

**VILLAGE OF PLEASANT PRAIRIE  
ZONING BOARD OF APPEALS  
9915 39th Avenue  
Pleasant Prairie, WI 53158  
May 21, 2013  
6:00 PM**

Members Present: Christine Genthner, Chairperson; Deb Skarda; Mark Riley; Jennie Holman; Tom Glassman; and Steve Kumorkiewicz. David Hildreth was excused.

Also Present: Jean Werbie-Harris, Community Development Director; and Jan Petrovic, Executive Secretary.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CITIZEN COMMENTS.**

Christine Genthner:

If there's anybody that would like to come up. There will be a public hearing on the matter that is before us this evening. But if there's anybody who would like to come up and discuss anything else you're welcome to do so.

- 5. CONSIDER THE MINUTES OF THE SEPTEMBER 25, 2012 BOARD OF APPEALS MEETING.**

Christine Genthner:

I'm assuming everybody's had a chance to look at those. Do I have a motion?

Steve Kumorkiewicz:

I make a motion to approve as written.

Christine Genthner:

I have a motion by Board member Kumorkiewicz to approve. Do I have a second?

Mark Riley:

I'll second it.

Christine Genthner:

**MR. RILEY SECONDS. ANY ADDITIONS, DELETIONS, CORRECTIONS? SEEING NONE, THEN ON THE MOTION TO APPROVE ALL IN FAVOR SAY AYE.**

Voices:

Aye.

Christine Genthner:

Anybody opposed? Seeing none.

**6. NEW BUSINESS**

**A. PUBLIC HEARING AND CONSIDERATION OF A VARIANCE, for the request of Marc Lofman, agent for RC Westwood Estates LLC owner of the property located at 7801 88th Avenue (Westwood Manufactured Home Park), for a Variance from Section 420-117 G (5) of the Village Zoning Ordinance to allow lots 280-291 to be setback a minimum of 4 feet from the rear lot line of the leased lot area (44 feet from the property line of the Manufactured Home Park) to allow for longer units to be placed on the lots. The subject property is known as Lot 1 of CSM 2118 and located in a part of the U.S. Public Land Survey Section 9, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-093-0102.**

Christine Genthner:

At this time then it's a public hearing. Do I have findings of fact by staff? Do you swear to tell the truth, the whole truth and nothing but the truth?

Jean Werbie-Harris:

Yes, I do.

Christine Genthner:

Please proceed.

Jean Werbie-Harris:

And for the record Jean Werbie-Harris, the Community Development Director and Zoning Administrator for Pleasant Prairie. Under the findings of fact for the item on the agenda this evening:

1. The request of Marc Lofman, agent for RC Westwood Estates LLC owner of the property located at 7801 88th Avenue, Westwood Manufactured Home Park, for a Variance from Section 420-117 G (5) of the Village Zoning Ordinance to allow 12 home sites, Lots 280

through 291, to be setback a minimum of 4 feet from the rear lot line of the leased lot area, 44 feet from the property line of the Manufactured Home Park, in order to allow for longer, single wide units to be placed on the lots. This information is provided in Exhibit 1.

2. The subject property is known as Lot 1 of CSM 2118 and located in a part of the U.S. Public Land Survey Section 9, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-093-0102.
3. Manufactured/mobile home parks are allowed within the R-12 Manufactured Home/Mobile Home Park Subdivision Residential District with approval of a Conditional Use Permit pursuant to the minimum requirements set forth in the R-12 District which is 420-117 and further provided that the minimum standards for granting a Conditional Use Permit pursuant to Section 420-148 B (64) of the Village Zoning Ordinance are met. This is provided as Exhibit 2.
4. On May 17, 1999, the Village approved Conditional Use Permit #99-05 provided as Exhibit 3 for the development of 86 additional manufactured home sites to the Westwood Estates Manufactured Home Park on land located south of the existing park at 7801 88th Avenue. The 1999 Westwood addition included individual lots ranging in size from 7,500 to 17,771 square feet, and the lots were designed in accordance with the R-12 Zoning District requirements and the Conditional Use Permit specific requirements.
5. According to the Village Assessor Rocco Vita, the new manufactured homes which have located in the 1999 addition range in value from \$53,000 to \$92,500 with a mean average of \$73,561. All of the units have two-car attached garages. This information is provided as Exhibit 4.
6. Section 420-148 B (64) (f) of the Village Zoning Ordinance and the Conditional Use Permit #99-05 conditions #3 requires that each manufactured/mobile home park shall be completely enclosed, except for permitted entrances and exits, with a 40 foot landscaped buffer area between the manufactured/mobile home lots and adjacent properties with permanent evergreen plantings, the individual trees to be of such number and so arranged that within 10 years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.

