

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Agenda

Thursday, May 20, 2010

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance**II. Roll Call****III. Public Hearings****IV. Public Participation**

[100270](#) President's Community Service Award
Request to present the President's Community Service Award to Mickey Clancy of Stroke Survivors Empowering Each Other (SSEEO).

Attachments: [Mickey Clancy.doc](#)
[coversheet- clancy.doc](#)
[100270.pdf](#)

[100249](#) Proclamation - River Sweep

Attachments: [procrivesweep2010.doc](#)

[100250](#) Proclamation - Click It Or Ticket

Attachments: [proclickitticket2010.doc](#)

[100272](#) Proclamation - Tree City USA

Attachments: [proctreecity2010.doc](#)

V. Approval of Minutes**VI. Committee Reports**

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee - Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee

Board of Local Improvements

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

**US Census Complete Count Ad Hoc Committee - Trustee Laura Fitzpatrick,
Chairperson**

VII. Village Manager/Village Board Comments

VIII Consent Agenda

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Payroll/Accounts Payable

- A. [100239](#) Approval of Accounts Payable
For the period ending May 7, 2010 in the amount of \$186,464.35.
- B. [100263](#) Approval of Village Payroll
For the period ending May 8, 2010 in the amount of \$793,995.39.
- C. [100264](#) Approval of Accounts Payable
For the period ending May 14, 2010 in the amount of \$202,035.89.

Ordinances on First Reading (Waiver of First Requested)

- D. [100252](#) Salary Ordinance
Approving rates of pay for Village employees.
Attachments: [SalaryOrdinanceMemoFY 2011.doc](#)
[SalaryOrdinance May32010.doc](#)
[Ordinance 6480.pdf](#)
[100252.pdf](#)

Other Ordinances on First Reading

*E. ZBA 10-02: 302 S. Grace Street (Moved to IX-A)

- F. [100215](#) ZBA 10-03: 119 N. Main Street
Requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:
A variation from Section 155.210(A)(3)(b) of the Lombard Zoning Ordinance to increase the maximum allowable height of an accessory structure from seventeen (17) feet to twenty-nine (29) feet in the R2 Single-Family Residence District. (DISTRICT #4)

Attachments: [apoletter 10-03.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 10-03.doc](#)
[Referral Let.doc](#)
[Report 10-03.doc](#)
[Ordinance 6492.pdf](#)
[100215.pdf](#)
[Ordinance 6492.pdf](#)

Martin Carroll, 119 N. Main Street, presented the petition. Prior to his presentation, he distributed a color rendering to the ZBA members which was prepared by his architect. The rendering consisted of copies of old photographs of the home and coach house secured from the Lombard Historical Society, as well as elevations of the proposed garage. Mr. Carroll stated that he is requesting a height variation for a garage that he is proposing to build using historically accurate information with architectural elements used in the original coach house. The height variation is primarily the result of the incorporation of the tower element, but also for the inclusion of the gable roof.

Mr. Carroll noted that his property is set back from other properties and the garage will be at least 100' from other houses. The proposed garage will be consistent with the neighborhood as most homes in that area are older homes. This design will fit in nicely and look seamless.

Referring to the historic coach house photo, he noted that the 2nd floor of the property was originally used to store hay and other farm implements. He will use the second floor of the new garage for storage only, nothing heavy, as they will only use rough flooring. The tower in the old photo was used as a privy and above that was a pigeon house. The new garage will not include those two items.

Referring to an insurance map drawing from 1925, it shows the original outline of the coach house and the home. The coach house had approximately 1,400 square feet of first floor area. The proposed detached garage site plan shows how the garage will be smaller - 942 square feet in first floor area - and will be built out of cedar to match the house. They will put in some antique windows and will use some of the old doors, which they have been storing in their basement. He noted that this will be a labor of love as they restored the house about 10 years ago and this is the last piece of the puzzle. The purpose of building this new garage is not to create an economic advantage, but to recreate what was originally there. The Lombard Historical Society encouraged him to do this and he is happy to bring back a piece of Lombard history.

Chairperson DeFalco opened the meeting for public comment. There was no one in the audience either in favor or against the petition.

Chairperson DeFalco then requested the staff report.

Michael Toth, Planner I, presented the staff report. He first emphasized that the proposed garage will be a detached garage and not a coach or carriage house. The petitioner is requesting an accessory structure height variation from

seventeen (17) feet to twenty-nine (29) feet to accommodate certain architectural features that would allow the proposed detached garage to be visually compatible with the principal structure on the property.

The petitioner is proposing to demolish the existing detached garage that is currently located on the subject property and construct a new two-story detached garage that would be architecturally compatible with the principal structure. The principal structure was built in 1881. As such, the very nature of the structure is one that lends itself to Lombard's historic community. A carriage house also existed on the subject property, serving as a privy (outdoor lavatory) and pigeon house. The petitioner represents that the carriage house was demolished in the 1960's. In order to preserve historical significance of the premises, the petitioner is attempting to architecturally recreate that carriage house through the use of a turret, windows, gable roof and a copula and other architectural features. The original carriage house consisted of certain architectural elements that, by today's standard, create the need for the variation, due to the height needed. According to the submitted plans, the proposed detached garage would only be used as a three-car garage and storage area only. The petitioner has indicated that the additional height needed for the detached proposed garage is necessary in order to build a historically accurate structure and not to accommodate additional living area.

The Zoning Ordinance allows accessory buildings and structures to be no greater than seventeen (17) feet to the highest point of a roof or parapet. The highest point of the proposed detached garage would be twenty-nine (29) feet; however, that additional height is to accommodate the tower portion of the garage, which is attempting to maintain the historic accuracy of the original carriage house. Documentation (attached) obtained from the Lombard Historical Society states that the carriage house tower was similar to the tower on the house itself. Photographs that were also obtained from the Lombard Historical Society also verify that the carriage house's tower was similar to the tower on the existing house. The actual peak height of the structure (not including the tower) would be twenty-three and a half (23.5) feet, which is measured from grade to the top of the gable portion of the roof.

The Historical Commission discussed the proposed garage at its April 20, 2010 meeting. As part of their discussion, the Commission reviewed the plans submitted by the petitioner and made the following finding:

The Lombard Historical Commission would like to thank the homeowners for including the Commission in their process to design a new coach house/garage structure. The Commission commends the effort of the homeowners to maintain and enhance the historical significance of their property with this addition. The Commission has reviewed the submitted design concept and believes the structure to be an appropriate addition to the property.

The "Standards for Variations" have been met in the following respects:

1. Staff finds that there are no physical surroundings, shape, or topographical conditions of the specific property that result in a particular hardship applied towards the proposed garage. However, staff believes that the historic value of the property should be preserved in its physical surrounding in a manner that reflects its historic origin.
2. The Lombard Historical Society has deemed the house on the subject property as being of "historical interest". As the property is of historic

significance, it is deemed as being unique to the other properties located within the R-2 Single Family District.

3. If the detached garage were to be constructed per Code, the project would actually cost significantly less. As previously stated, the additional height needed for the detached proposed garage is necessary in order to build a historically accurate structure and not to accommodate additional living area.

4. The Zoning Ordinance does not allow the proposed detached garage to be constructed in a fashion that would allow the petitioner from recreating the original carriage house. Moreover, the original carriage house predates all Lombard zoning codes and would not have been subject to such regulations.

5. With the exception of the height variation, the detached garage meets all other Code requirements. The proportion of additional garage height will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood. Furthermore, the closest neighboring principal structure in proximity to the proposed detached garage would be in excess of one hundred (100) feet.

6. The principal structure on the subject property is compatible with the historic context of the surrounding neighborhood. As the purpose of the variation is to architecturally integrate the detached garage with the principal structure and match the carriage house, the garage would be visually compatible with the surrounding neighborhood.

7. From a land use perspective, the additional building height does not create adverse impacts on the surrounding neighborhood. The footprint of the proposed garage only represents less than three percent (3%) of the total lot area of the subject property. When considering the setbacks of the proposed detached garage and the relative size of the surrounding properties, the proposed structure would not impair the amount of adequate light and air to the surrounding properties.

Concluding Mr. Toth stated that staff recommended approval, subject to the 4 conditions noted in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Tap asked if they were recreating the pigeon house. Mr. Carroll answered, no.

Mr. Tap stated that the ZBA doesn't usually review building height variations in an R2 residential district where architectural elements or structures are the cause for exceeding code. Those types of petitions usually seem to fall under the purview of the Plan Commission or other Committees. He exemplified the train station clock tower, which exceeded height requirements. His point is that he views these elements in the same way that other Commissions/Committees do - that they just represent just an architectural feature. Therefore, he is in favor of this petition.

Chairperson DeFalco asked if the size of the proposed garage will be the same size the coach house originally was. Mr. Carroll answered that the proposed garage is a little smaller.

Dr. Corrado asked what will be stored in the garage. Mr. Carroll answered cars and bikes. On the 2nd floor probably nothing. The way the garage is designed the storage area will be behind the tower so nothing heavy will be able to go upstairs. It's literally for aesthetic purposes only.

Chairperson DeFalco asked what type of material the driveway is currently made of. Mr. Carroll answered that it's concrete and will remain that way until it's ready to be taken out. He was unsure when he would be putting in a new one but maybe in the next few years.

Chairperson DeFalco asked if he knew what material the driveway was made out of prior to concrete. Mr. Carroll answered that in pictures from the 1920's it appears to be pressed gravel.

Mr. Young asked about the footprint of the garage compared to the coach house. Mr. Carroll answered that it is basically the same, but will be positioned farther north.

***G. ZBA 10-04: 350 N. Fairfield Avenue (Moved to IX-B)**

- H. [100241](#) Liquor License Amendment - Clancy's Corner Butcher Shoppe, 15 S. Park Avenue
Amending Title 11, Chapter 112 of the Village Code reflecting a decrease in the Class "Y-II" liquor license category. (DISTRICT #1)
Attachments: [orddecre1.doc](#)
[memoDecrease.doc](#)
[Ordinance 6493.pdf](#)
[100241.pdf](#)

Ordinances on Second Reading

- I. [090246](#) PC 09-08: 331 W. Madison Street (CPSA)
Granting a further time extension to Ordinance 6347 extending the time period for construction of the conditional use for a planned development and a school for an additional twelve month period (June 18, 2012). (DISTRICT #6)

Attachments: [APO LETTER.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo remand.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Letter.doc](#)
[Report 09-08 \(revised\).doc](#)
[Ordinance 6347.pdf](#)
[Ordinance 6346.pdf](#)
[Cover Sheet ext 1.doc](#)
[BOT_ext_331 W Madison.doc](#)
[Ordinance 6481.pdf](#)
[090246.pdf](#)
[090246.pdf](#)
[Letter to Boards, PC & Village Staff.pdf](#)
[BOT_extII.doc](#)
[Cover Sheet ext 2.doc](#)
[Ordinance 6625.pdf](#)
[090246.pdf](#)

Andrew Draus, 350 S. Fairfield Avenue, Lombard, attorney for the petitioner presented the petition. He thanked the public for coming regardless of whether they were in support or against his client stating that it is nice to see they are taking an active role in government.

Mr. Draus indicated that the subject of the petition tonight is the College Preparatory School of American (CPSA) located at 331 W. Madison Avenue. He indicated that the building has been used primarily by the school district since 1930. He provided the history of the site and how CPSA came to be at this location in 1994. He noted that the current zoning of the parcel is CR, which is what the parcel has been zoned the entire time, and how it is operating as a legal nonconforming use. CPSA has 5 legal lots comprising of approximately 4 acres containing a school building, parking lot, a playground and 450 students.

Mr. Draus mentioned how CPSA's curriculum and environment has attributed to the success of its students. He stated that a high percentage of students graduate from CPSA and go on to college. He also mentioned students' achievements and accomplishments such as being National Merit Scholars and being selected to the all American Academic Team, as well as how the students become professional members of the community.

The alumni of CPSA represent various professions and they are now sending their children here. CPSA has strict academic standards with people dedicated to these goals. There is no crime, vandalism, or drugs and there very few discipline issues. There has been an increase in demand for enrollment as a result of families who have moved to Lombard so that their children can attend the school. They have conducted various fundraising events in order for the proposed improvements to come to fruition. Representatives of CPSA have been

working with Village staff over a period of time in order to bring this plan before you today.

Mr. Draus then introduced Jamshid Jahedi, Architect-Engineer, from Dome Structural Engineers who would discuss the proposed plan in further detail.

Jamshid Jahedi, Architect and Engineer for the project, 105 Ogden Avenue, Clarendon Hills, thanked everyone. He indicated that he would present a PowerPoint presentation outlining the project.

Two years ago their office was asked to create a necessary drawing and design for a new building on campus. The owners' goals were to create a facility that:

- * Offers higher standard of K-12 education in a more delightful environment*
- * Remains neighbor friendly while responding to steady growth of the students body*
- * Continues adding credential to the school and the Village of Lombard*
- * Increases the land value of the school and neighboring properties*

Mr. Jahedi showed an aerial view of the school as well as a zoning map which indicated the school's current zoning - CR. He stated that the property is really more consistent with the surrounding zoning of R2.

Next was an aerial of the existing conditions. He explained the orientation of the slide in that Madison Street was to the right. The existing building is very old (90 years) and 32,000 square feet. The site has 80 parking spaces and is served by two access drives -one entrance and one exit. The majority of the students are dropped off in the parking area and he indicated the entrance as well as the exit.

The next slide showed the new addition. He explained that it is the same photo, but they superimposed the new building with the existing building. The new building is going to be built where the existing parking is with part of the building extending to the south, which is currently a grass area. The exit and entrance will stay the same. The two buildings will be connected by an underground corridor to facilitate travel between the two buildings. He then showed the next slide which was the proposed site plan. The site plan illustrated the two buildings, new parking areas, detention area and baseball field.

The traffic flow slide showed both the existing and proposed traffic patterns, which were indicated with arrows. He showed the traffic flow on the existing site as well as the proposed site and indicated it is pretty much the same. The parking has been moved to a different location and there is a new driveway, which will be strictly used by the Fire Department and is not part of the public drive. This drive was required by the Fire Department.

The existing parking is shaded with color and he indicated the location of the 80 parking spaces. The new parking has the same amount of area, but has been moved from the south of the building to the north of the building. They extended the parking to the east and south. Approximately 19 parking spaces will be added. This is a more efficient design of the site. Mr. Jahedi explained that by having these additional parking spaces on site, it would eliminate the need for parking on the street.

He showed a cross section of the property looking from Madison. They will have landscaping similar to a berm about 2 feet high, which will be

complemented with another 2-3 feet of shrubbery. This will total approximately 5-6 feet in height, which is acceptable as a screening device by the Village.

The parking space comparison slide superimposed the existing and proposed parking spaces in order to get a visual indication of how much parking they are adding. He acknowledged they were not adding a significant amount of parking.

The Occupancy & Parking Calculations slide - Mr. Jahedi stated that Village Code requires 80 parking spaces on site. He noted that the number of total parking spaces required for the existing building is 43 and they have 80. With the new facility consisting of two buildings, 32,000 square feet for the existing building and 61,000 square feet for the proposed building, the required number of parking spaces per Village Code is 80. If the Village looks strictly at Code, we are adding 60,000 square feet, but are still within Code by providing only the existing 80 parking spaces. If we use common sense, we see that right now the parking never gets full, but it does get close to maximum capacity. The neighbors would feel better and have more experience in determining whether additional parking spaces should be added to the site or not. CPUSA proposes to keep the 19 additional parking spaces in order to negate the spillage of parked cars in the neighborhood. They think that having the additional parking helps the community at large in solving some of the parking problems although they respectfully leave this decision to the discretion of the Plan Commission members.

He described the proposed site plan indicating they have an outdoor sports facility shown as a baseball field, which could also be used by the neighbors. The detention pond located in the northwest part of the site will control stormwater on site.

