise injure adjoining property. The net reduction of impervious surfaces is a benefit to the immediate properties. The variations, if granted, will not alter the essential character of the neighborhood. The general configuration of the garage remains largely the same, with a net reduction of impervious coverage and moving the garage closer to the alley, opening up move of the backyard area.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 119.3 square foot (7.48%) rear yard pavement impervious surface coverage variation and a 40.8 square foot (2.56%) rear yard total impervious surface coverage variation to permit the construction of a detached two-car garage at 204 9<sup>th</sup> Street in accordance with the plans submitted.

### **3.0 TESTIMONY, COMMENTS, AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### **3.1 Persons appearing for the applicant**

3.11 Mr. John Lonergan, owner and applicant  
Rock House Music School

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a special use for an art studio to permit the operation of the Rock House Music School. The Village Board will hear this request on August 27, 2019.

3.22 The applicant said they propose to expand the music studio from the second floor into the first floor and shutter the coffee and café business. The music studio is one of the best parts of that business that can survive and grow. It is the future of their business. They are trying to bring more traffic and families downtown. They will offer programs for ages 3 and up. There will also be classes for adults. They are looking at this from a family perspective.

They are not proposing to expand the footprint but are proposing to renovate the first floor. The proposed plan is in the packet and will allow for a small snack shop and a bigger music/retail shop. There is no music/retail shop in the Village Center. They will create a larger rehearsal/performance space for students. Right now, the area for rehearsal is very cramped. He talked about space needed when one plays in a band. They would also have a front desk and better waiting area for parents. No changes are proposed for the second floor.

3.23 Chairman Schneider asked if operating hours would change.

The applicant said operating would change slightly. They will not be open as early in the morning. Mostly younger children come in the morning. He talked about a break from 12 p.m. to 3:00 p.m. and they will operate the same hours as now, which is 3:00 p.m. to 8:00 p.m.

3.24 Mr. Surman asked about staffing increase and asked about parking. These questions are asked with a special use request.

The applicant said that a lot of parents drop off, but more may park and come in as they make improvements. There will be a decrease from the café so traffic should even out. They do not anticipate the need for more parking.

Regarding staffing, they anticipate some additional staff, but are reducing staffing in some areas so the actual number should not increase. There will be more music classes, but no café.

3.25 Mr. Surman said if parents drive, they can park more remotely if needed.

The applicant said that parents might drop off, then park and come in. Once lessons are over, families might go to another Village Center business. Right now, there is no dedicated space for parents to wait so now they drop off, go home, come back and pick up without staying in the Village Center.

3.26 There was no one in the audience to speak on this application.

**5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Kolleng said they are reconfiguring the space. All standards are met. He can support the request.

5.2 Mr. Boyer said he sees no detriment to the use. It seems to continue with the same type of foot traffic/employee levels. It is a neutral addition for parking and traffic. He can support the request.

5.3 Chairman Schneider said there will not be a major change in impact on traffic and parking. Some retail uses are being lost in the Village Center and these things happen. He can support the request.

**6.0 DECISION**

6.1 Mr. Kolleng moved to recommend granting a request for a special use for an art studio to permit the operation of the Rock House Music School at 1150 Central Avenue in accordance with the plans submitted. The use shall run with the use.

6.11 Mr. Boyer seconded the motion and the vote was as follows:

Chairman Reinhard Schneider	Yes
Mike Boyer	Yes
John Kolleng	Yes
Christine Norrick	Yes
Ryrie Pellaton	Yes
Bob Surman	Yes

Motion carried.

6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2019-Z-20.

6.21 Ms. Norrick seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the special use standards of Section 5.3.E of the Zoning Ordinance. The proposed use is an expansion of the current music school use that has been in operation approximately 8 years. The existing use and the proposed expanded use is consistent with the Comprehensive Plan to encourage a vibrant commercial district in the Village Center. The proposed expanded use will not be detrimental to or endanger the public health, safety or general welfare nor will it be injurious to the use or enjoyment of other property. The proposed expanded use will not impede the normal and orderly development and improvement of surrounding properties nor will it diminish property values. The proposed expanded use will complement existing businesses. Adequate utilities, road access, and other facilities already exist. Adequate measures already exist to provide ingress and egress with the lot to the rear of the building. The proposed expanded use will be consistent with the community character. No known archaeological, historical or cultural resources will be impacted. No buffers, landscaping or other improvements are necessary. No other standards of Article 12 apply.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a special use for an art studio to permit the operation of the Rock House Music School at 1150 Central Avenue in accordance with the plans submitted. The use shall run with the use.

### **3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### 3.1 Persons appearing for the applicant

3.11 Ms. Kathy Lerner, property manager  
400 Linden Avenue

3.12 Ms. Anne Kustner, president, AKLD Lighting Design  
517 4<sup>th</sup> Street

#### 3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a 1.0 foot-candle illumination variation to permit the installation of wall-mounted lighting. The Village Board will hear this case on August 27, 2019.