Based on this specific requirement there is a 40 foot landscape easement along the south boundary of the park adjacent to 12 lots which are Lots 280 through 291. The minimum standards pursuant to Section 420-148 B (64) are also specifically listed in the Conditional Use Permit #99-05.

7. The R-12 District also requires that homes placed on these lots are required to meet the following minimum setbacks pursuant to Section 420-117 G related to Manufactured Home/Mobile Home Parks and those are:
  - a. Front setbacks of 30 feet from any non-arterial road street or private road;

- b. Side setback of not less than 8 feet to the side lot line of the manufactured/mobile home, except that if an attached garage or carport is not constructed at the same time that the manufactured/mobile home is constructed, then a 15 foot side setback shall be required on at least one side; and
- c. Rear setbacks of 20 feet from the manufactured home lot line.

Therefore, homes located on lots abutting the exterior property boundaries of the Manufactured Home Park, including Lots 280 to 291, are required to be set back a minimum of 60 feet from the exterior property boundaries of the park.

- 8. The 12 lots, Lots 280 through 291, are 110 feet long, which currently leaves 60 feet in length for a home to be placed on each of the lots.
- 9. The petitioner is requesting a variance to reduce the rear setback for the manufactured homes on the 12 lots, 280 through 291, from 20 feet to four feet from the unit lot lines. This reduction would place the homes 44 feet from the exterior boundaries of the Manufactured Home Park wherein a 60 foot setback is required as discussed above.
- 10. Pursuant to the application, this additional 16 feet will allow Westwood Estates to bring in longer, single-wide manufactured/mobile homes to meet the requests of their customers. Therefore the homes would be 44 feet from the exterior property boundary of the manufactured home lot.
- 11. Pursuant to the application, the 12 lots are located in the southeast corner as shown on the slide of Westwood Estates development and should have no traffic but for the residents of these lots. The adjacent land uses to the east are a 40 foot landscape easement, then the Canadian Pacific Railway and then We Energies farm land/open land. The land use to the south is the Hidden Oaks multi-family residential apartments, which is separated from the property line by a 40 foot wide landscape easement. The land uses to the north and west are the Westwood Estates Park residential manufactured/mobile homes. Therefore, the applicant believes that there would be no impact on neighboring properties if the units were placed 44 feet from the south property line of the manufactured home park as opposed to the required 60 feet from the rear property line of the Manufactured Home Park.
- 12. Pursuant to the application, if the variance is approved, the owner is willing to record the following Restrictive Covenants and Conditions on the lots, and this would be on Lots 280 through 291.
  - Residential Dwelling Size. No residential dwelling shall be less than 900 square feet. Each residential dwelling shall have a porch or patio leading up to the entrance of the dwelling. Any residential dwelling placed on a lot shall be manufactured in 1995 or later.
  - Exterior Building Materials and Dwelling Quality. All residential dwellings shall have vinyl siding installed on the units, and that vinyl siding would be extended down to the grade.