Mr. Jahedi showed the drainage slide and stated that the site will retain the entire run off provided by a 100-year storm. The detention pond is located on the lowest part of property. The 100-year storm is the maximum amount of coverage the jurisdiction asked the engineer to design for. The intensity is very high. There are two detention ponds shown, the lower part will handle the 50-year storm event and if higher there is a second detention pond which is part of the sports field. We are improving the drainage of the site much more than currently exists. The neighbors will not see water run off from this property. The light blue line around the site is a swale, which is designed to bring water off the site to the street and into the sewers.

Emphasizing the variances they are asking for he showed the proposed site plan. They are asking for a rezoning from the CR zoning designation to the R2 residential district, a conditional use for a planned development, a variation to the open space and a building height variation to allow 35 feet where 30 feet is allowed.

Simple Rezoning versus PUD - This slide shows a hypothetical analysis of the percentage of open space required when applying for a simple rezoning to the R2 versus applying for a conditional use for a Planned Development. A simple rezoning to the R2 where they connect the two buildings would require they need to meet 50% open space. Their plan provides 47% open space, leaving them 3% short. If we go the other route and apply for a Planned Unit Development with 2 separate buildings, the open space requirement is higher at 62.5%. Their plan proposes 47%, leaving them much shorter. The height restriction of 30' is the same for both routes. The Village prefers they apply for

the planned unit development and CPSA prefers the simple rezoning. He asked the Commissioners to think about these two differences, but respectfully leaves this decision to their discretion.

Open Space - Area Calculations - This slide shows the percentage of open space provided by the CPSA's original design versus the percentage of open space needed after factoring in the additional requirements the Village has asked for. By providing impervious roadways and pavement such as the additional driveway the Fire Department requires, as well as the cul-de-sac, this increases the impervious area and result in a larger open space requirement percentage. They are willing to spend additional money and provide green pavement components for the parking lot or the Fire Department access driveway. He mentioned how he is well trained, has appropriate certification and is a very strong advocate of the green building movement. He was disappointed to learn that the Village does not give credit for adding pervious areas. They are still willing to put the pervious pavement in their parking lot in effort to reduce the percentage and increase the open space on site to more than 50%. He asked the Commissioners to look at this concept since they are ready to do it and bring the 50% higher to maybe 62%.

The Height Comparison. Mr. Jahedi stated they are within the 30' height limit for the entire building with the exception of one staircase, which goes up to the roof. The roof consists of fans which blow fresh air into the gym and cafeteria. They will be 3-5' in height and are not included in the building height calculation. They will need a staircase to get up to the roof and this staircase is the result of the extra 5'. They prefer to not incorporate a hatch into the roof, as suggested by Village staff, as the staircase makes easier access. The amount of area that they are taking above 30' is 300 square feet or 1.4% of the footprint. He asked the Plan Commissioners to consider this and compare it for themselves.

The next couple of slides shown were elevations from the northeast, east and south. He commented that they will be 50-70 feet away from the nearest residential property line and the other two sides will see green.

The basement plan includes an area for the gym, which includes a full basketball court with bleachers and a cafeteria with a kitchen as well other things. The gym and cafeteria are two volumetric designs. They have a large height and in an effort to disguise them they were designed in the basement. As a result the neighbors won't see the gym and the building will be visually pleasing.

The first floor plan consists of the upper part of the gym, which is basically open to the basement, a preschool, administrative offices and classrooms. He noted the staircase that goes down to the basement as well as the tunnel that would take students from one building to the other.

The second floor plan consists of amenities for the school including: various labs, a library with an atrium, classrooms and a multi-purpose room.

Concluding, Mr. Jahedi noted the attributes of project.

Attorney Draus noted the storyboards located behind them. Since the Commissioners could not see the storyboards, Mr. Jahedi referred back to his PowerPoint presentation and showed where the height variation would be located on the building. He explained how they calculated the height or

average grade of the building. He noted the highest part of the building indicating that this is the stairs, which lead to the roof, are to be used for facilitating the repair and maintenance of the roof. He noted that the stairway was strategically placed in the middle of the building, placed at the furthest distance away from the neighbors.

Attorney Draus mentioned the fact that CPSA held neighborhood meetings and they have been meeting with the Village for two years trying to incorporate concerns voiced by both parties. Concluding, Mr. Draus indicated that the board members from CPSA were in the audience and were available to answer any questions on behalf of the owner.

Chairperson Ryan opened the meeting for public comment.

To speak in favor of the petition were:

Fazal Ahmed, 20 W. 17th Street, Lombard, stated that he is a resident of Lombard and has children in the school. The school not only provides an excellent education, but also contributes to a person's physical and mental health. He felt they should not be crammed into a building. He stated the need for a new building, as the existing building is aged. Having the new building is not only advantageous for them, but also for the Village as it will increase property value. He wants to stay in town due to its diversity but they need a better cleaner environment, which will result in making a name for the town.

Mohammed Azharuddin, 1069 S. Westmore Avenue, Lombard, stated he lives in the Westmore Avenue Apartment Complex, having moved from Texas because of the school's teachings and credentials. He has two children in the school and their standards are two years above the public school. He requested that they not deny the opportunity for the children to have more labs and a better learning experience.

Sabet Siddiqui, 531 W. Harding Road, Lombard, noted his profession and mentioned that he was building a house, which is one of the moderate to bigger homes in Yorkshire Woods. He indicated how he used to commute long distances in order to have his children attend the school. He asked the Commissioners to approve the proposal. The school maintains extremely high scores and they need your help to have a decent facility.

Dr. M. Javeed Ansari, 114 Oakton Drive, Lombard, stated that his family consisting of four children moved from Massachusetts for the purpose of attending this school. He mentioned there was a two-year waiting list to get in. The children's education and reputation of the school is nationwide. He has never seen such a school in this area and noted the product the school puts out. He humbly requests the Plan Commissioners to arrive at a favorable decision to help the community and make its citizens proud.

Fatima Nazeer, 43 W. Ann Street, Lombard, indicated she is an alumni of CPSA as is her husband. She stated she attended Benedictine University and he went to Northwestern. They are proud to have been a member of the CPSA community, as the school has had many accomplishments, as well as a citizen of Lombard. She referred to the Character Counts pillars on the wall and indicated that you will find those qualities mentioned at CPSA. She asked the Commissioners to consider everything said.

Mukarram Sheikh, 1328 S. Rebecca Road, Lombard, noted his profession and

stated that four years ago he did not know the Village of Lombard. When his family lived in Tennessee they searched for one of the best school in the country where they could maintain their faith as well as obtain the best academic education. They do not have many facilities from which to choose unlike other religions. The program at CPSA made them move here even though the building was something to be desired. They love CPSA, Lombard, the Park District, and the shopping. They are buying property here. He believes that an education is a holistic process and they want to add community service projects, but don't have the available space. They need to go to the next level. He believed that not only will the new proposal benefit them, but will also benefit the neighbors. The school attracts the best in the community and is a win/win situation. He mentioned Daniel Tani and how proud it makes you feel no matter where you came from that he is a product of Lombard who attended Glenbard East. We must be ready so that when the next leader comes, we will all feel proud. He asked the Commissioners to approve the building in order to attract the best talent to Lombard.

Anjum Mirza, 1306 S. Finley Road, Lombard stated he lives in International Village. He has two children in the school. Prior to them moving, his wife had to travel close to 100 miles a day to bring them to school. He humbly requests that they approve the request and give them a chance.

Muddassir Saeed, 2090 S. Valley Road, Lombard, gave his background and educational history. He stated he attended Peter Hoy School, Lombard Jr. High and Glenbard East High School. He loves the community of Lombard as it has a lot to offer and has three children in the school. DuPage County is an affordable place to live and has a good standard and asks that they support the school.

Rashid Zaffer, 1790 Porter Court, stated she lived adjacent to the school and her husband and other family members attended CPSA. It is a great school located in a great community and asks for approval of the request as it will be great for the whole neighborhood.

M.A. Majeed, 509 W. Wilson Avenue, Lombard, stated that Naperville was recently named the number one city in which to live. He did reside there, but decided to move here instead. He sends his children to CPSA. He emphasized that in the proposed plan there are two issues - the height and the open space. The code requires that they need 80 parking spots and the architect is suggesting 99. We have a choice, as does the Plan Commission and the neighbors, to either contain the parking on the premises or have it spillover onto the streets. There is another school two blocks south and there is no street parking allowed on Madison. There are other schools in the community such as Sacred Heart where street parking is allowed. It comes down to an issue of parking spilling over on the street or having open space. In his opinion, it is better to have the parking contained on the property so the neighborhood won't be affected.

Mohammed Kothawala, 213 W. Harding Road, Lombard, stated he lives two blocks behind the school. They built a house and are happy to be in the neighborhood. He has two children in the school. He sees parents come from different directions to drop off their children and as a result, he does not see much of a traffic problem.

To speak against the petition were:

Ed Pszanka, 615 S. Edson, Lombard, stated he lives adjacent to the school property. He has lived in Lombard for 40 years. He mentioned the new housing that has recently been constructed in the neighborhood. He's tired of constantly looking at a garbage dump and a blank wall. He complained of issues dealing with water run off onto his property, people raising the topography of their land, houses being built too close to property lines and too high. There is a Building Code in place and it should be followed. He stated he was not notified of any of the meetings. He was worried about the retention pond attracting geese, mosquitoes and bugs as well as being unsightly. He is an organic gardener and he does not want that water overflowing onto his property.

Chairperson Ryan mentioned that he was notified of this meeting, but there is no requirement that he be notified of meetings between the petitioners and Village staff.

Mr. Jahedi responded to Mr. Pszanka's comments about the retention pond. He indicated it will be a dry grassy area with no water. It is engineered to retain water during a storm and within a 24-hour period the water will drain back to the Village system. In this way, we are not overloading the Village system at one time.

Mr. Pszanka indicated that when CPSA bought the building in 1994, there was a ditch by the baseball field that took water and brought it along the property line down to Madison. The ditch is now filled up.

Attorney Draus indicated that the retention area has a drain in it so it is not designed for the water to remain. It collects excess water from neighboring properties. It is a Village requirement.

Candice Rizzo, 308 Harding, Lombard, stated she has been a resident for 25 years and they have recently added onto their home. They have abided by all the Village zoning and guidelines. They are very proud of their home and consider it their major investment. She is also here to speak on behalf of her husband and their neighbors. She has a petition opposing the proposal. Their concerns are:

- * increased traffic on Madison as well as the route that might be taken around the neighborhood to get to the school*
- * the height of the building - her house backs up to it so they would be directly affected*
- * privacy and the use of her property - her backyard is open and the school will have activity year round.*
- * property values haven't increased or decreased, but if they sell their house, the new owner won't want the view of the proposed parking lot with traffic being routed behind the school.*
- * garbage that would be generated.*
- * they should maintain the residential look and appearance of the neighborhood.*
- * the proposal is too large of a building squeezed onto a small piece of property and not becoming to the neighborhood.*

She went to houses within a four block radius of the school and is submitting the petition on their behalf relative to those concerns. She asked the Commissioners to consider these issues.

Joe Glazier, Jr., 304 W. Harding, Lombard, asked if they would be able to build future residences on the site without a public hearing if the rezoning to R2 was

approved. The northwest corner of his property would be affected by noise and traffic with more being put on the southeast corner of the site. The placement of rooftop mechanicals would be closer to his home and would generate more noise. The placement of the atrium will overlook the surrounding homes and would have a direct site line to his patio eliminating his privacy. They are asking to double the number of students and reduce the open space. There is too much proposed for the space available.

Attorney Draus responded to the rezoning request. He stated that there are no plans to put residential dormitories on the property. That would require another public hearing. Christopher Stilling, Assistant Director, stated that if the rezoning and the planned development were approved, they would not be allowed to build residences. He explained how a planned development is tied to a specific plan and if they deviated from that plan, they would have to come back to the Plan Commission for an amendment to the planned development, which would entail another public hearing.

Mr. Glazier then asked for an explanation about the zoning regulations between an R2 and the CR. Mr. Stilling stated that the CR zoning is intended to provide for the location of such things as public parks, forest preserves, and other open-space uses and is more in line with a publicly-owned facility. The zoning of R2 is in line with private schools and residential areas and is typical of what has been done in the past. Attorney Draus stated that the conditional use request would provide for having a private school.

Fran Pszanka, 615 S. Edson, Lombard, indicated she lives right behind where the retention pond is planned to go and asked if it will come right up to their property line. Also, she asked if there is anything that states that it has to stay away from them. She noted that if the sewer system is not good enough to take the water away, why have the pond? She mentioned previous meetings whereby it was mentioned that something would be done to remove the water. Also, she was concerned about the safety issue with having a pond on the playfield as she heard it was 5' deep. Mr. Stilling responded to the placement of the detention pond and noted that the petitioner's plan indicates there is a 5' setback. Currently, the property has no controlled detention on site so the water travels with the slope of the property. Water detention is governed by DuPage County as well as the Village.

Mr. Jahedi responded that the detention pond is like a ball so that when there is too much water it is kept in the ball until such time that it drains slowly into the system. This system serves the site better than what it does now. The depth of the pond is 5' and the slope is 3:1, which is the maximum DuPage County allows a slope to be. The slope is walkable and the children can run up and down it. It makes it a good area for play and is not a safety issue.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, introduced two items into the public record: the KLOA traffic report, which is the final version not the draft version as it states, and Response to Standards to Deviations. He noted that only three standards were addressed because they were not met by the petitioner.

Mr. Toth then continued stating that staff has drafted this IDRC report to submit to the public record in its entirety. The College Preparatory School of America (CPSA) has been experiencing an increased demand for classroom space. As such, the school is proposing to construct a second building on the subject

property. As proposed, the new building would be approximately 61,000 square feet and located south of the existing building, which would remain. The new building would include a cafeteria, gymnasium, a multi-purpose hall as well as classroom and general office area. To accommodate the increased student population, additional parking would be provided. As a result, the required amount of open space is not being provided. Therefore, the petitioner is seeking a variation to reduce the required amount of open space. In addition, the proposed second building would exceed the maximum allowed building height of thirty (30) feet to thirty-five (35) feet to accommodate a projecting stairway.

As part of their request and at the suggestion of Village staff, CPSA is requesting a map amendment to rezone the subject property from CR - Conservation Recreation District to the R2 - Single-Family Residence District. In addition, the petitioner is seeking a conditional use to establish the property as a planned development.

CPSA obtained a Certificate of Occupancy on February 10, 1993 as an Educational Facility; however, they never obtained conditional use approval to lawfully establish the full-time private school. Therefore, CPSA has been operating under legal non-conforming status since their inception. As part of this petition, CPSA is requesting conditional use approval to legally establish the existing full-time, private school.

use approval to legally establish the existing full-time, private school.

CPSA is located in an established residential neighborhood and is located in close proximity to Madison Elementary School. The hours of operation are similar to the public school hours of 8:00 a.m. to 3:30 p.m. The school year starts in August and ends in June. The addition of the new building will allow 335 more students to attend the school, which would bring the total student population to 785. The drop off/pick up functions would occur between both buildings (central to the subject property) through the use of a twenty-two (22) foot drive aisle. The Fire Department requires that all new buildings provide access to three sides of the new structure(s). As such, CPSA would be required to install a drive aisle around the perimeter of the proposed structure. This fire lane will be blocked off at all times, only to be used by the Fire Department.

As proposed, the existing building would not require ADA or Life Safety Code improvements to its interior as part of this petition. The petitioner's have indicated that the existing building would remain "as is".

The proposed building would have a peak roof height of 35 feet above grade. The R2 - Single Family Residential District permits structures up to 30 feet. The proposed deviation is requested to accommodate an access stairway. The petitioner has stated that the proposed building can be designed without the projecting stairway and still properly function. As such, staff finds that the roof height deviation is a result of an unnecessary desire and therefore, staff does not support the proposed roof height deviation.