3.22 Ms. Lerner said that the building was sold 8 months ago to a partnership. They are making a lot of improvements. The property was neglected for a long time and has a lot of potential to change the neighborhood. They are looking to improve parking lot lighting. It is more of a safety and security issue than anything else. There is virtually no lighting there. There is a dance school and tenants who are there late at night. There is an alley adjacent to the building. They need a 1-foot candle variance for the alley. The site is adjacent to more commercial property and not residential. There was a drug deal done at the site one week ago. The neighborhood can be 'touch and go.' People come off the L and look for trouble. The tenants are nervous to walk to the parking lot and some go through that alley. The village has not provided lighting in that alley. The adjacent building is owned by Charles Heller who is happy to have extra lighting on his property. His address is on 4th Street. On the west side of the parking lot the illumination goes to zero, so the condos are not impacted.

3.23 Chairman Schneider noted that they are proposing two light fixtures in the alley.

Ms. Lerner brought her lighting specialist to the hearing. The only reason why the foot candle is high is due to the low building. The reflection is brighter than it is on the other side of the building. They can hang the fixture higher on that side.

3.24 Ms. Kustner said her office is on the alley. She has been there for two years and her staff is nervous at night and she understands why. They have a security camera in the back. This is a unique area in the village, and one must be more careful. They have mostly women in their office.

The fixture is a full cut-off fixture. They have it at the lowest milliamp rating they can get. The fixture has even illumination. They want even illumination. It is under a 1-foot candle variation.

- 3.25 Mr. Surman asked about the foot candle level. Do they measure 30” off the ground?

Ms. Kustner said they measured it at the pavement as it is an exterior space. The reading is 1.3-foot candles. They took foot candles around the sidewalk. They did not want to bring up the lighting level in the back to attract people. They also did not want to bring it down. They want to match what is on the sidewalk around the building area.

- 3.26 Mr. Surman said that one could not discern one-foot candle.

- 3.27 There was no one in the audience to speak on this case.

**5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

- 5.1 Mr. Surman said that this is a reasonable request. They won’t be able to tell the difference with one-foot candle. He likes that they compared it with the lighting on the public sidewalks. He can support the request.

- 5.2 Mr. Boyer said that there are safety concerns. He can support the request. The light will be in an area that is commercial land no neighbors are impacted.

- 5.3 Chairman Schneider agreed with above comments and can support the request. There are safety issues and the alley and parking area need lighting. No neighbors are directly impacted. He can support the request.

**6.0 DECISION**

- 6.1 Mr. Surman moved to recommend granting a request for a 1.0 foot-candle illumination variation to permit the installation of wall-mounted lighting at 400 Linden Avenue in accordance with the plans submitted.

- 6.11 Mr. Boyer seconded the motion and the vote was as follows:

Chairman Reinhard Schneider	Yes
Mike Boyer	Yes
John Kolleng	Yes
Christine Norrick	Yes
Ryrie Pellaton	Yes
Bob Surman	Yes

Motion carried.

6.2 Ms. Norrick moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2019-Z-21.

6.21 Mr. Pellaton seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

## **7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the variation standards of Section 5.4.F of the Zoning Ordinance. The physical conditions of the property, the siting of the building on the lot line and the lack of public alley lighting, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the unique circumstances of the lot. The difficulty prevents the owner from making reasonable use of the property with lighting at night for safe access around the property. The proposed variation will not injure adjacent properties. The proposed lighting is adjacent to institutional and commercial properties that will not be impacted by the variation request. The variation, if granted, will not alter the essential character of the neighborhood and will make the property and public way safer with lighting at night.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 1.0 foot-candle illumination variation to permit the installation of wall-mounted lighting at 400 Linden Avenue in accordance with the plans submitted.

### **3.0 TESTIMONY, COMMENTS, AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### 3.1 Persons speaking on behalf of the applicant

3.11 Ms. Carola Frydman, owner  
206 Girard Avenue

3.12 Mr. Dimitris Papanikolaou, owner  
206 Girard Avenue

3.13 Mr. Peter Nicholas, architect  
Nicholas Design Collaborative, Chicago

#### 3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a 28.5' fence height variation and a 26.0' fence height variation to permit the installation of a 32.5' fence in the front yard, side yard, and rear yard. The Village Board will hear this case on August 27, 2019.

3.22 Ms. Frydman said that her family recently moved to the village. They are building a new house. Their lot is unique in that it is next to the golf course and is next to tee hole number four. They were unaware how many balls would come into their site. They started construction in winter when people don't play golf. It is a bigger problem now that the weather is nicer. They want to build a fence on the west side of the lot that would border the golf course.

They do not see as many balls in the front of their property. They come through the side towards the middle of the property and towards the back. She understands that neighbors are exposed to golf balls flying onto their property. It is a health hazard to have balls flying onto their property. They have collected 164 golf balls since April 2019. She said that they consider flying golf balls to be a serious hazard that could endanger their child in the yard.