- Roofing Material. All residential dwellings shall have a completely shingled roof with a 3/12 pitch.
  - Storage/Sheds. Each residential dwelling shall have a shed with the same or complementary materials and a similar earth tone color scheme to that of the residential dwelling. Each shed shall have a concrete slab foundation. The minimum size for a shed shall be 64 square feet. The location of the shed shall be at least ten feet from the dwelling and have a three foot setback from the rear and side properly lot lines. A suitable sample shed is attached as Exhibit B in the restrictions. No storage shall be permitted on top of the shed or outside of the dwelling. Recycling bins, garbage and other miscellaneous household items shall be stored inside the dwelling or shed at all times.
  - Landscaping. Each lot shall have a street tree per the developer's agreement, and all dwellings shall be completed and maintained with landscape with foundation plantings.
13. Pursuant to the application narrative, the unnecessary hardship or practical difficulty is that the manufactured housing industry has evolved, and the size and shape of homes has evolved too. Long, single section homes are more popular now than short double section homes. The driving force behind this change is affordability. The most cost effective method of maximizing square footage is to offer single section homes at roughly 75 percent of the cost of a multi-section home. A multi-section home is delivered in two pieces and is assembled on site. A single-section home is significantly more affordable because it does not have to be assembled on the site.
  14. Pursuant to the application the variance if granted would have the following community benefit: Currently, Westwood can bring in any size home minimum of 600 square feet, at any age and any condition. In order to remain a high quality community, Westwood would prefer to provide more cost effective homes, the 76 foot single section homes, and require aesthetic standards and storage areas such as sheds or garages.
  15. The application was reviewed by the Village assessing department. The Village Assessor provided a memorandum dated May 2, 2013 which indicated that the estimated municipal revenue loss or the annual fees for the single wide units versus double wide units would be approximately \$8,079 for the 12 lots. That memo is attached as Exhibit 4.
  16. Another concern raised would be the reduced value of those 12 lots compared to the total investment previously made by the other unit owners currently in the new addition. According to the Village Assessor, the average value of the double wide units in the new addition is \$73,600. The average value of a single wide unit would only be about \$42,000.
  17. All of the abutting and adjacent property owners within 100 feet of the properties were notified via regular U.S. mail on May 2, 2013, and the occupants of the manufactured homes in this 86-lot addition, Lots 259 through 344, were notified via regular mail on May 16, 2013 of this public hearing. The Board of Appeals agenda was published in the *Kenosha News* on May 7, 2013.

18. Under the State of Wisconsin Supreme Court case law pertaining to the granting of variances, a variance may be granted only if the applicant can show that the standards set forth in the statutes and the interpretive case law for granting variances will be met. The statutes provide that a variance may be allowed when it will not be contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship. Typically, however, economic hardship is not grounds for a variance, so that the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice is done.

Christine Genthner:

Thank you. With that, this is open for a public hearing. Is there anybody who would like to come forward and address the Board at this time?

Jean Werbie-Harris:

The petitioner would be the first person.

Marc Lofman:

I have some additional material I'd like to hand out as well.

Christine Genthner:

Could you please identify who you are, give an address, and then I'll swear you in.

Marc Lofman:

Sure, this is Marc Lofman, and I have a mailing address of 2 North Riverside Plaza, Chicago, Illinois, 60606.

Christine Genthner:

Do you swear to tell the truth, the whole truth and nothing but the truth?

Marc Lofman:

I do.

Christine Genthner:

Alright, do you want to give those materials to Ms. Werbie-Harris first. The Board has now been provided with a copy of the documents you gave to Ms. Werbie-Harris. You can proceed then.

Marc Lofman:

Okay. I want to thank the Board for your time tonight, and I also want to thank Jean and Peggy

for guiding us through this process. Westwood Estates is one of the finest manufactured home communities in Southern Wisconsin. We have a long history of working with the Village, and we appreciate your cooperation over the years. I'd like to address some of the findings of facts. It was noted that the units all have two car garages in its expansion section, and it was noted that the assessed value bringing single section homes in would negatively impact the revenue of the Village as well as other homes currently in the community.

What I'd like to say is that we're already allowed to bring in single section homes. We're already allowed to bring in homes as old as 1977. We're allowed to bring in any color homes we want, and we don't need to put final siding down to the ground. We can put the traditional skirting around mobile homes to make it look even more like a trailer park. But that's not what we're here to talk about, and that's not what I want to ask you for.

What we want is to make the community -- to retain its stature as one of the finest communities, and we think we have a solution to do that. It should be noted also that I'm going to refer to this as Westwood Valley, the expansion section, that that section is the only development in Pleasant Prairie that is currently subject to both a 40 foot landscape easement and a 20 foot setback from the landscape easement. We are the only type of property where the lot line for a home differs from the property line.