The underlying R2 - Single Family Residence District regulations require a minimum of 50% open space for each property. Section 155.508(C)(7) requires that open space in a planned development must be at least 25% more than is required in the underlying district if a deviation is associated with the petition. As such, the additional 25% of open space would not be required if the proposed building were to meet the maximum height requirement of thirty (30) feet; however, the 50% minimum open space requirement would still need to be addressed. When combined with the coverage of the existing property

improvements, the proposed property improvements would bring the total amount of open space on the subject property to 46.85%. This equates to roughly 5,793 square feet in open space deficiency based on the 50% requirement and 28,768 square feet on the 62.5% requirement.

Ninety-nine (99) parking spaces are proposed on site. Pursuant to the Zoning Ordinance, 80 spaces are required. The additional 19 spaces can be considered to be a preferential request made by the petitioner, which represents roughly 3,078 square feet of impervious surface that could be dedicated as open space. Also, during the neighborhood meeting conducted by the petitioner, one of the issues brought up by neighbors was the aesthetic view of the front of the property, more specifically the addition of parking spaces in front of the building. As the northernmost row of parking consists of 24 parking spaces, eliminating some of those parking spaces could allow for additional open space and provide additional landscape buffering. Staff will only support a minimum of 50% open space, which meets the underlying R2 zoning district requirement.

The property is currently zoned CR Conservation Recreation District. The CR District, by definition, is intended to provide for the location of public parks, forest preserves, wildlife reservations and ecological sanctuaries and other open-space uses or resources to serve the needs of the citizens of the Village of Lombard. Again, emphasis on public usage.

Staff believes that the CPSA property is more consistent with the R2 Single-Family Residence District requirements. The R2 District is intended to accommodate existing single-family neighborhoods in the core of the Village. This zoning designation is consistent with the surrounding neighborhoods. In addition, similar requests have been granted to other private educational institutions located in the Village such as St. Pius X, St. John's, and Sacred Heart. Staff finds that the CPSA property meets the standards for rezoning.

An educational institution is listed as a conditional use in the R2 Single-Family Residence District. This request is to provide conforming use status for the school, as it pertains to the Lombard Zoning Ordinance. The operations of the school are typical of most educational institutions. Staff finds that CPSA meets the standards for a conditional use to allow for an educational institution in the R2 District.

Establishing a planned development for the CPSA campus is consistent with other private school uses in the Village. The Village previously established planned developments for Christ the King in 2004, St. John's in 2005 and St. Pius X in 2007. As a Planned Development, the site can be brought into closer compliance with current Zoning Ordinance by allowing greater flexibility in site development. It is noted; however, that the planned development is specifically required in this case as the petitioner wishes to keep both principal structures on the property physically separate of one another. Per Section 155.208(B) of the Zoning Ordinance, more than one (1) principal structure on one (1) lot-of-record is not permitted in the R2 - Single Family Residential District, except as part of a planned development. As the subject property is to be used as a master planned campus for a use other than single-family residential, the establishment of a planned development is deemed appropriate to allow the Plan Commission to have the opportunity to approve any future modifications and/or additions to the subject property.

Pursuant to the Zoning Ordinance a total of 80 parking spaces are required. The proposed plans indicate a total of 99 parking spaces, which exceeds the

amount of parking required by Code by 19 parking spaces. The petitioner has indicated that the additional parking spaces are needed to accommodate any overflow parking situations and prevent spillover parking onto the adjacent neighborhood streets. The petitioner has indicated that high school students do not drive to school. Staff believes that the minimum amount of parking spaces required by the Zoning Ordinance is sufficient. In order to ensure that the amount of parking is sufficient in the future, the number of high school students allowed to attend the CPSA will be capped at 240 students, which is the total number of high school students indicated on the plan.

Staff has relayed their concern to the petitioner that the increased number of parking spaces is considered to be one of the factors leading to the deficiency in open space. As such, staff presented a parking versus open space scenario to the Plan Commissioners through a Plan Commission workshop on December 15, 2008. During the workshop, a number of the Plan Commission members had indicated that they favored the extra parking spaces in order to prevent the spillover parking onto adjacent residential properties. However, other members stated that they favored the idea of reducing the amount of proposed parking to meet the open space requirement for the underlying zoning district.

The Village's traffic consultant KLOA reviewed the proposed development and conducted traffic counts on the adjacent neighborhood intersections to determine the impacts of the proposed development. They have completed a report which is also transmitted with the staff report. See traffic study.

Based on KLOA's observations, the peak time period for drop-off was between 8:00 and 8:30 A.M. During this half hour, KLOA observed a few back-ups extending onto Madison Street with approximately five to six vehicles temporarily waiting to turn left and access the school driveway thus blocking westbound through traffic on Madison Street.

The peak time period for pickups occurred between 3:15 and 3:45 P.M. The queues at times extended all the way back around the west end of the building. It should be noted that for a few minutes, the backup spilled onto Madison Street and three to four vehicles were temporarily waiting to get in thus blocking Madison Street. The school contracts a Lombard Police Officer to assist in traffic control. The police officer arrived just before 3:15 P.M. to direct approaching vehicle pickups at the back doorway entrance and to safely allow children and adults to use the walkway. Between 3:30 and 4:00 P.M. as many as five vehicles were queuing outside onto Madison Street. It should be noted that pickups were also occurring along the access drives on the west and east side of the building.

CPSA's hours of operation are 8:00 a.m. to 3:30 p.m. The drop off/pick up functions would occur in an area between the new and existing buildings (central to the subject property) through the use of a twenty-two (22) foot drive aisle. As the student population will be increasing from 450 to 785 students (max), the proposed twenty-two (22) foot drive aisle would be wide enough to accommodate a drop off/ pick up lane with adequate space to allow cars to pass one another, which should increase traffic flow. KLOA recommended in the traffic study that strong consideration should be given to internal staggering of classroom starting and ending times, which would alleviate drop-off and pick-up parking, queuing, vehicular/pedestrian conflicts, etc. As mentioned below, CPSA does not plan to stagger school hours unless necessary; however, they have made representation that they plan to stagger start/end times in conjunction with the Madison School, which is east of the subject property on

Madison Street.

Based upon the above observations and review of the petitioner's proposed site plan, KLOA made several recommendations in their study. Staff would like to focus on four major internal site considerations addressed in the traffic study.

1) Student Enrollment - Staff worked with the petitioner and KLOA to remediate some of the internal site issues. As the student population affects the amount of vehicular traffic to and from the subject property, CPSA has agreed to cap the number of students. The current student population of CPSA is 450 students. With the addition of the new classrooms, future enrollment is expected to reach 785 students. As such, there will be 335 additional students on the subject property during peak enrollment. CPSA has agreed to place a cap on the number of students enrolled in the school at 785.

2) Staggering of School Hours - As previously mentioned, the peak time period for drop-off was between 8:00 and 8:30 a.m. and the peak time period for pickups occurred between 3:15 and 3:45 p.m. To minimize existing and future potential congestion, KLOA recommended in the traffic study that strong consideration should be given to internal staggering of classroom starting and ending times, which would alleviate drop-off and pick-up parking, queuing, vehicular/pedestrian conflicts, etc. CPSA responded by stating, "If future enrollment dictates a need for CPSA to stagger their school start and end times at the different levels of the school (grade, middle, and high school), then CPSA will do so to alleviate traffic congestion". As such, the petitioner has not provided a detailed plan outlining their proposed staggered start/end times.

3) Drive Aisle Width - On the original site plan submitted by the petitioner, the internal drive aisles were proposed to be eighteen (18) feet wide. According to KLOA, the proposed drop-off lane needs to be at a minimum twenty-two (22) feet wide. When used for pickup in the afternoon, the additional four (4) foot width will provide a passing lane when vehicles are parked waiting for the students. CPSA complied with this recommendation and widened the proposed drive aisles to a width of twenty-two (22) feet to provide the passing lane that would allow for an increase in traffic flow on the subject property.

4) Cul-de-Sac Bulb - According to the originally submitted site plan, two-way traffic in the proposed parking lot on the southeast portion of the property would have no way of turning around. In the traffic study, KLOA recommended that a cul-de-sac bulb should be designed to provide turnaround at the south end. CPSA complied with this recommendation and added the cul-de-sac to the proposed plans as a means of allowing an increase in traffic flow on the southeastern portion of the subject property.

As previously mentioned, the petitioner held two neighborhood meetings last year to discuss the proposed plans with adjacent property owners. During the meeting, neighbors had the opportunity to comment on the plans and address their concerns with the proposed project. Some of the specific comments made by the neighboring properties included; the impact of more students at CPSA and traffic on Madison Street, the impact of more students on CPSA on parking on neighboring side streets (since there is no parking allowed on Madison Street, the only public access to the site), the aesthetic view of the front of the property (especially with the addition of parking spaces in front of the building) and concerns regarding the impact of construction of the new building (noise, safety, and parking issues) on the neighboring properties.

While staff finds the use to be compatible with adjacent properties and

consistent with the locations of other residentially-located private schools throughout the Village, the plan, as proposed with deviations is not compatible with adjacent properties. The petitioner has worked closely with staff in an attempt to address the provisions of the Zoning Ordinance, but staff believes that the proposed project could still be completed without obtaining the building height and open space variations.

The Comprehensive Plan recommends Public and Institutional uses for the subject property. As the principal use of the property is an educational facility, the use of the property adheres to the recommendation of the Comprehensive Plan as an institutional use. The petitioner's site modifications are also consistent with the existing institutional nature of the property.

Staff finds that there are no conditions related to the property that prevent compliance with the established regulations. The property does not have physical surroundings, shape, or topographical features that differ substantially from other lots in the neighborhood. It is solely the demands of the petitioner that have warranted the requested relief.

The number of students enrolled in any school directly affects the amount of space needed on the property for classrooms and other ancillary amenities. As the subject school is a private school, the amount of revenue received by the school is dependant upon the number of students enrolled in the school. Under this principle, revenue would be higher with a higher student population

Staff finds that the difficulties have been created by the petitioner as a result of a preference towards keeping the proposed building separate from the existing building, a desire to exceed the amount of required parking, and an architectural preference that does not allow the proposed building to meet the minimum building height requirement

Staff finds that these variations will alter the essential character of the neighborhood by allowing excessive bulk and impervious surfaces on the subject property. Staff has identified ways that the building height and open space could be achieved to meet code.

Standards Not Complied With

1) Any reduction in the requirements of this Ordinance is in the public interest. The R2 - Single Family Residential District permits structures up to 30 feet. The proposed building would have a peak roof height of 35 feet above grade. The proposed deviation is requested to accommodate an access stairway. The petitioner has represented in their response to standards that the deviation would allow access to the rooftop for maintenance, repair and emergency purposes. However, the petitioner has also stated that the proposed building can be designed without the projecting stairway and still properly function. As such, staff finds that the roof height deviation is a result of an unnecessary desire.

The underlying R2 - Single Family Residence District regulations require a minimum of 50% open space for each property. Section 155.508(C)(7) requires that open space in a planned development must be at least 25% more than is required in the underlying district if a deviation is associated with the petition. As such, the additional 25% of open space would not be required if the proposed building were to meet the maximum height requirement of thirty (30) feet; however, the 50% minimum open space requirement would still need to be addressed. The petitioner has represented in their response to standards that the reduction in open space would allow reduce the amount of on-site parking.

Pursuant to the Zoning Ordinance a total of 80 parking spaces are required. The proposed plans indicate a total of 99 parking spaces, which exceeds the amount of parking required by Code by 19 parking spaces. The petitioner has indicated that the additional parking spaces are needed to accommodate any overflow parking situations and prevent spillover parking onto the adjacent neighborhood streets. The petitioner has indicated that high school students do not drive to school. Staff believes that the minimum amount of parking spaces required by the Zoning Ordinance is sufficient.

2) The proposed deviations would not adversely impact the value or use of any other property.

Staff finds that these deviations will alter the essential character of the neighborhood by allowing excessive bulk and impervious surfaces on the subject property. Staff has identified ways that the building height and open space could be achieved to meet code.

3) That the area of open space provided in a planned development shall be at least 25% more than that required in the underlying zone district.

When combined with the coverage of the existing property improvements, the proposed property improvements would bring the total amount of open space on the subject property to 46.85%. This equates to roughly 5,793 square feet in open space deficiency based on the 50% requirement and 28,768 square feet on the 62.5% requirement. The petitioner stated in their response to standards that they would be unable to meet the 62.5% open space requirement. Although the proposed plans cannot meet the 62.5% open space requirement, staff believes that the petitioner is able to meet the underlying zoning district requirement of 50% open space.

Staff recommends denial of the variation for open space and building height and approval of the planned development, conditional use and rezoning with conditions. He noted that condition #1 should be changed to read:

1. The site shall be developed substantially in accordance with the CPSA elevation, site, landscaping and floor plans package, prepared by Dome Structural Engineers, dated December 1, 2008, except as they shall be changed to meet Village Codes and the 50% open space and thirty (30) foot building height requirements and shall be subject to the review and approval of the Director of Community Development.

Attorney Draus commented on the staff report stating that the petitioner has worked closely with staff for over two years. Those two variations have been part of the plan since that time and they only found out Thursday that the petition would be approved without the variations. He exemplified the St. John's building, which was a similar situation in which there was a new building with a private school being proposed and staff, the Plan Commission and the Board approved the height and open space variation. Their open space was 30 percent and he asks for equitable treatment today. He reiterated that the request for the height variation only applies to a small portion of the building, 300 square feet, which will be contained to the middle of the property and have minimal effect on surrounding properties. This is important because it is an aesthetically better building which would allow stairwell access to the roof for repairs and maintenance and is more practical than a hatch option.

He then commented on the open space variation. This issue came up several times - the open space has been reduced as a result of a request by the Village to install a cul-de-sac bulb, expanding the entryway to 22' and the requirements

by the Fire Department to have a full access around the building. All these requests have reduced the open space percentage. In the cost/benefit analysis, CPSA feels that the more parking spaces that are on the property the better it will be for traffic in the neighborhood. They raised this issue the most and they are trying to minimize traffic on the neighborhood. When there is a need for parking spaces they can be used. They believe that the benefit outweighs the 3% percent open space variation.

Lastly, he commented on the issue that came up in the public comment portion about additional traffic on the south side of the building. The area around the new building to the south is only for Fire Department access. If you are a neighbor on the backside you won't have to worry about cars there.

Concluding, Attorney Draus asked the Plan Commission to consider the plan with the two variations as it would be a better contained site.

Mr. Stilling responded to Attorney Draus by stating that the goal of staff is achieve conformance to Village Code. With regard to the requested expansion of the drive aisles and the fire department access, these are things that are part of a functioning site plan.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Burke asked staff to confirm the 30% open space variation that Attorney Draus mentioned in regard to other developments in town like St. John's. Mr. Stilling stated he was not sure of the exact number, but there have been more recent petitions that met the open space requirement. Staff tries to see opportunities and if close would help them achieve it. Commissioner Burke stated that the petitioner makes a compelling argument about the roadway surrounding the building as well as the cul-de-sac. The Village's demands have caused them to require the open space request and has exacerbated the project. Mr. Stilling stated that the Fire Department access roadway is directly related to fire codes and this request is made no matter what. Mr. Toth stated that the petitioner's requests warranted the variations. The petitioner's desire to separate the buildings and add the height variation kicked in the 62.5% open space requirement. It had a trickle effect.

Commissioner Burke commented that the request for the 35' height variation only applies to a 300 square foot portion of building which is insignificant and in line with things we have provided variances for in the past. He asked what the distance is from the location of where the height variation would be on the building to the nearest property line. Mr. Jahedi stated it was approximately 150 feet from the 35 height to the nearest property line.

Commissioner Sweetser agreed with Commissioner Burke's comments relative to the height variation being a relatively small part of the building and she does not find it objectionable. She does however take exception to the open space. With regard to the petitioner's comments about how the Village's requirements contributed to them not meeting the open space requirement, she believed that you don't start a design until you find out the Village's requirements rather than the other way around. Open space could be met by removing a couple of parking spaces. She referred to KLOA's traffic report about the queuing issues and how adding parking spaces won't help the situation. The increased enrollment will also make it worse. During special events the school might need to have extra parking on the streets but this happens often with most schools.

She favored the petitioner meeting the open space and was not concerned about the height requirement.