There was something on CNN the day of the meeting about a young girl being killed by a golf ball so this is a real potential concern for her. They are proposing to build a net. They are cognizant of its appearance for the neighbors. Her architect will discuss the specifics. The net they found meshes with greenery. They want to cover the net with greenery including evergreens and non-deciduous greenery. She understands that neighbors want trees in the front yard and they are happy to do this.

Before they started construction, they, spoke with Canal Shores and proposed building and paying for a net on their side of the tree line. Canal Shores said they do not allow fencing on their property. They were not flexible with regarding to moving the tee or with their current fencing.

3.23 Mr. Papanikolaou said he wanted to empathize their main concern is health and safety and are worried about golf balls hitting their heads and their young child's head. In an ideal world, the golf course would be amenable to making changes to maximize safety. A letter from them indicated they would not build a fence on their property and suggested that the applicants put up a net on the neighbor's property.

3.24 Mr. Nicholas gave his presentation about the proposal. They are proposing 4 8-inch steel posts that extend into the ground in concrete. There is 125' of exposed property that borders onto the golf course. They chose a netting that is a high tensile net. It does not snap or break. They chose it because it is almost invisible. Their intention was to have the least amount of impact possible. This was the best solution. They wanted to also mitigate the impact and views from the street by putting a number of evergreens along the front edge. Towards the back there is already dense vegetation. If needed, however, they would put more back there. They ran yews along the middle of the site. They want to hide the net as much as possible. The trees grow to 30' to 40' high over time. A good part of the screen is blocked by the building.

3.25 Chairman Schneider asked what determined the height of the post.

Mr. Nicholas said that the post height is 32'6" and it was recommended by the screening vendor and that was an appropriate height. The house height is 27'. He showed a superimposed picture showing netting and posts. He showed a highly accurate rendering of density and size of the trees and building. He said he knows that there is a concern about wildlife getting in and out of the netting. They are concerned about the upper portion of the fencing rather than the lower portion. The hardship is that they are next to the golf course. During the process of purchasing the property, they were on site a lot but didn't notice the golf balls until the weather got better. They would have addressed this earlier if they had known that this was as big of an issue as it is. They are concerned about safety and trying to come up with the right solution.

3.26 Mr. Kolleng asked when the lot was purchased.

Mr. Nicholas said it was purchased in August 2017.

3.27 Mr. Kolleng said they had a whole season in 2018.

Mr. Nicholas said they saw some golf balls at that time.

3.28 Mr. Kolleng asked what would happen if they still got golf balls at 32'. Will they return to ask for higher posts?

3.29 Mr. Boyer asked for an example of what could get over 32'.

3.30 Mr. Kolleng talked about balls that could get over 32'.

Mr. Nicholas said that the line of the ball's trajectory come on the second shot.

3.31 Chairman Schneider said that the solution would decrease the number of balls that reach the property by a significant amount.

Mr. Nicholas said that the net vendor told him that given the existing conditions, 32' should get most golf balls off of the property. He could get a letter stating this if needed.

3.32 Ms. Norrick said if the height was more similar to the house height it would be less visually obtrusive. Was there an evaluation done whether the height could be less than what is proposed?

Mr. Nicholas said the taller it is the better.

3.33 Mr. Surman said he did not have an issue with the height.

3.34 Ms. Norrick said the discussion started as to what they would do if the 32' height did not eliminate enough balls. Do they need to come back to ask for something higher?

The applicant said there are tradeoffs between effectiveness and visual impact. He said that the vendor who made the recommendation is a well-known installer and has done a lot of work in the area and out of state. They don't know the exact number. They would be open to a slightly shorter fence if needed. They are looking for protection. They will do what is needed to prevent golf balls from hitting their heads.

(after 4.0)

3.35 Mr. Papanikolaou thanked the neighbors for echoing his concerns about the health hazards of golf balls. He agrees that his proposal is not the only suggestion but it would help if the golf course was cooperative and willing to change their plan. He received a letter from them in response to his suggestion that they build more protection on the golf course side. He understands that the golf course is short on funds and he offered to

pay for everything. The answer was no. Maybe a concerted effort with the whole neighborhood would have a better outcome.

Regarding planning, he disagrees that they did not plan this properly. They also do not want visual disruptions to the neighborhood. Their initial thought process was natural fencing. But the issue is that with building trees throughout it is much harder to build the net between the trees. If a net was to built now is the time to do it before trees were placed on his property. His plan was to shield the entire fence with vegetation in the front and back. They are concerned about the visual impact. They don't want to live near an industrial fence, but also do not want to get hit on the head with golf balls. Their main issue is their child. The glass is tempered. The stucco is protected.

Something that Nathan suggested and what he actually thought about was applying for a maintenance easement of the property that is in front of the golf course. At his expense, he would plant more trees to provide more protection. Ms. Roberts was aware of this possibility.