If you can see in what I handed out in the second and third pages what we have is a property line, a 40 foot landscaped easement which has mature trees, and then there's a 20 foot setback. And what we're asking for is that we have the ability to bring in homes, and they could be single wide, they could be double wide homes, but we're asking to be able to bring homes closer to the lot line which would still be 44 feet away. And in doing so we are willing to implement a restrictive covenant that would increase the level of aesthetic requirements.

So currently Westwood can bring in any size home larger than 600 square feet of age, any color or any condition. To consider our options to fill the vacant sites, we would prefer to bring in larger homes and require aesthetic standards. Therefore, the restrictive covenants that we are proposing will have a minimum home size of 900 square feet so it's 50 percent bigger, be manufactured in 1995 or later, and be an earth tone. This will prohibit old, small, pink homes that are currently allowed.

The covenants will also require vinyl siding taken down to grade and shingled roofs to provide a more residential look. In addition, each home will be required to have storage of at least 64 square feet and foundation plantings to ensure the home sites look good. Also, in the restrictive covenants there's an exhibit that shows an example of the storage sheds that we would require. And those, too, have a high quality requirement.

We are requesting the ability to utilize more depth in the lots to accommodate the change in our industry. When the expansion section was developed 14 years ago, 60 foot homes were very common. Today customers want 76 foot homes to deliver more bang for the buck. All homes have a kitchen, bathrooms, furnace and utilities, and the extra square footage is relatively inexpensive. And when I look back at the letter to the tax assessments, I also realize if we were to bring in 28 or 30 by 76 foot homes, we could argue that it's going to increase the revenue for the Village. But, furthermore, if we don't do anything that's \$8,000 a year that the Village isn't going to get based on the single section homes. So, in closing, we hope you consider all these

facts and thank you again for your time.

Christine Genthner:

Any questions for the petitioner while he's here? Seeing none, thank you. Ms. Werbie-Harris?

Jean Werbie-Harris:

How many vacant lots do you have currently in the Westwood Valley?

Marc Lofman:

Thirty four.

Christine Genthner:

Seeing no other questions, thanks you, Mr. Lofman. The public hearing remains open. Is there anybody else who would like to come forward at this time and address the Board? Please come up to the microphone. Again, I'm going to have you state your name, give an address, and then I'm going to swear you in.

Dorothy Clark:

Okay, I'm Dorothy Clark, 7801 88th Avenue, #259.

Christine Genthner:

Ms. Clark, do you swear to tell the truth, the whole truth and nothing but the truth?

Dorothy Clark:

I do.

Christine Genthner:

Please proceed.

Dorothy Clark:

I think the biggest question most of us have as those of us who are here live in the south section where Marc wants to go. Personally I have no objection to the park moving the setback. But what I do have a concern for is single wides. I live in a double wide, 27 by 72 with a very nice enclosed porch which makes it 80 by 27. We have 1,900 square feet. And I question if bringing in a single wide at 76 feet, that 14 feet wide possibly, that's only 1,064 square feet. How many bedrooms are going to be in there? Those of us who live on the south end are basically seniors. There might be one or two units that have children. And I just question what units are going to come in and how is that going to affect our value of our homes. That's the only thing that I have.



Christine Genthner:

Thank you.

Marc Lofman:

Can I respond?

Christine Genthner:

You can come back up. Mr. Lofman, at this time you're still under oath.

Marc Lofman:

Understood. I appreciate your concern about the size of the home and your concern about single section homes. But currently, again, we can bring in single section homes. We're not asking for the ability to change that. What we're asking for is to bring in a larger home. So if anything it's going to be more valuable than a short home. And if it's a larger home it would have three bedrooms as opposed to more likely the two bedrooms if we brought in a 60 foot home. And in the exhibit I showed the maximum length of the home that we're allowed to put on these lots is 60 feet. There's a 30 foot setback in the front, and essentially now and 20 feet in the back, plus another 40. So even though this street is essentially 150 feet from the property line, there's only 60 feet that we can build on. And all we're asking for is an additional 60 feet to build on.