Commissioner Cooper stated she was concerned about the Village's response about the porous pavement. Mr. Stilling indicated that we have spoken with the Fire Marshall and they discourage that kind of application. If a large tower truck was called to the scene and had to extend its outriggers, there could be a pressure point issue and the outriggers could sink into the pavers. Since the building is a multi-story facility they want to err on the side of caution with the use of pervious pavers. He noted that pursuant to the Zoning Ordinance those pavers, though perceived as open space, would not count toward open space calculations.

Commissioner Burke asked what the cul-de-sac was needed for. Mr. Stilling indicated that it would be used as a turn around. If all the parking spaces are occupied in that area, there would be no way for a vehicle to turn around. This came to be the most reasonable solution. Commissioner Burke asked if this was a Fire Department requirement. Mr. Stilling answered no and that it doesn't meet the radius for that.

Commissioner Burke referenced the issue of queuing in the KLOA traffic report. He stated that he is familiar with the routes taken to get to the school and if there is a backup in front of the school it would be similar to any other parochial school in town. As a neighbor you either wait your turn or you take a different route. He doesn't see this as being too much of an issue.

Commissioner Sweetser confirmed that her previous comment was not tied to the queuing even though it might have sounded like it did.

Chairperson Ryan asked if the parking in the front of the building would be used as a drop off. Mr. Stilling stated it could be and suggested that closing off and designating a couple of parking spaces only for drop off and pick up, similar to what Creative Day did, might help. KLOA reviewed all these issues and made the recommendation of widening the drive aisle and staggering school hours. If the petitioner does stagger the school hours, queuing should be minimized.

Commissioner Sweetser asked if the Village has incorporated LEED standards into Village Code. Mr. Stilling stated that the Village does not have anything specific to that and are not well versed in their building codes or giving bonuses. Commissioner Sweetser commented that LEED standards should be incorporated into Village Code as it is important.

Chairperson Ryan referenced the parking in front of the building and how the queuing could go to the front and that could eliminate one issue. If there is no parking in the front, it can be a hazard. As far as the height issue, if the petitioner eliminated the extra height and went with a trap, the open space percentage could drop to 50%. Mr. Stilling stated that if they meet the height and 50% open space, the variation would not be applicable.

Commissioner Sweetser asked for clarification on the use of pervious pavers and the objection by the Fire Department. She questioned if their objection was based on possible damage to the Fire Department vehicle or to the surface of the pavers. If it's based on damage to the surface of the pavers, the petitioner would know that going in so if it had to be replaced it could. Mr. Stilling responded that there were a number of factors. Commissioner Sweetser asked if there were any projections about whether the amount of pervious pavement

would cause an inability to use the equipment or be a hazard to the firefighters. Mr. Stilling stated they needed 18' for the outriggers. If the parking spaces are all occupied and they have to use the access drive, they preferred to err on the side of caution.

Commissioner Sweetser questioned that if the drive along the west and south side is not used by anyone other than the Fire Department and that area was designated pervious pavement is there any way the Fire Department would be in danger. Mr. Stilling stated that the Fire Department was adamant to have it all pavement. Commissioner Sweetser confirmed that staff didn't know the specific reason why. If it's just a matter of the surface being damaged, then it might be worth it to gain the extra area.

Commissioner Cooper asked for clarification on the refuse location being in the southeast corner of the building. Mr. Jahedi stated it was to be located in the southwest corner of the building in the middle. Chairperson Ryan indicated it was right before the baseball field. Commissioner Cooper stated her concern for choosing this location due to its close proximity to adjacent properties. She also stated that this location would be in the emergency zone so the Fire Department access driveway would be used on a weekly or biweekly basis. Mr. Jahedi indicated that this road would be chain linked and would have to be opened for trash pickup. Mr. Stilling indicated that this issue was discussed with the Fire Department who indicated that refuse pickup would be okay, but it could not be used for student drop off. Mr. Jahedi stated that the reason that this location was chosen was because of its closeness to the kitchen exit, which would have the most waste.

Commissioner Burke also pointed out that the Fire Department access drive would have to be used for deliveries. Mr. Stilling stated that portion of it would be.

Commissioner Burke questioned condition number 4 and how the numbers shown did not add up to the cap of 785 students. He asked if staff was adding in the daycare facility. Mr. Toth stated that the numbers were taken off the submitted plan, which is on the cover of the site plan. Mr. Jahedi stated that the cap is 785 students including the preschool. Commissioner Burke questioned the cap and indicated that it could be any number on the preschool. Mr. Toth stated that the condition could be changed to clarify.

Commissioner Cooper commented that there is a 5' setback along the site and she questioned the choice of vegetation along the perimeter, which was to act as a buffer. Being that the building is a large structure, it didn't seem that the choice of vegetation would suffice. Mr. Stilling answered that one of our conditions indicates that it be in conformance with the Zoning Ordinance especially along Madison, which has to be screened.

Mr. Jahedi stated that the east and south property lines are higher than the property so the slope is from the southeast to the northwest. In those two areas you have an advantage with the topography. He offered to install a fence, if needed. Chairperson Ryan commented that it would be up to the discretion of the Community Development Director.

Commissioner Sweetser asked if the screening as it relates to trees on the south and west side would be one every 40 feet. Mr. Stilling explained the Zoning Ordinance requirement as it relates to trees and indicated that the intent is that it be fully screened. If the plant is transparent they will be diligent that the

intent of the code is met.

Commissioner Sweetser commented on the issue of the fence. She stated she is not insisting that a fence be the solution, but could be an option. Also, as far as the atrium and the neighbor's privacy being compromised, there could be ways to make the lower level windows opaque.

Commissioner Cooper asked if the perimeter of the detention pit would have to be fenced. Mr. Jahedi answered that it is a shallow slope 3:1 and does not need a fence. It's a workable slope, looks pleasant, and doesn't need a fence.

The Commissioners and legal counsel then discussed how the motion and the conditions should be worded or amended if they wanted to approve the rezoning and conditional use as well as the 35' height variation, but require the petitioner meet 50% open space.

Chairperson Ryan asked Commissioners Olbrysh and Flint if they reviewed the tape and looked at the petition information that was presented during the May 4, 2009 Plan Commission meeting as they were absent during that meeting. Both Commissioners stated that they had reviewed the information.

Michael Toth, Planner I, presented the case background. At the May 4, 2009 Plan Commission meeting, the Plan Commission held a public hearing to consider zoning actions for the CPSA proposed school expansion project. The Plan Commission considered the petition and public testimony raised at the meeting and through its deliberations recommended approval of the petition, in substantial part, subject to conditions.

Subsequent to the Plan Commission and prior to the Village Board meeting, a neighborhood meeting was held with surrounding property owners where some additional comments and concerns regarding the development proposal and its potential impacts on adjacent properties were generated. The nature of the comments and concerns varied; but seemed to focus on adjacent neighbor impacts such as buffering/screening, traffic, building height and operational activities.

The Village Board, at their May 21, 2009 meeting remanded this item back to the Plan Commission in its entirety, to allow an opportunity for the issues raised in subsequent discussions to be considered by the Plan Commission in a public hearing format. This action ensures that the public hearing record has been perfected and that the public hearing provisions established in Klaeren v. Lisle are satisfactorily addressed. It is noted that all testimony presented at the May 4 meeting is applicable to tonight's hearing. He then discussed the meeting format.

Mr. Toth then read the meeting format. Staff will outline the reason for the Special Meeting and will note the actions to be considered as part of the meeting. Staff will provide a brief history of the petition and will summarize the zoning actions and development regulations associated with the petition, which he stated that he had already done.

1) The petitioner (CPSA) will be given an opportunity to present their petition and offer additional testimony regarding their use and operation. Once completed, an opportunity to cross-

examine the petitioner by anyone in the public will be provided and shall relate specifically to the petitioner's presentation and the submitted materials.

2) Upon completion of petitioner's cross-examination, if any, any objector will be offered the opportunity to speak. Once completed, an opportunity to cross-examine the objector by anyone in the public will be provided and shall relate specifically to the objector's presentation.

3) Staff will present the remand memorandum. Once completed, an opportunity to cross-examine staff by the petitioner and anyone in the public will be provided.

4) After completion of the cross-examination, if any, the public participation period will be closed. The Plan Commissioners shall then be given an opportunity to discuss the petition. Questions may be asked to staff, objectors or the petitioner. The Plan Commission should provide a response to each of the issues raised by the petitioner and/or objectors.

5) The Plan Commissioners shall then vote to uphold their original recommendation or amend their recommendation as deemed necessary. The Commissioners could amend the language as they deem appropriate, provided that the reasons for approval or denial are tied to the standards for conditional uses, variations, map amendments and planned developments. The Commissioners do have the ability to add any additional conditions they deem appropriate should they recommend approval.

6) The recommendation will be forwarded to the Village Board for consideration at their June 18, 2009 meeting.

Andy Draus, 350 S. Fairfield, Lombard indicated he is the attorney representing CPSA and presented the petition. He stated that all issues at the May 4, 2009 Plan Commission meeting and the presentations is part of the public record for today so he won't go through all those items, but will highlight some of the major issues and address concerns they received from the neighbors living near the school. The subject building has been a school building since 1930 and was purchased by CPSA in 1994 when they opened 15 years ago. The school is successful, producing many scholars. At the last meeting 11 Lombard residents spoke in favor including former students and parents who moved so their children could attend the school. He stated that the architect and engineer for the school presented the plan for the school, which is a similar request to that of St. John's School and Sacred Heart, private schools approved by the Plan Commission and Village Board for both open space and building height. At the May 4, 2009 Plan Commission meeting the proposed plans were approved and the petition was sent to May 21, 2009 Village Board meeting where it was remanded back to the Plan Commission with no comments. Since that time, the petitioner has received letters from neighbors, including Mr. Glazier and Mr. Doles. CPSA met with staff and Mr. Glazier to address those concerns that weren't explained sufficiently earlier. Tonight CPSA will go through those concerns in greater detail. He introduced Jamshid Jahedi who will give a brief presentation.

Jamshid Jahedi, 105 Ogden Ave., Clarendon Hills, architect and engineer on the project, gave a Power Point presentation.

Mr. Jahedi gave the Power Point presentation as a follow up to the public hearing on May 4, 2009. The presentation is meant to be a continuation of their original presentation.

The first slide addressed some of the issues that were received through letters and complaints from neighbors. Those issues are as follows:

- 1) Refuse enclosure located to south of property.*
- 2) Noise from garbage truck and smell of dumpster enclosure.*
- 3) Visual screening - privacy for neighbors.*
- 4) Traffic - no truck traffic on the southeast portion of the subject property.*
- 5) Upper windows - open to neighbors, which creates a lack of privacy for property owners and creates distraction for students.*
- 6) Loading dock, which is not needed for the facility, but is a zoning requirement.*
- 7) Building height of over 30'. The height of building is counted from the grade to the top of the roof and not to top of the parapet. All the drawings are given to the top of parapet. Parapet is 3-10" so the building has maximum height of 26'.*
- 8) Roof top units - noise and view.*
- 9) Construction - phases and how long it will take.*
- 10) Parking/lights - will light shine onto neighbors and create nuisance. 0.0 foot candles at the property line.*
- 11) Parking and open space, which was left unresolved by the Plan Commission.*

The second slide addressed the revised site plan. The first item to be noted is the new location of the dumpster. Mr. Jahedi stated that this is a good location as it is the existing location of the trash bins. Also, by relocating the dumpsters they are eliminating the truck traffic that would have used the roadway near the adjacent property. He added that only the Fire Department will access that drive aisle. Also, the loading dock was a concern as it was thought that semi trailer trucks would be unloading at that location. As the architect, he has to put a loading dock in to satisfy a Zoning Ordinance requirement. They are putting it in just for satisfying the Zoning Ordinance. There are no trucks coming to the facility to unload. They use catering trucks, vans or smaller trucks that don't require a loading dock. He talked to CPSA and they told him that the loading dock will stay empty forever.

The next item was the screening from the neighbors. Mr. Jahedi added that on the south and east property lines they will have large trees. They plan to use some type of tree that grows over 5-6 feet with would grow high enough and have a large enough canopy to screen the entire length of the property essentially creating a wall. Staff will be diligent to ensure the right tree species is used.

The next item was the southeast corner of the site. Mr. Jahedi stated that he created a view of the southeast corner of the cul-de-sac looking south. The fence will be 6' high all around the south side along the property line. If it makes the neighbors happy, they can go all the way to the end. The larger trees and fence will also be used on the east side. He mentioned the swale and stated that they will eliminate it and put in an underground pipe so the trees will be able to grow.

Mr. Jahedi then discussed the second floor windows of the proposed building. They will be made of a semi-translucent material, which transmits light, but cannot be seen through. As an example, he referred to frosted glass in older bathrooms, which are a translucent material. Previously he used the word "opaque" glass in front of the neighbors and admits to his error. Opaque does not transmit light or view. Gypsum board is opaque. For the record, he wanted

to correct himself by stating that the material would be translucent, but it will not be see through. They suggest these windows so there is no way of seeing outside or inside. This is also to the benefit of the school so students won't be distracted in the library and other classrooms. This is a mutual benefit.

Mr. Jahedi then discussed more of the neighborhood concerns such as questions about sunlight and the building being so high as to create a shadow onto neighbor's yard and blocking the sun. He discussed the shadow effect in the winter months and the angle projected and noted that on the south side you will never have a shadow because the sun comes from the south.

Mr. Jahedi then discussed the roof top units and the noise radii and showed how much noise would be generated from various points to the property line.

Mr. Jahedi stated that construction will be completed in one phase. His guess is construction will be less than 18 months and not more than 24 months. He added that the Village will bug the owners when the permit is set to expire.

Jamshid Jahedi discussed parking lot lighting. He stated that there is concern about spreading the light onto adjacent property, creating a nuisance. He then showed the lighting illustration and explained that it meets Village Code.

Jamshid Jahedi addressed the parking/open space issues to the Plan Commission. He stated that he teaches courses at IIT. He mentioned that one of the lessons he teaches deals with zoning ordinance and building codes. This petition is related to the zoning and how the zoning will become a determinant factor in design. He added that zoning was created to preserve the value of the properties in the neighborhood, but it is not a perfect design determinant. That's why they have the conditional use and variation processes. They wish to provide 99 parking spaces because they think it is crucial in order to prevent spillover onto surrounding streets.

He then discussed the KLOA traffic study. He added that they strongly believe the 19 additional parking spaces are needed for this operation and want the members of the Plan Commission to consider the matter.

Mr. Jahedi then ran through the parking slides. He discussed how the parking situation won't be much different from what they have now.

Mr Jahedi then addressed the open space issue. He pleaded that the Plan Commission members act favorably upon the open space variation. He added that the Village requirements do not allow them to meet the open space.

Referring to the greenish blue box in the presentation, the Village did not give CPSA credit for pervious pavement in the parking lot, which is according to the green building and LEED certification. He added that it helps to create a better environment and they are being punished for only 3% open space.

He concluded his talk and opened the discussion for questions.

Attorney Draus addressed other concerns brought up.

1) Building height and view of building on surrounding streets - the height of building is 30' and is the normal height of a house. CPSA flew balloons on Saturday and Sunday at the southeast corner to a height of 30' high to get a visual of the height.

2) *Other activities at the CPSA building - this is a school building and not a church or mosque, which applies to both buildings. There are normal school hours, but students and teachers stay later. It's a religious based school so there are prayers as part of the Muslim religion in which they pray five times a day based on the position of the sun. They conduct prayers at the school, which are not open to public, however, some parents do come in evening. He's been there at night when there are 10-12 people in the classrooms. There are extra curricular activities such as fundraisers and athletic activities.*

3) *Open space - it is their desire that the Plan Commission consider the original plan for 46.85% open space. At the last meeting they approved 50 percent open space, which is a difference of 3.15%. The difference is CPSA would get 99 parking spaces versus 80 parking spaces. Those extra spaces will be needed for extra curricular activities. They believe it is more advantageous to have them on site. Their desire is to get the plan approved with the building height and open space variations.*

To speak in favor of the petition:

Fazal Ahmed, 200 W. 17th Street, Lombard, stated he is a child psychiatrist who moved from Des Plaines so his children could attend CPSA. He has since established his practice in Lombard. His son graduated from CPSA. Their current school is a 1930's building. The learning environment has to be nice so the people can grow and nurture.