Ms. Roberts said they would need a right of way permit to get permission to put trees in the right of way. The village would not do an easement but could give permission to plant trees in the parkway.

Chairman Schneider asked the applicant to point out the property owned by the village.

The applicant pointed out the property owned by the village. There is enough space to plant for protection. A lot of balls that they get are being hit as a second shot. He wanted more protection in a specific area to stop balls.

His wife said that they are delighted to work with the neighbors and Canal Shores to improve the situation for everyone. They tried to do it on their own without success. Canal Shores said that they do not allow netting on their property. She believes that they declined to their request that Canal Shores is strapped for cash. They will work on alternative solutions. Her guess is that Canal Shores does not want a net that they want to maintain. They don't have resources to do that. Her concern is that they may not have resources to work on proposed changes. She needs concerns to be addressed based on the number of balls they get. They will get 500+ balls into their yard over the summer.

- 3.36 Mr. Surman said there might be a better solution. If they can work with Canal Shores, they might want to start on their property and go to a 45-degree angle from the southeast. It would be a collaborative effort between the applicants and the club. Some of the fence would be in the

applicant's front yard. They would need to work with an expert on this. The natural inclination for a property that is shaped like this is to say to put the fence straight along the lot line, but it may be more beneficial to angle the fence. Maybe they could do two separate pieces, so it does not look quite as commercial as one large piece. The golf club's fear is that others will want them to do something. It might be less visually intrusive to go with a fence vs. one long piece.

3.37 Mr. Pellaton asked the architect to show the proposed landscaping plan because he thinks it is different from what was in the packet.

3.38 Mr. Boyer asked Ms. Roberts if Canal Shores wanted to put up this fence on their property whether they would need the same variance.

Ms. Roberts said they would need the same variance.

3.39 Mr. Kolleng said that there are other avenues that could be pursued.

The architect said they offered to plant trees on their side, but the golf club would not agree to this. Their trees on the course are very poorly maintained. A lot of them were dead and had to be removed. It has created a hole and they want to fill in that hole, but the club is not willing to talk to them about planting other trees on their side.

3.40 Chairman Schneider said that the neighbors had questions about lightening and the posts and property values.

The architect said he does not know how the proposed fence would impact property values. They are trying to create a minimal solution. A wood fence would be worse. Their intent was to do something that was unobtrusive as possible. There was a concern about SBC and cables. He said they have an approval letter from them indicating the applicant can work around it. If there is a concern about lightening, the poles can be grounded.

3.41 Chairman Schneider said he would think that metal posts would be a conductor.

The architect said this was true. He agrees with his clients and the neighbors that it might be good to have a group effort to try to talk to Canal Shores to determine if they would be amenable to working with them. He also thinks that there is a need for screening, but it is not a 100% solution. The mention of broken glass being a problem, they have addressed this upfront. He is not going to comment on anyone else's house. Regarding 154 Maple, he understands that their screening is not seen by other residents, but it is visible when one walks across the

bridge. Regarding the chain link fence on Canal Shores property, that is their property. Everyone would like that to go away if possible. They can talk to Canal Shores about that. He talked about dense plantings in the rear so the screening fence would be less obtrusive. The applicants are open to putting more plantings back there. In the front and back there is more space to get the trees away from the fencing. In the middle they would need to do something more vertical and columnar.

- 3.42 Mr. Surman asked about the current schedule of completion of the house.

The architect said they are talking about spring of 2020. There is time to work on this.

- 3.43 Mr. Surman said they have tabled a case. The last one he remembers was the church on Wilmette Avenue.

Ms. Roberts confirmed that the board could table the case.

- 3.44 Mr. Pellaton said it appears as though the fence may end at the back of the house. Is that correct?

The architect said that is not accurate. The fence goes from property line to property line. There is a triangular area in the front where they want to plant more trees.

- 3.45 Chairman Schneider said that when he was on site, there was a parking pad off the street to the west and bushes around that. Is that the area the architect was talking about?

The architect pointed out the area that he meant.

- 3.46 Prior to the building permit being issued, Chairman Schneider asked if they requested a variation on any other issue.

The architect said no.

- 3.47 Mr. Kolleng said he assumes that golf balls have broken windows in the past. Does the golf course take care of that – question addressed to neighbors.

A neighbor said that a parking spot was mentioned and that it is a public parking spot. But only guests park in that spot. It is in the line of fire from golf balls. There is a cul de sac apron that would cut down a lot of balls. There is a big gap where trees came down after the microburst. She thinks they are coming in from that gap.

Another neighbor said that the landscape plan that they showed indicates that their proposed trees overlap the proposed fence. You cannot plan to have evergreens that grow 4' / year planted against a net. They are not taking into consideration all of the trees further down their property line that are on Canal Shores side that overhang the fence line. Will they work with Canal Shores to chop all of that down?