Christine Genthner:

I just have a question, though. Under the case law we have defined that there is either a practical difficulty or unnecessary hardship. And I guess my question to you is you can bring in units right now that would fit on those particular lots. So what is it you're trying to tell the Board is either under the case law a practical difficulty or unnecessary hardship?

Marc Lofman:

Again, I think the fact that we're the only development in Pleasant Prairie that has this essentially a 60 foot setback between the 40 foot landscape and the 20 foot rear setback that we're unique in that regard. Also, the industry has changed. When the community was built 14 years ago there were many 60 foot homes, and that's what it was designed for. But, again, it's in the customers' best interest, it's in our current residents' best interest to have a full community as opposed to having to look at vacant lots if we can offer a larger home for marginally more money.

Christine Genthner:

Thank you. Any other questions? Mr. Kumorkiewicz?

Steve Kumorkiewicz:

Yes, I've got a question for you. Did you have a public meeting with all the residents in the area? Did you call a meeting with them, talk to them?

Marc Lofman:

Yes, we do monthly.

Steve Kumorkiewicz:

No, concern with this issue.

Marc Lofman:

No, we did not call a specific meeting for this issue.

Steve Kumorkiewicz:

Why not?

Marc Lofman:

Again, I believe we're doing our residents a favor by improving the aesthetic requirements. What we're asking for is to increase those requirements, require the siding to go down to grade instead of having skirting, requiring vinyl siding instead of we could currently bring in a metal home. And so I believe that this is in the best interest of our residents.

Steve Kumorkiewicz:

But you don't know if that's in the best interest or not. That's your opinion.

Marc Lofman:

I haven't heard how it's not in the best interest. The concern that I've heard is that we might bring in a single wide home. But we can already bring in a single wide home. So the concerns I feel we're more than making up for it with the aesthetic improvements.

Deb Skarda:

I have a question. Are the lots currently for sale? I mean if someone came to you today with an offer for a double wide would you sell it to them?

Marc Lofman:

So the way our community works is we lease the lots. If someone had purchased a multi-section or double wide home absolutely they could move in. We've had these lots for sale for many years or for rent for many years. And we've had a few sales but not as many as we'd like. And we're trying to address the change in the industry by offering more square footage for nominally more money. I'm sorry, to your question absolutely we would let a single section or a multi-section home in. If somebody came to me tomorrow and said I have this single section home I

want to bring in I would let them bring it in. If somebody had a multi-section home I'd let them bring it in. We don't discriminate.

Tom Glassman:

You keep referring to it as leasing or sales. Which is it?

Marc Lofman:

I'm sorry. We sell homes but we lease the land.

Tom Glassman:

And I have one other question. Who selected these photographs?

Marc Lofman:

Pardon?

Tom Glassman:

Who selected these photographs?

Marc Lofman:

I did.

Tom Glassman:

Because the single wide looks a heck of a lot better than the double wide.

Marc Lofman:

And that's the case very often.

Tom Glassman:

[Inaudible]

Marc Lofman:

That's a good question. That double wide that's in there is currently allowed to be brought into the community, and the single section is the home that would meet the restrictive covenants that we're proposing. So it's an example of how we believe it would improve the quality of the homes.

Tom Glassman:

I just think in my opinion it's a very biased photograph.

Marc Lofman:

I'm trying to show the two examples. So obviously --

Christine Genthner:

Mr. Glassman, anything else? Mr. Riley?

Mark Riley:

I just want to follow up on your statement. Your statement that it hasn't been moving in the last few years, is that what you meant in the last four or five years and when did that open?

Marc Lofman:

The sales?

Mark Riley:

The leasing of the property because that's really what we're talking about.

Marc Lofman:

And I apologize I don't have the exact numbers in front of me, but I believe we've sold three homes in the last five or six years. There's been a home that's been for sale that's owned by a dealer partner of ours that has been for sale there for I believe it's seven years.

Mark Riley:

I'm really interested in how many pieces of property you leased in the last four or five years. Is that the same as a sale?

Marc Lofman:

Yes.

Mark Riley:

Can I bring my own home in there?

Marc Lofman:

Absolutely.