Rashid Zaffer, 1719 Porter Court, Lombard, moved from Indiana. His taxes here in Illinois are ten times more so from a business perspective it was not a good decision, but when he sees his kids in this school, it was a good decision. The students are second to none. There should be no reservation to favor this decision to allow children the proper environment needed for the citizens of tomorrow.

Mohammad Azharuddin, 1069 Westmore-Meyers, Lombard, moved from Texas to Lombard because of the school. He mentioned that he doesn't enjoy the smell of skunk or the winters, but he stays because of school. He has two kids that go there. The school is popular so please help it to expand.

Shoeb Jethro Kahn, 414 Harding, Lombard, stated that everyone needs to loosen up and talk to their neighbors. This school has been their for 18 years and graduated over 800 students. He mentioned that the university graduation rate is 100 percent. He had two houses in Oak Brook, but he sold them and moved to Lombard for the school. He has 4 children. He thinks CPSA is a great school. He asked everyone to think outside of the box. They are only doing an addition to accommodate a few more kids. If you take the school out, 300 families would move out. They have highly educated people who live here and improve the quality of life and neighborhood. The school has a zero crime, drug, and alcohol record. He felt that it was important that the neighbors and the school work together and get to know each other. He exampled how the school offered a free medical clinic and only two neighbors showed up. They want to open their doors. They should be proud of this school for what it is doing to the community and nation. He asked for the Commissioners' support.

M. Javeed Ansari, 114 Oakton Drive, Lombard, moved here from Massachusetts for the school. He is currently a faculty member at Northwestern University and the sole reason he moved to Lombard was for the school. They waited for two years because there was a waiting list. You've heard how good school is and the reputation of school. At the last public hearing there was a unanimous

decision to expand the daycare facility for dogs which is a good thing to take care of animals. At the same time, we should be equally or more generous and welcome people that are trying to be good citizens. He hopes the Commissioners arrive at a favorable decision.

Mohammed Kothawala, 213 W. Harding, Lombard, lives two blocks from the school. All the neighbors have been good to him. He has no complaints. He moved to Lombard not only for the school but also for the Village. At 7:57 a.m. the students arrive and by 8 a.m. most of the traffic will be gone so it won't clash with the other schools. In the afternoon CPSA will close earlier than those schools.

Abdul Majeed, 509 W. Wilson, Lombard, stated that Naperville was named the best city in entire country to raise a family. Ironically he lived there, but moved here because of the school so his children can come to the school and grow. CPSA had two neighborhood meetings before the petition was even filed and afterward they had two more meetings. They are asking for a simple variation for 35 feet instead of 30 feet. He used St. Johns and Sacred Heart as examples and stated that both are private schools and St. Johns has high towers beyond 35'. He stated without the 19 additional parking spaces on the premises will result in 19 cars that will have to park on the street. The neighbors won't want the cars parked in front of their houses. He asked the height variation, which is one percent of the entire building be approved. They have got on the south side of property 4,000 square feet, which does not belong to anyone, but does contribute to the open space in the area. It is a no man's land. CPSA is ready to withdraw its claim to the neighbors so that the 4,000 square feet could be considered as part of the petition.

Sayed Zaffer, 119 Collen Drive, Lombard, moved to Lombard 2001. His business practice is located in Elmhurst Memorial and he is a member of the Chamber of Commerce. He has three children that attend CPSA. He believes the zoning can be discussed, but at end of day, it's the conscience of all those benefitting from the school and it's the right thing to do.

Dr. M.T. Alilvazec, 5382 Galloway Drive, Hoffman Estates, is from the west coast. He stated that the school is known throughout the country and some people oversees. This school has put the Village of Lombard on the map.

M. Mukarram Sheikh, 1328 S. Rebecca, Lombard, moved to Lombard from Memphis, TN. He is a physician and is for the school. He came for the school and fell in love with the Village. He has invested in the community and brought financial investments and talent here. He added that people affiliated with CPSA are acquiring new houses in Lombard and they have contributed to this community in different aspects. As the school building has been there since 1930, it is not like CPSA is trying to sneak in a building. They are just asking for help to upgrade the building to a level encompassing modern education. He mentioned how he covers trauma at Loyola and how he sees the results of street crime on a daily basis. We are being trusted in the emergency room to treat you and your families and now we are asking you to help us. He understands the neighbor's concerns and those issues have been addressed. They feel it's their right and their civil right but maybe it's just a personal thing that they do not want to help us build.

Speaking against the petition were:

Dan Smothers, 560 Green Valley, Lombard, stated that this is not a referendum

on CPSA, the school is already there. Local residents do not want the expansion of the school as it will change the face of the neighborhood permanently.

Bill Raysby, 580 S. Edson, Lombard, stated that he has four kids that attended the Green Valley School. Referring to page seven of the staff memo regarding phasing, it mentions two items that he had an objection to - the cost to upgrade Green Valley to keep it as a public school and the asbestos abatement. He has never seen or heard that the Village has issued a permit to remove asbestos tile. He is not aware of anything they plan to do with the windows, air conditioners, or asbestos. Right now with the existing building he said that they may or may not upgrade it. It's been an eyesore for some time. They should take care of what they have right now. He said that there is the possibility of tearing the existing building down after the new building goes up, but what about asbestos abatement. He's not sure if they are aware of it. He would like to see that taken care of before the petition is granted.

Ed Pszanka, 615 S. Edson, Lombard, stated his property joins the school's property. He has never heard of any incidents. He questioned the expansion and believed it will not stop there. Intelligence is the power to reason. Green Valley School was obsolete and they are still using it. Why waste that money there. He stated that the Commissioners are not doing their job. He asked what each of the Commissioners think about the school. He stated that education is the most important thing. He suggested that they take the school and put it on North Avenue and then you can build another College of DuPage or Harper.

Fran Pszanka, 615 S. Edson, Lombard, stated she had issues going back to when the property Joe Schmidt owned, was up for sale. The contractor was going to take the school down and build a few nice houses there, which would bring in tax money for the Village. That project was turned down due to the zoning code. Now we are asking for the Zoning Ordinance to be changed for the school, which doesn't seem right. There are flooding issues in the yards and the retention pond may overflow, which she has seen happen in other places. Is there a guarantee that a child might not fall into it or attract mosquitoes. For the people that have lived here for all these years and all the taxes we have paid for the school, a park should be considered.

Joe Glazier Jr., 304 W. Harding, Lombard, thanked the Plan Commission for reviewing this matter, thanked the staff and CPSA for the opportunity sit down and address their concerns. A number of ideas have come out of this meeting. I feel the school should be commended for their success, but should not negatively impact the neighbors. He wanted clarification on staggered hours of drop off and pick up, the length of school year, how the school will increase the property value, religious based school with prayers and times and dates of prayers. Please take these into consideration and ask yourself, would you want a 61,000 square foot building in your backyard.

Holly Brazleton, 141 W. Park, Lombard, stated that her biggest concern was the nature and care of the present building. Will the new building be cared for when the old building is not cared for. When activities are occurring at the school, paper plates and other junk can be found on the property to the west of the school. She added that the parking seems to be solved.

Carl Schwebl, 614 S. Elizabeth, Lombard, stated that his house backs up directly to school. CPSA paints a nice picture of being wonderful to the community. If you lived in his backyard you would think different. He stated

that there are car alarms that go off at 2 a.m. The snow removal comes at 4 a.m. during the winter. His children are not able to walk up and down the street due to the four schools in the area and adding 600 cars so every school being dropped off will be by vehicles at drop off and pick up. The Village of Lombard cannot put a police officer by Madison, now they want to add another 600 cars. He asked how the school benefits Lombard. Construction will go on for more than two years. When he moved to their house in 2001, CPSA refused to mow their lawn and their crews were there at 6 a.m. They are trying to appease their neighbors by dropping off Christmas gifts at Christmas time. He questioned the traffic study. Referring to the traffic study he added that on January 7 and 8 there is no school. A traffic study in May or June would be more accurate. The reality is this will cause more noise, pollution and traffic in Lombard.

Jerry Debokisky, 598 S Elizabeth, Lombard, stated that he lives across the street from the school. He moved to the neighborhood in 1992 and observed the school for a long time. If they are remodeling, expanding upon that small property is a waste. He also moved from somewhere, but for some reason for those beautiful properties, spaces, peace of life, slow traffic and now we are doing more of what we don't like. He wishes success for them, but not on that property.

Ken Doles, 623 S. Elizabeth, Lombard, has been a resident of Lombard for 39 years. Many of issues have been raised in past and were adequately addressed by the engineer. This is more than a bricks or mortar issue. We are talking about significant skin in this game, more specifically the property investments in the Green Valley area. CPSA's website shows that the school has outstanding credentials and a very successful operation, but it is not meant for that location. Its own success will become its worst enemy. The 785 student cap and open space issues have to be addressed. Progress is necessary, but cannot be made on the backs of the people who have established the neighborhood. He mentioned the Driscoll School. What are the next steps because if they are as successful as they claim, then what about growth, value and quality of life. These are considerations that go beyond zoning, right location, right time and long term consequences.

Candice Rizzo, 308 W. Harding, Lombard, lives directly behind the school. She had three concerns that need to be clarified:

- 1) The "no mans land" - CPSA mentioned they don't want to take it, but they will if they have to. Has that been addressed, is that an issue right now.
- 2) Parking - 99 spaces will help overflow. As it is now, the students and staff cannot park on streets, the same goes for the residents if they parked on the streets. Not even Lombard residents can park on the streets.
- 3) Building size - it will impact the residents all the way around. We know the school has been there and there was no infringement. The air conditioning unit will be close to their backyard and she hopes it will be as quiet as they say. She is concerned.

Ed Pszanka asked when the Plan Commissioners will tell their point of view. Chairperson Ryan said they will voice their concerns at the appropriate time similar to the last meeting.

Ken Doles had a question for the architect/engineer. He asked if the utility lines will have the proper clearance from the proposed landscaping.

John Harley, 585 S. Elizabeth, Lombard, asked if there will be security cameras like their school in Villa Park. He personally doesn't like them and feels that is

an intrusion into his freedom

Attorney Draus made the following comments in regard to the neighbors concerns:

- 1) He stated that it is nice to speculate on the Driscoll building or North Avenue, but they own this property and they have a right to build on it. It's also their backyard. The plan in front of us today is for this property.*
- 2) CPSA is not affiliated with the school in Villa Park, nor are there are plans for security cameras at CPSA.*
- 3) Drop off/pick up times - will be specifically staggered to avoid the times of Madison School. They will not be set in the plan itself because they need flexibility to determine year to year. Their intention is to alleviate traffic on Madison and to account for their hours and Madison School hours.*
- 4) Length of school year - 168 days long from August or September and ending in June, similar to other schools.*
- 5) Property values - interesting argument, it's all relative and very arguable.*
- 6) Present building - there is a fundraising plan to build this building, which is a modern building. Fundraising will continue to increase the value of the present building including new windows air conditioning and the like.*
- 7) 600 cars - the total increase of students would be 380 over what they have now. It may never happen. They will be capped at 785. There are 400 students now, many of which carpool. There were usually 4-5 students to a car or van that are dropped off and picked up together.*
- 8) The "no mans land" - the 3,400 square foot strip of land between the CPSA property and the neighbors. If you surveyed the two properties, no one party owns that property. We don't know why that is and dates way back. Mr. Sayeed stated that he would like the Plan Commission to take into account the land when considering the open space requirement. CPSA is not making a claim on that land, they will release that claim to the neighbors behind there if they could figure it out.*
- 9) Only two roof top units on top. The rest of HVAC system is based on different systems, which doesn't require a rooftop unit. He then explained the issue in further detail. The decibels are to the best of his knowledge and he stands behind it. He has enough qualification and has a PhD in engineering.*
- 10) The development of the property as single family residences. Jamshid Jahedi explained that the situation would be different if the property was developed with a certain amount of houses. What would happen if the same amount of houses along the east line of his property building were built closer to your property and being at higher elevation because it is not a flat roof. The pitched roof would be higher and the volume of the houses would be much larger and taller than what the CPSA has here farther away from the property line.*
- 11) Green space - was not your property to start with and was granted to the previous owner.*
- 12) Utility lines - They have not designed the detailed engineering plans yet, but they are committed to good screening with a set number of trees to create privacy. Preserving the utility lines is also crucial.*

Attorney Draus stated that he is disappointed by some of the comments from the neighbors tonight. He moved to Lombard because of diversity in this town. He always found people to be friendly and down to earth. He added that CPSA held two neighborhood meetings, a Plan Commission hearing and additional talks with neighbors. They remained civil up to tonight and he is saddened by some of their comments.

Chairperson Ryan asked for a response to the tearing down of the existing building. Andy Draus replied that there are no plans to tear down existing building. Mr. Draus added that this is their plan for expansion. If there were additional plans for expansion, it would have to come back before the Plan Commission. Referring to the flooding concern, Jamshid Jahedi stated that under the new plan they guarantee that the existing problem will go away and they will handle the run off better than what it is now.

Chairperson Ryan asked about the care of old building, cleaning up after events as being a good neighbors is an important thing. He also asked about the grass cutting. Andy Draus stated that it goes back to 2001. CPSA cuts the grass and maintained the trees and cleans up after themselves. I'm sure there's no garbage out there now.

Chairperson Ryan asked the petitioner to address the issue of activities occurring at 2-3 a.m. Andy Draus stated that he is not familiar with it. Chairperson Ryan asked if late activities are common. Mohammed Syaeed, 1154 Brighton Place, Glen Ellyn, has been involved with the CPSA Board since day one and is responsible to take care of problems. There are no activities at 2 a.m. or 3 a.m. Once in a while if the Village calls us for the alarm, they will go to fix the problem. There is no activity and no contractor comes before school starts before 7 a.m. The garbage comes on Thursday morning around 6:30 once a week, which is a standard time. Referring to lawn mowing, they have a contractor that comes and mows the lawn. They have gone 8-9 years with no problem because since 2001 they have a contractor for snow and grass.

Commissioner Sweetser mentioned some of the other conditions proposed for this petition, which includes trash collection prior to 8 a.m. and other noise-making operations. She asked the petitioner if they were aware that this condition was added. Mohammed Syaeed stated that he was not aware, but the snow cleaning and other such activities begin before school starts, which is 7:30. Attorney Draus stated that trash removal is through the Village and doesn't believe they start before 8 a.m.

Chairperson Ryan stated that they can restrict the time of trash removal similar to St. John's. Commissioner Sweetser asked if lawn mowing and snow removal should be also conditioned.

Chairperson Ryan mentioned the asbestos issue brought up. Mohammed Syaeed stated that because the building built in 1930, the situation was common back then. When they purchased the school, they had an inspector inspect it and so far the state has never told us any complaint.

Village Attorney George Wagner stated that with asbestos, if it's not touched, it doesn't need to be removed. If there is remodeling occurring then it needs to be abated. As long as it's not touched then it's not an issue.

Chairperson Ryan deferred the flooding issue to staff. Chris Stilling asked the petitioner to address the design of the pond. Mr. Jahedi stated that the system for stormwater management includes a detention pond. It appears on the plans to be a wet area, but the slope of the sides is very gentle so children can play in it without danger. When there is a storm event greater than a 100-year event, we still have a safety feature that controls water toward the Village stormwater system. It is a dry detention pond that will have short grass in the bottom of it, which makes it a pleasant view. There is no accumulation of standing water on the bottom so mosquitoes being able to breed in the water is

not possible.

Chairperson Ryan mentioned construction time. He added that the petitioner mentioned 18-24 months. Mr. Stilling stated that the Zoning Ordinance requires that a conditional use be substantially completed within 18 months of approval.