- 3.48 Chairman Schneider said he presumes they will work that out. That is their issue to deal with.

The neighbor said it will be the neighbor's issue. If they build that fence, all that greenery further down will go away and all they will see is the fence.

- 3.49 Mr. Surman said that before the case is closed, the board should discuss with the applicant whether they want to table it.

Ms. Roberts said a motion is needed to start discussion. She said that the board could ask the applicant about their thoughts on tabling the case. A motion should be made first however.

#### **4.0 INTERESTED PARTIES**

- 4.1 Persons speaking on the application

4.11 Ms. Michelle Leonardo  
202 Girard Avenue

4.12 Ms. Cindy Cogil  
147 Maple Avenue

4.13 Mr. Kurt Topel  
141 Maple Avenue

4.15 Mr. Nathan Freeborn  
114 Girard Avenue

- 4.2 Summary of presentations

- 4.21 Ms. Leonardo lives next door to the applicants. She is the nominated representative of 27 neighbors of 206 Girard, as a group, they submitted a formal opposition letter to Ms. Roberts. She will reference the letter during her presentation. She asked the board members if they read the long letter, which covered several issues.

She added three people and two addresses to the list to Ms. Roberts who passed out that information.

After receiving the variance notice, several neighbors met to discuss the proposed fence. The overwhelming response was that the 32'6" tall, 125' long netted fence was the wrong solution for the neighborhood. They thought it would be more productive to write one thorough letter than to write several letters to the board. The neighbors are unified in their opposition. She was voted to present at tonight's hearing.

It is important to welcome the new neighbors, but they had no input on the fence's impact. There is no precedent for this request in the entire village according to community development. The average fence variance seeks about 2' additional height. It is also completely impossible to hide a 32'6" fence with a natural solution per community development. She talked about the fence at 154 Maple and put up a visual of what their house looks like from the front and the fence is not visible. It is tucked behind the house. It starts in their backyard and their rear yard is on an alley. It is not a comparable situation. That fence is not seen from anyone else's front or back yards. 206 Girard's fence will be seen by neighbors in the front and back yards and extending 7' above the roofline. 154 Maple did not have objections to repair their fence. She assumes it is because that fence is not visible to neighbors. Many neighbors will see the Girard fence and therefore neighbors are objecting.

They acknowledge that golf balls are coming from the golf course into the applicant's yard. 153 Maple, 147 Maple, 141 Maple, 202 Girard, and many Wilmette Girard neighbors all regularly get balls in their yards. Many collect those balls also. Balls are a hazard when one buys a property adjacent or nearby a golf course yet none of the surrounding neighbors have a fence of their height or material to stop the balls.

She showed some renderings of how they think the proposed fence will look. A neighbor created the renderings. The renderings might be conservative when showing the fence.

Mr. Kolleng asked how many golf balls she gets.

She said she gets a bucket of balls in the front and side yards. She gets balls hitting her house – 1 to 2 per week. She showed the neighborhood map that showed the golf course.

Mr. Surman clarified that all houses referenced were on the east side of the street.

Ms. Leonardo talked about nice trees that were planted many years ago because of the golf balls. The tee is hidden behind arbor vitae and a fence. The golf course wanted to take down the arbor vitae last year. Ms. Leonardo mentioned that she and another neighbor are the neighborhood captains for holes 4 and 5. They know a lot about the golf course and those two holes. The arbor vitae were shading the grass and the grass was not growing on the tee. The neighbors further down her street said if the arbor vitae were gone more balls would come into the yards. The arbor vitae extend 8' over the fence.

Ms. Leonardo said that she was told that the golf course changed the tee position over the years. She thinks that it would be a good solution to work with the golf club and all neighbors experience balls, but that a net like this is not needed. There should not be a need for a fence like this for the neighborhood. She does not want the applicants to feel unsafe, but everyone gets balls and maybe all neighbors can work on a solution. The neighbors' consensus is that most balls come from the tee box. People whack the balls with a large wood club. This is a par 3 hole. Her understanding is that the golfer gets two putts on the green and the other shot is to hit the ball onto the green. Everyone hits as hard as they can to get to the green and that's why the balls come onto the neighbor's property. There are many solutions. One would be to not make it a par 3. They could put up a sign about not using a wood on that hole.

She talked about the golf course. She has lived in her home for five years. She didn't realize that there was a very narrow area to get to the hole due to a fence. There are a lot of problems with this hole.

Mr. Kolleng asked if the homeowners from 153, 147, and 141 Maple were at the meeting.

She said everyone was at the meeting except 153 Maple owners. They did not sign the letter. They have lived in their home since 2014 and relied on existing trees and vines for safety and an existing 4' chain link fence.

Mr. Kolleng asked if the people at 147 and 141 were getting fewer balls.