Mark Riley:

So I'm really interested in what you've leased if I can bring my own in. So you've leased four or five plots in the last --

Marc Lofman:

Yes, but those have all been after we brought a home in, speced it and then sold it. So people are not going to outside dealers and bringing homes in like they used to.

Mark Riley:

Sure, sure. And when did that development open, the annexed part I guess, the part we're talking about?

Marc Lofman:

1999 I believe. Is that right, Jean?

Jean Werbie-Harris:

1999.

Mark Riley:

So you've leased three plots --

Marc Lofman:

No, no, I apologize. So from 1999 to 2006, and again I don't have the exact numbers, but it was something like 75 or 80 sites were leased. Things slowed down dramatically. And now we're left with vacant sites.

Mark Riley:

Okay, and that's kind of the point I was getting at is that we went through a recession so obviously the leasing/sales have been down not necessary because of the lot size but more because of the recession.

Marc Lofman:

Well, our biggest competitor is single family homes. And their pricing has come down. Same thing we're competing against a builder that has a bathroom, they build a kitchen, and they can add on the square footage which sells. They can have that third bedroom for \$20 a foot, maybe more, and that's where we feel constrained.

Mark Riley:

I guess the last question I have is did you buy the site and lay it all out? And I guess, further, you were fully aware that there was a 40 foot landscape setback, and you added that to your development and basically wrote that land off. And you knew about the 20 foot setback and that's why those lots are pretty small.

Marc Lofman:

We purchased the property in 2005. We were aware of those setbacks. At that time we were selling 60 foot homes. It wasn't an issue, and it's become an issue. And we know we have other manufactured home communities throughout the country, and we've sold -- we know what product sells. And, again, we feel very constrained at this particular development.

Mark Riley:

Okay, thank you.

Christine Genthner:

Any other questions from the Board?

Steve Kumorkiewicz:

I'm concerned about the changing the property line because you've got trees over there, all pine trees within your property and the condominium building over there next to you.

Marc Lofman:

The apartment complex, correct.

Steve Kumorkiewicz:

Okay. So the apartments are at kind of an angle to the property. Where is the [inaudible] from the corner to your property?

Marc Lofman:

So the apartment complex I believe the closest corner, and you can see from the aerial photo in what I handed out, I believe that corner is 30 feet or possibly 40 feet. I don't know if you have the actual development plan, Jean, for where that. I know that they don't have a landscape easement on their side, so it goes right from the apartment, then there is I believe 30 or 40 feet to the property line. Then we go at least 40 feet or it is 40 feet to the landscape easement. So I guess to answer your question the apartment complex would be at least 10 feet closer to the property line than we're proposing.

Steve Kumorkiewicz:

Okay, but you've got a utility easement.

Marc Lofman:

Correct.

Steve Kumorkiewicz:

So you're going to be how close to the utility?

Marc Lofman:

So I have -- I can pass these out, too. We're passing out the We Energies utility easement which lies within the 40 foot landscape easement. So we would not impeded or encroach on that utility easement because we're already bound by the landscape easement. So it sits within the landscape easement.

Steve Kumorkiewicz:

So there's going to be at least 8 feet between --

Marc Lofman:

Well, it would be at least 4 feet just like we're asking to be set back 4 feet from -- again, it's not 4 feet from the line, it's 4 feet from the easement, and the easement goes on either side of the utility lines. So we're allowed to build right up to that easement if it weren't for the landscape easement. I don't know if I'm making it clear.

Steve Kumorkiewicz:

Yeah, I understand what you're talking about. So you're going to be right at the easement --

Marc Lofman:

No, we're still going to be 4 feet away from the utility easement even though we could be right up to the easement.

Steve Kumorkiewicz:

So 8 feet actually the easement.

Marc Lofman:

You mean the line?

Steve Kumorkiewicz:

Yes.

Marc Lofman:

If the line has 4 feet on either side which I'm not --

Steve Kumorkiewicz:

I'm talking about the line that you got because you're going to go back 4 feet. Okay, that 4 feet is going to be inside the 4 feet --

Marc Lofman:

I'm sorry, maybe I'm not making myself clear. The utility easement goes as far out as 40 feet from the property line. So it's continuous with the landscape easement. It's within that same area. So both easements end at 40 feet from the property line. We would be 4 feet from both of those easements.