Chairperson Ryan mentioned the traffic study. Mr. Stilling stated that the Village hired a third party consultant, KLOA, to prepare and present a traffic study. Those findings and the study are included in the staff report and one of the suggestions was staggering hours of operation. One of the findings of the report indicate that if they address the staggering issue, there should be no impacts to the surrounding properties.

Mr. Jahedi wanted the record corrected. The one page he referred to in his presentation was just one page that had particular information he was noting. The traffic consultant's full report is 30-40 pages and is available to the public.

Commissioner Sweetser asked Attorney Draus to give the IRS tax status of the school. Attorney Draus stated that CPSA is a not for profit - it's a 501 C3 corporation.

Chairperson Ryan wanted to address the number of activities and prayer times as it relates to after hours. Mr. Jahedi stated that the Muslim religion requires everybody to pray 5 times a day. These are based on sun positions or natural appearances. Before sunrise there is a prayer, which will be done at home. The second prayer is at noon which is usually done at work or students perform at school. The third prayer is toward the evening. Some students may or may not be in school. The next two prayers occur in the evening and at night. The night prayer is performed at home, the evening prayer might occur on the school. Mohammed Syaheed stated that there is no prayer that occurs around 2 a.m. or 3 a.m. Chairperson Ryan asked if the students are there at 11 p.m. Mr. Syaheed stated that they may not be there for prayer, but peer tutoring can occur at that time.

Chairperson Ryan then requested the staff report.

Mike Toth, Planner I, presented the staff report. He stated that staff has prepared a list of items with responses for the Plan Commission to consider for this petition. These represent some of the various concerns raised by the surrounding residents. He stated that the information is redundant based upon the testimony already provided, but he wanted to read it into the public record.

1. Traffic

A. Increased traffic, particularly at the southeast corner of the site.

CPSA indicated that most of the drop off & pick up for the K-12 classes would occur in the middle of the site (in between the two buildings and in the new parking area north of the existing building). CPSA also stated that the preschool drop off & pick up would occur at the southeast corner of the site.

B. Traffic backup onto Madison.

A detailed traffic study was completed by the Village's consultant (KLOA), which highlights recommendations that are to be incorporated into CPSA's site

plan. Staff gave a copy of the traffic study to some of the adjacent property owners to share with neighbors. The petitioner's current plan does incorporate most of the recommendations; however, the Village still recommends a staggered drop off & pick up schedule as a condition of approval. Per the

Village's consultant, this should eliminate any stacking onto Madison. CPSA has indicated they prefer not to publish a set class schedule at this time. CPSA has agreed to stagger start and end times from those of Madison School. The petitioner has indicated that they would like to retain the flexibility to adjust class schedules and start and end times of different ages based on need, as determined by increased enrollment and/or increased traffic issues. Staff would still recommend that as a condition of approval, the petitioner provide a detailed drop off/pick up schedule based upon the recommendations in the KLOA report and based upon the proposed traffic flow conditions along Madison Street and upon the subject property.

2. Screening

A. Not enough screening/landscaping along the eastern and southern property lines.

CPSA has submitted a revised landscape and site plan showing a new six foot (6') solid fence along the eastern portions of the site. The fence would also be located on the along southern lot line, however it would stop at the midpoint. In addition, the revised landscape does show some additional plantings, however details of the type and size of plantings has not been provided. The petitioner has indicated that they are not sure yet if all the neighbors on the south and east want the fence and/or landscaped screening. The petitioner has indicated a willingness to work with the neighbors to provide screening that meets the desires of the neighbors on those sides. Staff recommends that as a condition of approval, all plantings along the parking lot and drive aisles that directly abuts residentially zoned properties be screened with evergreen and/or dense deciduous shrubs across the entire frontage at a planting height of a minimum of 4 feet. This is consistent with the requirements of the Zoning Ordinance. In addition, staff recommends that the type of evergreens and/or shrubs shall have the ability to grow to a minimum height of 15 feet.

B. Landscaping shall be dense trees/shrubs that can grow higher than a fence. The proposed drainage swale along the east property line will impede the growth of any landscaping.

The revised site plan submitted by the petitioner does show the addition of a storm sewer with several inlets along the east property line. In addition, staff recommends that the plant material shall meet the provisions outlined above. Please note that additional comments may be generated during final engineering review regarding the use of a storm sewer in lieu of only a swale. In the event the petition is approved with a condition requiring landscape screening that conflicts with the final engineering plans, the petitioner would still be required to provide the necessary screening. It would be up to the petitioner to revise their plan to meet all conditions of approvals and final engineering requirements.

3. Loading Dock

A. Residents along the southern and eastern property lines are concerned about truck traffic and the utilization of the loading dock.

CPSA indicated that they will sparingly use the loading dock and that most of their supplies are provided in vans or small trucks only. Please note that the loading dock is a zoning requirement; however, the location of the loading dock was proposed by the petitioner.

4. Garbage Dumpster

A. Location of the garage dumpster.

CPSA has revised their plans to reflect a new dumpster location. The new dumpster location will be located directly off of the western drive aisle, adjacent to the detention pond. The new location is more centralized on the site, which would place it further away from the residential properties. The Zoning Ordinance requires the dumpster to be fully screened on all four (4) sides. The relocation should mitigate many of the concerns raised by residents. Also, a condition of approval for St. Johns School (PC 05-06) was that trash collection shall not occur on the school property prior to 8:00 a.m. Staff recommends that the same condition of approval required of St. John's will be added as part of this petition.

5. After School Activities

A. CPSA has nighttime activities.

CPSA has indicated that there will be afterschool activities that would be ancillary to the school, which includes: student projects, sports and awards ceremonies. They do indicate that since it is a religious based school, there are prayer services offered five times a day. However, those participating in prayers are generally students, teachers, administrators, and a few parents who live in the neighborhood. Staff notes that it is the petitioner's intent is to utilize the property as a parochial school as its principal use, similar to other schools in the community. However, if the petitioner were to modify their operations to provide for public assembly for worship purposes, a conditional use for a religious institution would be required. The petitioner has stated that is not the intent of the school addition.

6. Building Height

A. Proposed building height will be higher than the surrounding residences and block sunlight.

CPSA has provided a detailed illustration of how the building height will not cast a shadow on the surrounding properties. The illustration demonstrates that even when the sun is at its lowest point, a shadow would be cast at a maximum of fifty-two feet (52') away from the building, which would still be seventeen feet (17) from the nearest property line. It is noted that a building height variation is still needed for the building height as it relates to the access stairway.

7. HVAC System

A. HVAC units will be loud and they will be visible to the neighbors.

CPSA indicated that the biggest HVAC unit will be located on the ground floor at the northeast corner of the new building. They also stated that two (2) units will be located on the roof of the new building; however, they will be screened

per Section 155.221 of the Zoning Ordinance.

8. Atrium Window

A. Residents along the eastern and southern property lines are concerned about the large windows overlooking their homes.

On the newly-submitted elevation plans, CPSA is now proposing semi-translucent windows to block the views onto adjacent properties. The plans now show semi-translucent glass panels on the lower- half of the second story windows and atrium. The petitioner's architect has indicated that this semi-translucent glass will still allow for light to enter the building but will prevent the occupant of the building from looking out onto the adjacent properties.

9. Capped Student Population

A. How will the capping of students be monitored.

As a condition of approval, staff recommends that grade school students shall be capped at 450 students and the number of high school students shall be capped at 240 students. The total student population, including the pre-school, shall not exceed 785 students. To monitor this condition, staff can obtain student population numbers through the Illinois State Board of Education and pre-school numbers through DCFS.

10. Parking Lot Lighting

A. Residents are concerned about parking lot lighting spilling over onto the adjacent properties.

CPSA will be required to meet the full provisions of Section 155.602(A)(10)(d) of the Zoning Ordinance, which pertain to parking lot lighting standards. Section 155.602(A)(10)(d) specifically states that in no case shall parking lot lighting exceed 0.5 foot-candles at any property line which is shared by a residentially-zoned property. As such, the Ordinance does not allow for excessive light spillover onto residential properties. Furthermore, CPSA will be required to submit a photometric plan, for Village review, as part of their permit submittal.

11. Phasing & Construction

A. Residents were concerned that the project was going to be built in phases over the years.

CPSA indicated that the entire project would be built in one (1) phase. Any improvements to the existing building (windows and air-conditioning) may come at a later date, after they are done with the project.

B. Construction Hours.

Village Code restricts construction activity Monday-Sunday 7 a.m. to 8 p.m.

12. Surveyor's Gap

A question was raised regarding the surveying gap located south of the subject

property. The plans show that the proposed use will not include the gap area and the petitioner does not intend on including this area as part of their petition.

13. Fire Access

On all new buildings the Fire Department requires at least three sided access. In addition, the Fire Chief may require 'continuous access around a building' or four (4) sided access. Fire Lanes must be a minimum of 18' wide and must be set back 15' from the structure. At times parking lots can meet these two requirements such as St. Johns School did (PC 05-06). In the case of CPSA, the area between the proposed new building and the existing building could not be utilized as fire access land since there is not enough building separation and there are overhead obstructions which would prevent fire apparatus from maneuvering aerial ladders.

Chairperson Ryan then opened the meeting for comments among the Commissioners

Commissioner Sweetser stated that before we start, it may not be clear to whoever may be listening that we take all the Commissioners take an oath and that oath prevents us from accepting outside issues of the other parties involved. Mr. Stilling stated that when a petition comes forward they have to meet certain standards and criteria, the petitioner and the Plan Commission has to find that they meet those standards.

Commissioner Sweetser mentioned several things - the height of building at 26 feet and she asked if that means that the height of the extra piece is still considered 35 feet. Mr. Toth stated that the access stairway is in excess of 30 feet. Mr. Stilling stated that the stairway has always been the same height.

Commissioner Olbrysh referred to the large trees on south and east side. He asked if the petitioner was going to bring in mature trees.

Mr. Jahedi replied that he is not the Landscape Architect, but there are certain ages of trees you can bring in. The more mature the tree the less of a survival rate it has at planting time; as such, they will bring in the species of trees considered and will not be a mature height but will grow within a few years from planting. It will take 4-5 years before we get the desired screening that the trees will provide.

Referring to the illustration, Commissioner Olbrysh implied that those size trees will not be brought in. Mr. Jahedi stated that is his is best guess.

Referring to the landscape plan, Commissioner Olbrysh asked if there is landscaping and a berm in front of the building.

Mr. Stilling replied, yes. Based upon the submitted plans a 2' berm is provided along with landscaping that meets the requirements of the Zoning Ordinance.

Mr. Jahedi stated that's exactly correct and mentioned the cross section. The same cross section shows a 2' berm and 4' of plantings, which makes 6' on the Madison side.

Commissioner Sweetser referred to the assertions in the neighborhood correspondence that they received as part of the record stating that CPSA is a "business". She noted that they are inaccurate.

Village Attorney Wagner replied that CPSA is a tax-exempt organization, which you might equate as a business function, but is a school and is tax exempt.

Commissioner Flint stated that he wasn't at the previous public hearing, but he did view the tape, read the minutes and looked over all the correspondence. He added that by coming back here there was a lot of input from the residents to the betterment of the project. One of the improvements to the plan is the moving of the dumpster from the back to the west.

Commissioner Burke asked if we are going to move forward with condition #9.

Commissioner Sweetser asked if the Commissioners should indicate hours of operation. She added that she didn't think it was necessary but would like to speak to one of the concerns raised by the residents. She wanted to make sure the Commissioners were not perceived as not addressing their concerns. Chairperson Ryan stated that the late night issue has been clarified.

Commissioner Olbrysh mentioned the open space issue. He asked if St. Johns was approved for an open space variation. Mr. Stilling stated that it was short on open space. He added that he can't say for certain what that was but mentioned that there were more recent projects that met the open space requirement. In regard to open space deviation, these requests also included parking deviations, but this is a different situation and a balance needs to be maintained. It is staff's goal to achieve conformance in meeting code. The Zoning Ordinance doesn't restrict parking maximums only a minimum. We want compliance with open space.

Referring to the open space, Commissioner Sweetser asked about the 3,400 square feet of "no man's land". Since it doesn't belong to anyone and the petitioner wouldn't seek any claim to it, it is there. She asked staff if they saw this area as a way to provide them with any sort of resolution. Mr. Stilling replied that we don't have to address that area and are confined to the property's boundaries.

Commissioner Sweetser stated that the subject property is in a residential zoned area which is one of the reasons why staff wanted to limit parking in front and increase open space. Mr. Stilling stated that staff has no preference to where they should remove the parking. He added that the neighbors had concerns about parking in front of the existing building and the appearance it would give so if they removed the parking, it would be good to do it there. Commissioner Sweetser stated that it seems the neighbors would prefer to have the extra parking. Chairperson Ryan stated that they should uphold the open space. From his point of view, he would like it kept at 50 percent.

Chairperson Ryan asked who maintains the "no man's land". Mr. Jahedi stated that the land has maintained by the neighbors. He added that they are grateful to them as it is part of their yard as well.

Commissioner Sweetser stated that last time there were two motions.

Village Attorney Wagner clarified that the recommendation is to provide the variation for the height and then to approve the variation for the open space as to the 25 percent.

Chris Stilling explained how they arrived at 62.5 percent open space. He added

that condition #1 should reflect the date of the latest plans.

Commissioner Burke moved to amend the recommendation to adopt Village Attorney Wagner's conditions.

J. [090298](#)

ZBA 09-04: 126 S. Lombard Avenue

Granting a time extension to Ordinance 6348 extending the time period for construction of the variation associated with the building addition for an additional twelve month period (June 18, 2010). (DISTRICT #4)

Attachments: [apoletter 09-04.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE 09-04.doc](#)

[Referral Let 09-04.doc](#)

[Report 09-04.doc](#)

[Ordinance 6348.pdf](#)

[Cover Sheet Ext.doc](#)

[BOT ext memo.doc](#)

[090298.pdf](#)

[090298.pdf](#)

[Ordinance 6482.pdf](#)

The petitioner, Rhonda Heabel, presented the petition. Ms. Heabel began by stating the home currently has a setback of 4.5 feet and she would like it to stay this way. This would allow her and her husband to construct a one car attached garage and a dining area.

Scott Heabel, 126 S. Lombard Avenue, stated that they would like to demolish what is currently there and replace it by constructing in the same area. They would just like to update their home.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Stuart Moynihan, Associate Planner, read the staff report. Mr. Moynihan stated that the property contains a two-story single family residence built approximately four and one-half feet (4.5') from the southern side property line. Currently, a carport and a three-season room are the southernmost parts of the residence. The petitioner plans to demolish these areas of the residence in order to construct an attached garage, kitchen, and dining area. The new construction would maintain the current setback of four and one-half feet (4.5'). Due to the demolition, the Zoning Ordinance would require that the new construction meet an interior side yard setback of six feet (6'). Therefore, a variation is necessary.

The carport and three season room were permitted in 1960 and 1962 respectively and are considered legal non-conforming with regard to the interior side yard setback. These portions of the residence are currently four and one-half feet (4.5') from the side lot line and are one-story in height. The

proposed residential addition would occupy the footprint of the carport and three season room as well as additional areas to the east and west. The addition would also be set back four and one-half feet (4.5') and would be one-story in height.

Mr. Moynihan referenced five previous variations listed in the staff report in which similar relief was granted.

- 1) The property at 576 Green Valley Drive received approval of a variation to reduce the required interior side yard setback from six feet (6') to two feet (2') for the conversion of a carport into a garage and for a residential addition (ZBA 03-10).*
- 2) The property at 828 S. Fairfield received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and one-half feet (2.5') for a residential addition (ZBA 05-14).*
- 3) The property at 219 W. Hickory received approval of a variation to reduce the required interior side yard setback from six feet (6') to two and one-half feet (2.5') for an attached garage (ZBA 06-14).*
- 4) The property at 259 N. Garfield received approval of a variation to reduce the required interior side yard setback from nine feet (9') to 7.88 feet for a second story addition holding the previously developed exterior wall of the residence (ZBA 07-12).*
- 5) The property at 217 N. Craig Place received approval of a variation to reduce the required interior side yard setback from nine feet (9') to 7.9 feet for a sunroom at the rear of the home holding the previously developed exterior wall of the residence (ZBA 08-03).*

As the proposed addition would maintain the existing building line, it would not increase the degree of encroachment into the existing non-conforming setback. Staff notes that a front-loaded attached garage could not be constructed at the north side of the property as the existing setback is insufficient in this area as well. These setback deficiencies can be attributed, in part, to the width of the lot being fifty feet (50').