- 4.22 Ms. Cogil said they are getting fewer balls because the house is blocking it. But prior to the house being built and after the microburst in 2018 that took a lot of trees down, they saw an increase in balls for a period of time until the applicants put the second floor on their house. The trees acted as a screen prior to that.
- 4.23 Mr. Topel said that they got one ball after the hole was dug. Once they started putting up a wall, they got no more balls. He is a little further

away and others would get more than he would. He is closer to the school. He would get a few balls per month.

- 4.24 Ms. Leonardo said that in June 2017 a microburst brought down four mature golf course trees from the western property line where the proposed fence is planned. Those trees provided 206 Girard with more protection and left a wide-open gap in the tree line. More balls are coming through. In addition, 206 Girard cleared many trees off of their lot prior to construction. Those trees and some vines also blocked balls. So, the applicants exacerbated their own problem. The neighbors recommend using a tree solution with natural screening first before putting in the fence which is massive and permanent.

Chairman Schneider asked her to go to the map that showed golf ball trajectories which is on page 33 of the packet. That is an aerial view of the lot prior to construction.

She said that the middle line is right where the gap happened with the four trees.

Chairman Schneider asked where the applicant removed trees on their site.

The applicant said he did not remove any trees. There were no trees on the property. It was all on the golf course side and they were poorly maintained so many were dead. The golf course hired a tree removal company to remove the dead trees and trim the healthy trees. There are big gaps.

Ms. Leonardo apologized for saying there were trees, but according to her view, vegetation has been thinned out from what it had been previously been. The applicants had the lot for a year and why didn't they know that so many balls came onto the property – it might be because the trees had not been cleared. She said trees were cleared one month before construction started.

She said that the neighbors want the applicants to return to Canal Shores to talk about a solution. Other neighbors who get balls would participate and talk about safety issues. Maybe as a group they could come up with a better solution. There is a narrowing area that causes a problem.

In addition to landscaping and working with the golf course to reduce the number of balls, solutions that do not need variances should be explored. These could include pergolas, awnings, trellises, and smaller fences or netting on their wall of windows. All parties involved with designing 206 Girard could have taken more care to protect the owners

from golf balls through more functional design decisions. The applicants requested the proposed solution late in the building process that options are more limited and difficult and probably more expensive. Fencing, home design, and landscaping should have been submitted to the village at one time for review so challenges could have been worked out together.

She showed a picture of the wall of windows facing the golf course. That is why the applicants want the net – they are afraid that the glass will be broken. That is probably why they wanted the protection to be as high as they proposed.

The neighbors learned that before the properties were developed this was an open space for a play yard for Baker. None of the children ever got injured by a ball.

The requested industrial sized fence is an eyesore and will diminish resident's property values. All neighbors may incur hardship in selling their properties because of the fence. It is in close proximity to all four homes that directly border 206. These residents will see the fence. There are at least ten more houses along Girard, Garrison, and Maple that have site lines from their front and back yards of the posts and netting. All who oppose the request, except for one homeowner, can see the posts and fences. In her case, she will see it from the front and back yards.

The netting will block air space that is currently open. There is a lot of wildlife in the area due to the proximity of the golf course, the canal, and Lake Michigan. Foxes, deer, coyote, raccoons and skunks, rabbits, squirrels, chipmunks, mice, turtles, bats, and birds of all sorts have been there. They are worried that the birds and animals will get caught in the netting and be injured or killed. Based on research, many baseball and driving range fences employ screeching squawk boxes to keep birds away so they won't get caught in the netting. If an animal was caught in the net, there might not be the ability to rescue it in a timely manner.

If their recommendations do not succeed in reducing the balls that come onto the 206 property, they would be more likely to work on a solution that would be completely obscured behind the west side of the house. They want to ensure this would not be seen by neighbors and the public and would be similar to 154 Maple where no one can see the fence.

Keeping the fence tucked behind the house could help with the wildlife issue.

She asked the board to consider the following items –

Lightning strikes – will the poles become lightning rods, and do they need to be grounded

Utility easement – there is a marked SBC utility line running along the side of the engineering dock – how will that interfere with the pole footings

Canopy coverage – has the canopy coverage been met with the new trees submitted in the packet – how do the trees grow next to the netting without tearing it up

Maintenance – how will the owners deal with tears and holes in the netting – will the entire netting need to be replaced – how will they repair the netting when trees grow between the netting – how will they remove the annual cottonwood seeds covering the netting every June

Existing fencing – what will become of the broken chain link fence – all would welcome an improvement in that area

In summary, they have thoughtfully considered the variance and oppose it for all of the above reasons. They asked the board to reject the request and relay information to the Village Board, so they also reject it. They urge the board to enlist the applicants to explore alternate solutions that focus on landscaping of their lot and the cul de sac with natural screening elements; reducing the number of errant balls by collaborating with Canal Shores regarding hole four's layout and screening; inclusion of other physical barriers on their property that do not require a variance.

Mr. Kolleng asked when her house was built.

She said her house was built in 2013. She lived there since 2014.