--:

How far do the trees come?

Marc Lofman:

The trees are in the middle of that 40 foot. They come out -- there's still probably another 6 to 10 feet before the trees. As many homes in the community are built within a few feet of trees. That's why it's Westwood Estates because there were a lot of trees there at the time.

Christine Genthner:

Mr. Lofman, just for the record you provided the Board with two exhibits. The first one is a photograph of a proposed unit and some attachments. We've had that marked as Exhibit #5 just for the record. And then you just provided through Ms. Werbie-Harris a copy of what you've indicated was the utility easement. We've had that marked as Exhibit #6 just for the record.

Marc Lofman:

Okay, thank you.

Christine Genthner:

If somebody's referring to it. Any other questions? Ms. Werbie-Harris?

Jean Werbie-Harris:

I just have a couple of comments. First of all just to respond to Trustee Kumorkiewicz, there is



no notification requirement of a property owner when they're submitting an application for a variance to notify the adjacent property owners or to discuss the individual request with any adjacent neighbors. The whole purpose is the Village would send that information out. I'm not sure that they had an annual meeting or a regular meeting where it would have been discussed with his residents, but it's not an obligation to do anything like that. The second question I had or comment I had was that is there a waiting list or a number of residents that you had to turn away because you were not able to bring in a single wide for them to locate?

Marc Lofman:

Again, it's not necessarily single wide or double wide. But we have had a number of customers that have wanted three bedroom homes for less than \$50,000. And that seems to be a very common request that would get someone's monthly payment right around \$1,000. The apartment complex to the south has three bedroom apartments for \$1,100 or \$1,200 a month. So we believe that would be our price point as opposed to selling \$100,000 or \$75,000 three bedroom homes. So the customer doesn't come in with in mind I want a single wide and I want it to be this size. They come I'm looking for this many bedrooms and this many baths, and this is how much I'd like to spend a month or this is how much I can place down on the home.

Jean Werbie-Harris:

And then my last question is you had mentioned that there are 34 vacant lots remaining in the Westwood.

Marc Lofman:

And I apologize, I don't know the exact number.

Jean Werbie-Harris:

Approximately 34, more or less?

Marc Lofman:

Approximately, yes.

Jean Werbie-Harris:

Would you be willing or as part of wanting to promote a nicer development through this whole area and to guarantee or provide some assurances that there will be certain standards met with respect to the siding and the roof pitch and all of those things to extend those restrictive covenants to those vacant lots as well?

Marc Lofman:

I would like to. I would 100 percent support it. As an agent of Westwood Estates, though, I would have to get full approval from ownership. But I don't anticipate that being a problem at all.

Christine Genthner:

Any other questions for Mr. Lofman? Mr. Riley?

Mark Riley:

I guess I want to put this whole utility thing to bed. Is there a berm before you get to the woods, or is that just tall grass?

Marc Lofman:

Is there a photo there?

Mark Riley:

Yeah, it almost looks like a berm but it could be grass.

Marc Lofman:

Yes, the berm sort of leads into that easement. And then the hill is sort of the middle of that easement. So there's a berm behind the home that goes up behind the lots, and then there's the trees, and then the berm almost comes down almost to the property line of our neighbor.

Mark Riley:

I guess the real question becomes if those trailers are four feet from the setback and then it comes into a berm, and if We Energies had to get through there to dig up those lines and replace them, which they will have to at some point, is it possible with those trailers that close to that line?

Marc Lofman:

And we've talked to We Energies. The lines are in the middle of that easement. So they have ample room on either side of the line already. So I don't have it offhand if it's a ten foot easement. I mean it's a wide easement.

Mark Riley:

It's a 40 foot easement.

Marc Lofman:

No, no, I'm sorry, the landscape easement is 40 feet. We Energies has maybe a ten foot easement.

Mark Riley:

From the 40 setback --

Marc Lofman:

Yes, going back, and again I don't know the exact footage, but I believe it's ten feet.

Mark Riley:

They're not in the trees. It's a straight runway there of ten feet.

Marc Lofman:

Maybe the easement goes into the -- I don't know. But they're comfortable with that. That's how they choose the easement space so that they can get access to those lines.