The adjacent lot to the south, 128 S. Lombard Avenue, is developed with a single-family residence built approximately 9.8 feet from the property's northern side lot line. The Zoning Ordinance requires that the northern side yard setback for the 128 S. Lombard Avenue property be nine feet (9') as there is no attached garage. If the proposed addition at 126 S. Lombard Avenue is built at a setback for four and one-half feet (4.5'), the separation between the homes would be approximately 14.3 feet. This distance is greater than the twelve feet (12') that would be established by maintaining the standard code requirement for an interior side yard which is six feet (6') on each property.

In order to avoid the undesired effects of increased physical or perceived bulk to the neighboring properties, staff suggests that a condition be added to any motion for approval that any new construction built within the six foot (6') setback area be limited to one-story in height.

Staff finds that this petition meets the Standards for Variations. The proposed location for the addition and garage are due to the existing configuration of improvements on the lot and the desire to conserve open space on the property.

Mr. Moynihan stated that the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make a motion recommending approval of the side yard setback variation subject to the conditions in the staff report.

Chairperson DeFalco then opened the meeting for discussion by the Board Members. He asked if the proposed addition would meet the thirty foot front yard setback. He clarified by stating that the site plan depicts the southern portion of the home at a setback of 29.7 feet.

Mr. Moynihan stated that, although the site plan does not show it, the construction plans show the front wall of the garage set back an additional two feet. Therefore, it would meet the thirty foot setback.

The petitioner was asked if his boat will fit within the garage.

Mr. Heabel stated that he had measured to ensure that it would fit in the garage.

Mr. Tap also stated that there seems to be a large tree where the new construction is proposed.

Mr. Heabel stated that it would have to be removed.

Mr. Young asked if there is a twelve foot separation requirement between buildings and if this would have an effect on the neighboring residence.

Chairperson DeFalco stated that the neighboring residence would have to be setback more than six feet if rebuilt.

Mr. Moynihan stated that this requirement only applies to detached garages.

Mr. Young asked if the original carport was allowed in the setback as an accessory structure.

Mr. Moynihan stated that the carport would have been considered part of the principal structure as it is attached to the home, just like an attached garage.

Chairperson DeFalco stated that the third condition in the staff report usually has a requirement about 50% of the value of the structure.

Mr. Moynihan stated that this could be added to the condition.

K. [100198](#)

PC 10-04: Text Amendments to the Zoning Ordinance

The Village requests a text amendment to Section 155.420(C) of the Lombard Zoning Ordinance (and other sections where needed for clarity) allowing "Motor Vehicle Sales" to be listed as a conditional use within the I - Limited Industrial District. (DISTRICTS #1, #3 and #4)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PH notice.doc](#)
[Referral Letter.doc](#)
[Report 10-04.doc](#)
[Ordinance 6483.pdf](#)
[100198.pdf](#)

Christopher Stilling, Assistant Director of Community Development, presented the petition.

Recently, Village staff has received a number of requests to establish automotive sales facilities within industrial areas of the Village. As a result, the Planning Services Division is initiating this text amendment to allow "Motor vehicle sales" to be listed as a conditional use within the I-Limited Industrial District.

Internal review comments were received from the Building Division and the Fire Department. The Building Division noted that vehicle sales would constitute a change of use in the industrial district, and would require all applicable codes to be met for that new use group. In addition to changes within the building, additional accessible parking may be required to accommodate the new use and occupant loads.

The Fire Department noted that storage of motor vehicles inside a building requires that the building be fully equipped with a fire sprinkler system and indoor auto sales show rooms are considered storage of vehicles.

The Planning Services Division has been receiving an increased number of inquiries from prospective businesses seeking to establish automotive sales facilities within industrial areas of the Village. Currently, "Motor vehicle sales" are neither a permitted or conditional use in the I-Limited Industrial District. As a result, staff has initiated the text amendment to allow "Motor vehicle sales" to be listed as a conditional use within the I - Limited Industrial District. This text amendment, if approved, will allow Village staff to better respond to the requests and accommodate such a use. He referred to a table which illustrates how the various automotive uses are currently being regulated in the Zoning Ordinance and noted that it is considered a conditional use in the B2, B3, B4 and B4A districts.

From a land use perspective, motor vehicle sales is very similar to Outside Storage of Motor Vehicles, which is already a Conditional Use in the I-Limited Industrial District. In addition, many of the ancillary uses associated with motor vehicle sales (automobile repair and service) are also listed as a Conditional Use in the I - Limited Industrial District.

For reference purposes, staff completed an analysis of surrounding communities that did allow motor vehicle sales in their industrial district(s) to better understand how they regulate the use. Mr. Stilling mentioned each community surveyed and how each regulates motor vehicle sales in their industrial district.

Concluding, Mr. Stilling stated that it is staff's opinion that "Motor vehicle sales" as a conditional use in the I-Limited Industrial District is appropriate. Many of the prospective automotive sales businesses seeking buildings in the I-Limited Industrial District generate their sales through the internet rather

than from walk-in customers. Therefore, these businesses seek larger warehousing buildings found in the industrial areas of the Village. If the text amendment is approved, the Conditional Use process will allow staff, the Plan Commission and the Village Board the opportunity to review each case to ensure that all the applicable standards are being met. He referred to the standards for text amendments, how they have been affirmed and staff's recommendation of approval of the petition.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. There was no one to speak in favor or against the petition. Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser stated that this amendment is needed and makes sense. She agreed with staff's recommendation.

- L. [100203](#) Liquor License Amendment - Tom & Eddie's Better Burgers, 348 Yorktown
Amending Title 11, Chapter 112 of the Village Code reflecting an increase in the Class "C" liquor license category. (DISTRICT #3)
Attachments: [ordincrease.doc](#)
[memoincrease.doc](#)
[Ordinance 6484.pdf](#)
[100203.pdf](#)

Resolutions

- M. [100246](#) North Industrial Park Pavement Rehabilitation Resident Engineering
Approving a contract with Baxter and Woodman, Incorporated in the amount of \$431,172.00. (DISTRICTS #1 & #4)
Attachments: [100246.pdf](#)
[R 94-10.pdf](#)
[Contract # ST-09-06 Baxter.pdf](#)
[Cost Estimate of Consultant's Services.pdf](#)
- N. [100257](#) St. Charles Road LAPP Resident Engineering
Approving a contract with V3 Companies in the amount of \$204,423.84. (DISTRICTS #1 & #4)
Attachments: [100257.pdf](#)
[R 95-10.pdf](#)
[Agreement for MFT Funds.pdf](#)
- O. [100262](#) St. Charles Road LAPP Resident Engineering Appropriation of Motor Fuel Tax Funds
Authorizing the use of Motor Fuel Tax funds in the amount of \$204,423.84 to pay for Resident Engineering Services provided by V3 Companies. (DISTRICTS #1 & #4)

Attachments: [100262.pdf](#)
[R 96-10.pdf](#)
[Request for Expenditure-Authorization for MFT Funds.pdf](#)
[Agreement IDOT St. Charles Rd. LAPP.pdf](#)
[Correction on Request for Expenditures.pdf](#)

- P. [100265](#) Northern Illinois Municipal Electric Cooperative (NIMEC)
Authorizing the Northern Illinois Municipal Electric Cooperative (NIMEC) to serve as the broker for the Village of Lombard with regard to obtaining bids from electricity providers and authorizing the Village Manager or Director of Finance to approve a contract with the lowest cost electricity provider.

Attachments: [Electric Submittal - NIMEC 5-10.doc](#)
[R 97-10.pdf](#)
[100265.pdf](#)

***Q. Downtown Planning Study - Professional Agreement (Moved to IX-C)**

- R. [100268](#) 2010 North Avenue Standpipe Exterior Painting, Resident Engineering Approval of an Agreement with Tank Industry Consultants in the amount of \$95,000.00. (DISTRICT #1)

Attachments: [100268.pdf](#)
[100268 rev memo.doc](#)
[R 98-10.pdf](#)
[Contract # WA 10-02-RE.pdf](#)

Other Matters

- S. [100194](#) Clear Water Disconnect Policy
Recommendation to approve the proposed amendments.

Attachments: [100194.pdf](#)
[100194 BOT.pdf](#)

Podesta reviewed the history of the program and the proposed modifications. Village crews have been investigating the Old Grove area. Approximately 68% of homes have laundry tubs tied into sump pumps which should be a fairly easy fix. Staff has looked at several options to replumb economically. Upon the Village's request, the State Plumbing Inspector has determined that if nothing else is tied to a floor drain, it collects only clear water, it can be discharged outside.

Staff's recommendation is to start chipping away at an area with 75% of the funds and reserve the remaining 25% of the funds for residents outside of the targeted area that want to disconnect. Staff is proposing a maximum of \$200 to disconnect downspouts, \$1500 to disconnect sump pumps and \$5000 for a ejector/sump pit if necessary. The Director will have the authority to issue a waiver for work that exceeds \$5000. The Village will get a bigger bang for the buck tackling these smaller projects. Permit fees will also be reimbursable.

Discussion ensued regarding when sump pits would be required as part of the disconnection program and disconnection of foundation drains. Podesta commented that although the Village should not just ignore foundation drains that are connected, but it may not be cost effective to do it this time around. Chairperson Gron asked how many residents would be effected. Podesta answered that we would work our way through an area until we run out of money.

- T. [100236](#) Street Light Maintenance
Request for a waiver of bids and award of a contract to Meade Electric in the amount of \$200,000 with \$100,000 being paid out of the FY2011 budget and the remaining \$100,000 being paid out of the FY2012 budget. Public Act 85-1295 does not apply.
Attachments: [100236.pdf](#)
- U. [100245](#) Complete Maintenance of Traffic Control Equipment Renewal
Request for a waiver of bids and extension of a contract with Meade Electric in the amount of \$65,940.00. Public Act 85-1295 does not apply.
Attachments: [100245.pdf](#)
- V. [100253](#) FY2011 Driveway Apron, Curb and Sidewalk Restoration
Award of a contract to Strada Construction, the lowest responsible bid of seven bidders, in the amount of \$225,000. Bid in compliance with Public Act 85-1295.
Attachments: [100253.pdf](#)
[Contract # M-11-02.pdf](#)
- W. [100260](#) Total Landscape Maintenance
Award of a two-year contract to The TLC Group, the lowest responsible bid of three bidders, in an amount not to exceed \$166,368.00. Bid in compliance with Public Act 85-1295.
Attachments: [100260.pdf](#)
[Contract # PWO 1117.pdf](#)
- X. [100261](#) Landscape Restoration
Award of a two-year contract to The TLC Group, the lowest responsible bid of two bidders, in an amount not to exceed \$140,000. Bid in compliance with Public Act 85-1295.
Attachments: [100261.pdf](#)
[Contract # PWO 1117A.pdf](#)
[Change Order 1 the TLC Group.pdf](#)
- Y. [100267](#) 2010 North Avenue Standpipe Exterior Painting Project
Award of a contract to Tecorp, Inc., the lowest responsible bid of five bidders, in the amount of \$67,521. Bid in compliance with Public Act 85-1295. (DISTRICT #1)

Attachments: [100267.pdf](#)
[100267 rev memo.pdf](#)
[Contract # WA-10-02.pdf](#)
[Contractors Certif. Tecorp.pdf](#)
[Contract Bond Tecorp.pdf](#)

- Z. [100254](#) Appointments - Board of Local Improvements
Request for concurrence in the appointment of Brigitte O'Brien to BOLI with a term to 2012 and the appointment of Greg Gron as President of BOLI with a term to 2011.

Attachments: [appoinatmentsboli2010.doc](#)
[submitboli2010.DOC](#)
[100254.pdf](#)

IX. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

- *A. [100214](#) ZBA 10-02: 302 S. Grace Street
Requests that the Village take the following actions for the subject property located within the R2 Single-Family Residence District:
1) A variation from Section 155.205(A)(1)(c)(2) of the Lombard Zoning Ordinance to increase the maximum allowable fence height in a corner side yard from four feet (4') to six feet (6').
2) A variation from Section 155.205(A)(1)(e) of the Lombard Zoning Ordinance to allow a solid wood fence six feet (6') in height in the clear line of sight area. (DISTRICT #5)

Attachments: [apoletter 10-02.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 10-02.doc](#)
[Referral Let.doc](#)
[Report 10-02.doc](#)
[100214.pdf](#)
[Ordinance 6485.pdf](#)

Chairperson DeFalco opened the meeting for public comment. Nicole DiGiacomo and Kyle Kayson, 302 S. Grace, presented the petition. Ms. DiGiacomo stated that they are requesting a variation to replace an existing wood fence with a new vinyl fence. They have physical surroundings which makes their property unique. They live on Grace which is a busy street, four homes north of the Prairie Path. They encounter a great deal of noise from vehicular, foot and bike traffic. They also live close to the Lombard Police Department so they have police cars traveling at high speeds down their street. They have two dogs, one large one and one small one, so the larger dog would be able to jump over a 4' fence and the smaller dog would be able to fit through a 75% open fence. They also would lose a sizeable portion of their backyard in

order to comply with code.

Ms. DiGiacomo gave examples of homes in the area, 197 Grace, 205 Highland, 352 Stewart and 256 Maple - all have fences 6' or taller and are located in close proximity to the driveway. Also, none of these houses are located as close to the Prairie Path as they are.

The purpose of having a 6' fence is to keep their animals safely enclosed. They moved to the area 2 years ago and they want to keep the noise to a minimum. They have wonderful neighbors and want to be considerate of them. Ms. DiGiacomo feels that the difficulty does not lay with them, but with the ordinance. She noted that the fence has existed in its current location for many years and there have been no accidents or problems. She doesn't feel there is a risk to traffic. They have tried to be amenable to the clear line of sight and will place the fence at an angle by the driveway. The proposed fence will not alter the character of the neighborhood nor will it diminish property values, as the new fence will make the area more attractive. They are seeking to replace the fence with no change, but have compromised with the clear line of sight.

Concluding Mr. Kayson stated they are trying to keep the distractions to a minimum and want to replace what is already existing.

Chairperson DeFalco asked if there was anyone present to speak in favor or against the petition.

Patrick Patton, 230 S. Grace Street, spoke on behalf of himself and his wife, Sheila, who was also in the audience. He noted they are in favor of the petition. He also indicated that he has a letter from his elderly neighbor at 303 S. Lombard, who is in favor of having a 6' wooden fence in the backyard. Mr. Patton stated that having a new solid fence is good for the neighborhood. Their larger dog is an olympic-type of athlete and would have no problem hurdling over a 4' fence. Distractions to the dogs will be kept to a minimum by having a solid fence, as the dogs will not be able to see through a solid fence, which will result in their barking being kept to a minimum.

Chairperson DeFalco then requested the staff report.

Michael Toth, Planner I, presented the staff report. The subject property is located at the southwest corner of Grace Street and Ash Street. The petitioner is requesting a variation to allow for the replacement of an existing solid wood fence six feet (6') in height in the corner side yard where a maximum height of four feet (4') is permitted. The fence is located along the Ash Street side of the property and conflicts with the clear line of sight area where the driveway meets the public right of way. As the existing non-conforming fence would be removed in its entirety, the new fence would be required to meet the current zoning ordinance provisions, unless a variation is granted by the Village.

The existing fence currently stands within the clear line of sight triangle at the driveway on the subject property. The proposed fence is indicated by the orange line below. The clear line of sight area at the intersection of the driveway and the public right-of-way is formed as a triangle with legs extending twenty feet (20') north along the property line and twenty feet (20') west along the driveway.