Mr. Boyer asked if anyone spoke with Canal Shores about the hole 4 reconfiguration.

She that two years Canal Shores hosted a community meeting. They had thought about redesigning the entire golf course. She and many of her neighbors attended the meeting because they were worried about safety. They wanted to ensure that hole 4 got safer and not more dangerous. The designer gave a terrible presentation. He wanted the flow of the course to go in the reverse direction. The reason was because over 85% of bad shots are a slice and they go the right. When someone plays hole 4 now, many slices to the right. The designer said if they reversed it, the balls would go into the canal. A month later, Canal Shores realized they could not afford to reconfigure the course. She and the resident on Maple decided to be hole captains so they would keep an eye on the hole with the concern for safety being primary.

Mr. Boyer asked if shortening the hole and increasing hazards ever brought up.

She said that was not discussed because the entire course would change. They have never approached Canal Shores. They were approached 30 years ago about trees. She showed where balls were coming onto their properties. If Canal Shores knew that this was a bad problem, with more meetings and feedback, they might listen to the neighbors. She noted that the women's tee box has no screening. That could be immediately remedied with some greenery. The hole was moved at one time but was moved back so it was more 'fun' to play.

Mr. Surman said that the applicants are in a more precarious position than any of the other homes.

She said that the fence will not capture every ball that is a life or death scenario. There will be balls coming into the front yard. When she gets the balls, they usually hit her front porch or the porch frame. They are not going up to her second story. When she built her house, they thought about building materials. They put Hardie board that would not get dinged. It would withstand golf ball hits.

Mr. Kolleng asked if she had a specific contact at Canal Shores.

She said that she has the contact information for the president and for someone else who does a lot of organizing for Canal Shores. She has met most of the board members.

Mr. Kolleng said she is right about the fence by the green and it should be a bail out area. Working out something with Canal Shores would be the best way to make everyone happy. Maybe the same group who is at tonight's hearing could speak with Canal Shores.

She said they would like to meet with Canal Shores about natural screening.

Mr. Surman said if she did approach them, the area on the colored rendering, if they made it an angled hole where people would tee off and trying to position the ball on the yellow line and eliminate the fairway on that side. He further explained how this could be done. People would have a tendency to go to the northwest.

She said it would help if people shot more that way.

Mr. Surman talked about Canal Shores removing trees on the west side of the fairway, along the canal, and eliminated the fairway. They could extend larger trees that are there.

She said that the trees that align the canal are on a steep grade. It is a problem. They put too much into a specific area.

- 4.25 Mr. Topel said he wanted to update the packet. He went to the two installations that the petitioner suggested that the neighbors visit. He went to Niles North and to New Trier. He showed the Niles North baseball diamond. They had posts and fencing similar to what is being proposed. Trees are there but not close to the netting. He said that everyone needs to keep in mind that the neighbors want a natural screen. There is talk about having the natural screen and netting. He is sure that the netting he saw was flood netting. Trees and landscaping should be kept away from that type of netting. It will destroy the netting. They need to be careful about combining the two although that would be the best solution to keep balls out.

He showed close ups of the Niles North fence. He gave copies to the board. There is a ball caught in the netting. There are holes starting to develop. The net will eventually fall apart.

He also showed a picture taken at New Trier. The netting is about 20' high. It is screening footballs near the snack shop.

The photos show more of the application that the netting is meant for. He truly feels for the applicants. They are located in a unique position and will get more balls than others. There is an issue that needs to be dealt with. It should have been dealt with holistically by looking at how much land they can save to plant on, how much they can orient the house. Now it's hard to make the change. It will take Canal Shores to respond.

- 4.26 Ms. Cogil spoke again. She said that the images that Mr. Topel shared was baseball netting. Golf ball netting is a far denser weave. It will be more visible. It will be darker and more obvious. It extends above the house. The fence will not be obscured from view from other neighbors who see the back of the property. The landscaping plan in the packet was not on file when the variance was requested. The only plan that the neighbors could see was the original plan submitted with the permit, but it didn't show any treatment to the western side of the property. The applicants had meetings with Canal Shores prior to the permit process. They made no effort at the time of permit to develop a landscape plan that addressed the issue. Now that the house is well under construction, the applicants are looking for solutions.

Mr. Surman asked if anyone looked at white fencing and its impact.

She did some research. The black is supposed to be slightly more durable than the white. The white is more visually obtrusive. It is also more

visible for birds. In the packet is information about reports of birds being caught in golf ball netting at golf facilities. It takes a large cherry picker to get the birds out of the netting. The neighbors don't have access to that equipment and Canal Shores does not have ready access to that equipment. There are a lot of hawks, owls, and migratory birds in the area. It is a concern to them that birds will get caught and there is no ready solution to rescue them.

Mr. Surman asked what if they were to put in a shorter net. Would that be acceptable?