Six foot high fences are not permitted within corner side yards due to the visual obstruction they create. As such, the petitioner's replacement of the fence

requires that the new fence meet the four-foot height restriction or that a variation be granted. A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from all other properties in the area.

Within the response to standards, the petitioner has raised concerns regarding safety on the property due to the presence of two canines. Specifically, the petitioner states that canines would be able to physically jump over a four (4) foot fence and slip through a fence that is 75% open construction (as required of a fence greater than two (2) feet in height in the clear line of sight area). While staff recognizes that some of these concerns are reasonable, staff does not believe these concerns are demonstrative of a hardship associated with the geographic state of the property.

Staff recommends that the petition be denied in its entirety. However, if the Zoning Board of Appeals finds that it would be appropriate to grant a variation for fence height, staff recommends that petitioner adhere to the submitted plans and address the clear line of sight issue. Also, the petitioner would be required to obtain a fence permit for the proposed fence.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked staff if the petitioner's fence was legal non-conforming. Mr. Toth answered yes, that it was erected prior to the fence permit process.

Chairperson DeFalco noted that the properties previously mentioned by the petitioners were likely erected prior to the fence permit process and agreed with the petitioners that they probably do not meet code. He explained how staff noted the existence of fences prior to the fence permit process becoming effective. Now, due to the permit process, if an existing fence needs to be removed, the new fence would be required to meet the current zoning ordinance provisions. The purview of the ZBA is to listen to the petitioner's testimony and determine if the request is warranted relative to specific conditions that exist for each property. This Board takes a very strict interpretation of the clear line of sight issue. We have had other petitioners who have had large dogs and this Board has not seen that as a valid reason for a variation. He asked if they had the pool denoted on the Plat of Survey. Mr. Kayson answered that the pool was no longer there. Chairperson DeFalco then explained the potential danger to pedestrians using the sidewalk when there is not a clear line of sight, especially when someone is backing down the driveway.

Mr. Kayson asked their opinion of the angle of the fence proposed by the fencing company.

Mr. Young indicated that the 20' is not negotiable.

There was then discussion among the Board Members and the petitioners relative to the petitioner's request for a variation within the clear line of sight and how it was represented in Diagram 1 within the staff report. Mr. Toth explained the variation and the diagram.

Chairperson DeFalco asked the petitioners why they have a problem with the 20' clear line of sight area. Mr. Kayson answered that it cuts into the backyard useable space.

Mr. Kayson indicated that he didn't understand how 20' was picked rather than another number and asked for an explanation. Mr. Toth answered that the Village conducted different studies and interviewed various communities. He added that it has been a provision in our code for years. Mr. Young answered that the justification is that if you have a child on a bike and you are backing out of the driveway, you wouldn't be able to see.

Mr. Kayson stated that any sort of angle would be good and doesn't see a safe versus an unsafe angle.

Chairperson DeFalco noted that the ordinance was adopted by the Board of Trustees and is not under ZBA's purview to dispute it. Our responsibility is to look at existing property conditions and determine if there is a rationale for the variation. While the ordinance will mean that there will be a reduction in your enjoyment of your yard, the ZBA is not responsible for keeping your dogs in your yard.

Ms. DiGiacomo answered that if they didn't have the dogs they would not need the variation and wouldn't be here. She then asked what their recommendation would be on how to find a solution to this problem.

Chairperson DeFalco suggested keeping a 6' fence and adhering to the 20'x 20' clear line of sight triangle. This would keep both dogs secure and only cut back your usable yard space by approximately 100-125 square feet. You would also be reducing the noise and being good neighbors.

Mr. Tap asked if American Fence Professionals specified that you seek the permit and if they were aware of the Village rules. Mr. Kayson stated that it was up to them to get the variation and the fencing company knew the rules as they have previously performed work in the Village.

Chairperson DeFalco asked the Board Members if they wanted to vote on the petition as a whole or on each variation separately. Mr. Young suggested that each variation be voted on separately.

Young made a motion to approve the variation. As there was no second, the motion failed.

Chairperson DeFalco noted that the following variation/vote should also include a 4' fence height in the clear line of sight area so the petitioner's wouldn't have to reapply and spend more money on petition fees.

Other Ordinances on First Reading

- *B. [100216](#) ZBA 10-04: 350 N. Fairfield Avenue
Requests a variation to Section 155.210(A)(2)(a) of the Lombard Zoning Ordinance to reduce the required corner side yard setback from twenty (20) feet to eight (8) feet to allow the construction of an accessory structure in the R2 Single-Family Residence District. (DISTRICT #4)

Attachments: [apoletter 10-04.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLICNOTICE 10-04.doc](#)
[Referral Let.doc](#)
[Report 10-04.doc](#)
[100216.pdf](#)
[Ordinance 6486.pdf](#)

Mark Edison, 350 N. Fairfield, presented the petition. Mr. Edison stated that this matter pertains to a shed he wants to construct over an existing bomb shelter. The bomb shelter is a water collecting concrete pit that has a long history. He gave the history of the property and stated that a fence was erected to the south of the bomb shelter for safety purposes. This fence was granted through a previous variation request made in December, 2008. Subsequent to the December, 2008 approval, he received a letter from the Fire Department indicating that he was in violation of property maintenance code and requested that he remove the wood chips and fill the bomb shelter to encapsulate the structure.

When the fence variation appeared at the Board level, Trustee Tross was the only trustee that voted against it as he also asked for it to be encapsulated. Ultimately, to appease the Village, he tried to fill in the bomb shelter with mulch and dirt but the end result was noxious fumes as well as problems with animals, water accumulation and mosquitoes. He is now seeking to do what Trustee Tross asked him to do, as well as act on a recommendation from Keith Steiskal of the Building Division.

He believes that the Planning Department is missing the point. They believe he wants the shed for purposes of only having a shed. They reference the setback ordinance and he referenced paragraph 2 in the staff report, which states that the structure is screened by a fence. They fail to recognize that if the setback ordinance is to control the structures adjacent to the road, the fence is closer to the road than the structure. There is no purpose for the prohibition. Mr. Edison continued that this would not be an undue hardship because of the area. As a compromise, he will remove the existing shed. Mr. Edison stated that he has no need to construct a shed as this will cost him thousands of dollars. The only point is of the shed is to encapsulate the bomb shelter.

With regard to corner lots, Mr. Edison indicated that he noticed that south of St. Charles Road there is a plethora of structures on the lot line. Staff fails to recognize the conditions. The Fire Department is telling him to do it, Keith Steiskal tells him he supports it and the Planning Division is telling him no. Planning is not taking into consideration the conditions of the property.

Mr. Edison then questioned how many people from the Village have actually visited the property to take a look at it. He mentioned the letter from the Fire Department, which stated that he repair the hole, but he questioned they actually visited the property because there was snow cover on the property the date that the letter was written but yet he saw no evidence of footprints. He would pose that question and invite people to look at what he is trying to do.

Chairperson DeFalco asked if there was anyone present to speak in favor or

against the petition. Hearing none, he requested the staff report.

Michael Toth, Planner I, presented the staff report.

The subject property is located at the northwest corner of View Street and Fairfield Avenue. The petitioner is requesting a variation to allow the installation of a shed, eight (8) feet from the corner side lot line on the southern portion of the property. As the Zoning Ordinance specifically prohibits the placement of accessory structures in the corner side yard, a variation is required.

The petitioner is proposing to construct a shed that is two-hundred (200) square foot in area and eleven (11) feet in height, in the corner side yard. The petitioner has indicated that the purpose of the shed is to cover an existing bomb shelter located on the southern portion of the subject property, within the corner side yard. The bomb shelter element was first introduced to the Zoning Board of Appeals at their December 16, 2008 meeting where the same petitioner sought approval to erect a six (6) foot fence in the corner side yard (ZBA 08-16). The petitioner desired to construct a six (6) foot tall fence under the auspices that the additional fence height would ensure that no persons could enter the yard, as the petitioner strongly advocated that the bomb shelter was an attractive nuisance and a public safety hazard. In 2009, the Village Board approved ZBA 08-16. As such, the six (6) foot fence was erected per the approved plan and still resides on the subject property today.

The petitioner has indicated that he has attempted to fill the bomb shelter structure, which has resulted in a health safety hazard by providing a refuge for insects and animals. While staff recognizes the presence of the bomb shelter on the subject property, such a structure does not constitute a geographic or topographic feature that would warrant a variation, nor does staff have the authority to recommend alternative methods of encapsulating the bomb shelter. The structure is situated below grade on the subject property. As such, staff finds that placing a two-hundred (200) square foot shed that stands eleven (11) feet in height would be an excessive method of encapsulating a below-grade structure. Furthermore, the bomb shelter is already screened from public access by the six (6) foot tall fence that was approved through ZBA 08-16. The petitioner has made reference that the shed would be screened by the existing six (6) foot fence; however, it should be noted that staff recommended denial of the six (6) foot fence associated with ZBA 08-16.

There is ample space on the subject property to construct a two-hundred square foot shed, without the need for a variation. As the staff report illustrates there is a sufficient buildable area for the placement of a two-hundred square foot shed. Staff notes that the petitioner has indicated that the existing shed would be removed in the event that the proposed shed were to be constructed.

Concluding, Mr. Toth stated that staff recommends that the petition be denied on the grounds that a hardship has not been demonstrated.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked Mr. Edison if there was a health problem and a problem with water and animals before he attempted to fill in the bomb shelter with organic material because he didn't recall hearing that before. Mr. Edison answered no - before there was a structure encapsulating it. He explained how he tore down

the existing home and built a new one, and removed the original fence. He requested a fence variation which was approved rather than try and circumvent the 4' height rule or being able to repair 25% of a fence without a permit.

Chairperson DeFalco clarified that the ZBA ended up in a split decision, which meant it went to the Board with no recommendation. The variation was ultimately granted by the Board of Trustees.

Mr. Young asked how high above grade the structure is. Mr. Edison answered the pipe is 3' tall but when you speak to grade it's almost like a 1-1/2' dome. Like a big hump in the yard approximately 2-3' high with the grade.

Mr. Young asked how much it would cost to encapsulate this structure as you commented that it would cost thousands of dollars. Mr. Edison answered that it depends on the type of structure that would be built. The BIS Department wants him to go to the underlying structure. That changes the cost.

Mr. Young asked him what it would cost to fill with concrete. Mr. Edison answered that he didn't know.

Mr. Young asked him what it would cost to get a demolition contract. Mr. Edison answered \$25,000. He added that they attempted to remove it during construction, but couldn't do it. Mr. Young asked if he would have to take out the whole thing or just the part above grade. Mr. Edison answered that it is solid concrete with reinforced rebar so you can't cut into it even using heavy equipment. They were built to withstand bombs.

Mr. Tap indicated that the petitioner mentioned that the Fire Department had an issue early on. Mr. Tap stated he was confused as he did not see any comments from the Fire Department in the IDRC portion of the staff report. Mr. Edison read into the record the letter that he received from the Fire Department dated January 26, 2009.

Chairperson DeFalco asked staff if the Building Department was under the direction of the Fire Chief. Mr. Toth answered that it previously was, but it is now under the Community Development Department. Chairperson DeFalco clarified that the Fire Department was overseeing the Building Division at that point.

Mr. Young asked if the letter sent by the Fire Department to the petitioner was in response to a complaint. The petitioner answered that it was in response to his comments that he wanted to build a hatch, Keith's observations, and Trustee Tross's comments at the Board meeting.

Chairperson DeFalco mentioned that Mr. Bedard asked about filling the shelter with stone and putting concrete on top. The erection of the fence did not eliminate the hazard. He had concerns for your son falling into the bomb shelter. You mentioned that you had control over your son but not over the neighborhood kids. Mr. Edison indicated that the condition was stricken as it was unlawful to condition that. Chairperson DeFalco asked if the erected fence helped you with your concerns about the neighbor kids. Mr. Edison answered that the fence was erected because it was a safety hazard. Chairperson DeFalco questioned whether it was erected not for yourself and your son but for other people. Mr. Edison answered that he was taking his comments out of context. Chairperson DeFalco stated that he suggested a steel plate, but it was not the purview of the ZBA to tell you what to do.

Mr. Edison stated that he was misinterpreting his testimony. He sought to erect the fence for neighbors traversing on his property if compliant with the ordinance. Chairperson DeFalco asked what the reason was for the 6' fence. Mr. Edison answered to prevent children from entering his property and getting into the area.

Chairperson DeFalco stated that we have ordinances that allow for a 4' fence

Mr. Edison stated that the conversation to revert a condition is unlawful. He then made reference to Tom Bayer's finding that there was no nexus between the condition and the bomb shelter being on the property. Chairperson DeFalco stated he is not asking to revert a condition. The rationale you presented for a 6' fence was to try to keep people out of your yard due to the hazard that existed. He asked Mr. Edison if that hazard still existed. Mr. Edison answered that it is still a hazard with the 6' fence and the condition still exists.

Mr. Tap stated he was confused and asked if it was the petitioner's intent to use the below grade structure. Mr. Edison answered no, he would encapsulate it. The shed would be on top of the stairway. I would have to have the water ejected from the bottom pit. If I filled it with stone it would still have water. If I cover the hole, I still have the same issue. He indicated that there is an existing sump pump but it is not hooked up to electric. Mr. Tap referred to the IDRC comments from the Building Division, specifically #2, which states the shed is required to have a level of frost protection and reinforced with more concrete. Mr. Edison stated that he is looking to put the shed on the existing foundation.

Mr. Tap referred to the petitioner's written testimony, page 2, 3rd sentence, where he states that "on or about January, 2009 he successfully argued the case for the fence variance...the removal of which is both cost preclusive as well as impossible..." and asked if he was saying it's more expensive to remove the structure than renovate it. Mr. Tap stated that in his opinion it seems that there are other less costly options than to encapsulate it. Mr. Edison answered less costly, yes, and it caused more problems.

Mrs. Newman asked the petitioner if he was getting water in the bomb shelter beforehand. Mr. Edison answered that there was a cover with a mini shed that he tore down. Mrs. Newman asked if he would replace the cover. The petitioner answered he would have the shed. Mrs. Newman asked what type of materials he would use. Mr. Edison answered wood shingles. Mrs. Newman questioned if that would hold water out. It seems that if you have an opening water will continue to seep in anyway and didn't think that it would help. Mr. Edison offered to put in a sump pump. There is one there now and I can dig out the debris in the pit and replace the sump pump.

Chairperson DeFalco stated that the ZBA doesn't have a response or the power to make a recommendation on what he can build or enclose. A hazard is on his property, which previously existed when it was filled with leaves, and he came before us and asked for a fence. We don't have the responsibility outright to tell him what he needs to do. Our responsibility is to determine whether or not a condition exists to grant a variation to contract a building on his property outside our ordinance. Discussion should not be what can or cannot be done. The homeowner has a responsibility to maintain his property and keep it safe for him and his family. While asking for a variation outside of our ordinances in that location we should look at if there is a condition that warrants that. The petitioner had no comment.

Mr. Young confirmed with staff that the height nor the size is an issue, but it's the proximity to the lot line. Mr. Toth answered yes.

Mr. Tap stated that in his opinion and based on the facts, there are other available locations in which to build a shed that would be in compliance with the ordinance.

Ordinances on Second Reading

Resolutions

- *C. [100266](#) Downtown Planning Study - Professional Agreement
Authorizing the signatures of the Village President and Clerk on a Professional Services Agreement with Teska Associates for the purpose of conducting a Downtown Planning Study. (DISTRICTS #1 and #4)

Attachments: [DAH referral memo2.doc](#)
[Professional Services Agreement - final.doc](#)
[PSA memo for BOT.doc](#)
[R 99-10.pdf](#)
[100266.pdf](#)
[Teska Agreement.pdf](#)

Other Matters

- *D. [100274](#) Request for Appeal of a Driveway Variance Denial
Review of an appeal for a denial of a driveway width variance request for 370 E. 17th Street. Public Works Director recommended denial. (DISTRICT #3)

Attachments: [100274.pdf](#)

X. Agenda Items for Discussion

XI. Executive Session

XII. Reconvene

XIII Adjournment

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