She said if it was shorter and also obscured by their house and not visible that might work. They also need to deal more with plantings on the inside. The neighbors want to have as much of the property be natural, they don't want to see the fence. If the fence is visible to the neighbors, it is not visible to birds and they might get caught. If the fence is in line with the house frame, birds may be less likely to fly into it. She talked about a bird ordinance recently passed by Chicago. She thinks that netting alone without natural landscape will not deter birds.

Mr. Pellaton asked if birds got caught in the 154 Maple fence.

She cannot speak to that. They have a lot of trees and landscape on Maple.

Mr. Boyer asked if she said she might be amenable to a fence within the frame of the house. Was she talking about height?

She said it is height and width. It is unnecessary to extend the fence to the back end of the property. She has lived in her house since 2013 and her house was built in 2008. The applicants have the last property to be developed in that area. She moved there for vicinity, natural landscaping, the character of the neighborhood. She did not move next to a top golf course, but a golf course that had natural landscaping. She knows that Canal Shores does not have money to invest, but they are open to neighbors who want to solve a problem and make a monetary contribution to solving the problem.

- 4.26 Mr. Freeborn said he has a lot of empathy for the applicants. The property has been owned for so long and tonight they are saying that they made a mistake and didn't realize all of the golf balls that come onto their property. That was a huge oversight on the part of the professionals. No one came to neighbors' houses to ask about traffic of golf balls in the immediate area. There has been assumption that the flight of the golf balls starts at the property line where the fencing is supposed to start. The village owns a piece of land on the southwest

corner of the cul de sac. He thinks that the village would be amenable to putting in a natural barrier. He has lived in his home for 9 years and have seen balls flying into his yard.

## **5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Chairman Schneider asked the purpose of tabling the case.

5.2 Mr. Surman said his reason for tabling was to give the neighbors, the applicants, and Canal Shores time to discuss options. If it is not tabled, the case will get voted up or down. If it is voted down, they cannot come back for another year for the same request. If the home is not going to be done till spring of next year, there is some room to wait.

5.3 Mr. Boyer asked for an explanation of what happens at the Village Board level if the request is denied tonight.

Ms. Roberts said they would have to be denied by the Village Board and then they could not return for a year.

5.4 Mr. Kolleng said the board denies the request, the Village Board would need a super majority to overturn the request.

5.5 Chairman Schneider asked if the board did not approve the request, can they come to the Village Board with a revised proposal.

Ms. Roberts said that the Village Board could work with the applicants on a different request and could remand it back to the board. Or it can be tabled at the village board level and come back with another request to the Village Board.

5.6 Mr. Surman said there is a small window of opportunity to discuss the issues. It would seem to him that they could take advantage of this. The applicants, neighbors, and Canal Shores could discuss options. This has been done before when there is a large group against a variance.

5.7 Chairman Schneider said he does not think that Canal Shores will cooperate. The board meeting is more than a month away. The applicants could propose an amended request at the board meeting.

5.8 Mr. Kolleng said the question is whether the applicants want the case tabled and coming back in a month after they meet with neighbors and then go as a group to Canal Shores. If the applicants and neighbors could come up with a joint plan that everyone supported, it would be easier for the board. Right now, 27 people are against the proposal. No one

knows how the vote would go but if there was one negative, they would need five out of seven village board members to vote for the request. He asked the applicants if they want to table the case and meet with neighbors and Canal Shores. They could have two months to come back.

Ms. Roberts said they would want to continue it to a specific meeting date so they don't have to redo notice.

Mr. Papanikolaou said if the neighbors share their concerns and want to make an argument as a group to Canal Shores, they would be happy about that and to make amendments to the proposal. He talked about maybe shortening the fence on the back. And maybe decreasing the height.

- 5.9 Mr. Surman said that the applicants could come back with the same proposal or an amended proposal. If it gets voted down by the board, five village board members would need to approve the request. If there are only six board members present, that could be an issue.

Ms. Frydman said that they are in agreement that this is a good solution. Maybe if all the neighbors go as a group, Canal Shores may change their mind. If they find an intermediate solution with Canal Shores, but there is still some remaining problem, can they come back to the board and propose a revised plan?

Ms. Roberts said if the case is tabled, they either have to come back to move forward or withdraw the case.

- 5.10 Chairman Schneider said if the applicant would consider tabling the case, a date needs to choose a date.

Ms. Roberts said it can be a short date and they can continue it again.

The architect said they need a longer time than the next meeting. It might be three to four months that they need.

- 5.11 Mr. Surman said if they set a date and it is too soon, they can continue the case.

- 5.12 The decision was made to start with three months.

Ms. Roberts said that would be November 6, 2019.

## 6.0 DECISION

- 6.1 Mr. Boyer moved to recommend a discussion on tabling this case.

6.11 Mr. Kolleng seconded the motion.

6.2 Mr. Kolleng moved to continue this case to the November 6, 2019 meeting.

6.21 Mr. Boyer seconded the motion and the voice vote was all ayes and no nays.

Motion carried.