Mark Riley:

Even if that 20 foot setback is taken away from them.

Marc Lofman:

As far as they're concerned they don't know what our setback is. They don't know where we can put a home, where we can't put a home. All they're concerned about is that they have access to their easement. And they believe that that's sufficient for them to access those lines. Whatever happens on either side I think that they're --

Mark Riley:

Fair enough.

Christine Genthner:

Mr. Kumorkiewicz, do you have another question?

Steve Kumorkiewicz:

Yeah, I've got a concern. Because if you're going to move the house back and there's a slight berm over there where you've got the trees, okay, [inaudible] in case there is a big rain, a flooding, where is it going to go if it's a small --

Marc Lofman:

That's a good point. So we have other hills and berms in the community, and for many of the homes we've installed drain tile along the back of the home and then it wraps around the home. So it collects the rain off the hill and then brings it to the curb essentially into the storm water.

Steve Kumorkiewicz:

Okay, I'm looking at a future problem [inaudible] just for drainage. [Inaudible]

Marc Lofman:

Again I wouldn't want to live on a lot that's flooded. It has to be graded and the concrete has to be approved. And that's something the Village considers is the grade leading to and from the concrete. So drainage is always something we consider and the Village considers. I mean we wouldn't get approval if we couldn't meet the drainage requirements.

Steve Kumorkiewicz:

One question. The electric lines are coming from the back of the property into the property where the meters are right there, okay? Now, everything is underground. How deep underground are the lines?

--:

Thirty inches.

Steve Kumorkiewicz:

Thirty inches?

--:

Minimum.

Christine Genthner:

Are you done?

Steve Kumorkiewicz:

Okay, I'm finished. Mr. Glassman has a question. You can ask another one after that.

Tom Glassman:

[Inaudible] drain tiles are those going to be installed. [Inaudible] question I wasn't sure about your answer to that.

Marc Lofman:

Well, I don't know if those lots actually would have drainage issues. It's not clear. But, like I said, for us we're going to submit plans. For each lot before a home comes in we have to submit plans to the Village that shows exactly where the layout is, how deep the concrete is, what size home it is and they have to approve it.

Tom Glassman:

And who would be responsible for that cost?

Marc Lofman:

We would. I mean if the Village said you need to install drain tile for us to approve a home then we would install the drain tile. It's our land, we don't ask the residents to pay for improvements to our land.

Christine Genthner:

Any other questions? Deb?

Deb Skarda:

Just to confirm, have we heard any correspondence from Hidden Oaks?

Jean Werbie-Harris:

We have not received anything.

Deb Skarda:

Okay, thank you.

Christine Genthner:

Any other questions for Mr. Lofman? Thank you. The public hearing is still open. Is there anybody else who'd like to come forward? Again, I'll have you state your name and your business address and I'll swear you in.

Rocco Vita:

Good evening. I'm Rocco Vita, I'm the Village Assessor. I'm at 9915 39th Avenue.

Christine Genthner:

Do you swear to tell the truth, the whole truth and nothing but the truth?

Rocco Vita:

I do.

Christine Genthner:

Thank you, please proceed.

Rocco Vita:

I provided Ms. Werbie and the community development department a memo. If you have any questions about the memo or any other aspects of the park I'd be more than happy to answer them. But I will provide you some information now. We had some questions earlier. First off, a mobile home park is a leased home community as Mr. Lofman indicated. They own the land, they lease these spaces for people to put in their personal property, okay? But the management of the park is an important aspect to the value of the personal property.

In my memo I indicated based on my calculations a 16 by 76 single wide mobile home in this particular community would be valued at \$42,000. When I had my appraiser look for what homes of that size are selling for, and that was at the age of 2008, I had my appraiser look across the state to see what homes of that size were selling for, and typically they were \$36,000. One of the things is while these are personal property and ostensibly portable assets, in the old days they were called trailers, and they might have been such, but today typically they are not. They are put on a semi-permanent foundation, and they're more likely than not bought and sold by people who want to live in that location. So the environment in which they're being acquire is important. The stronger the management the better the value. And that's why in this instance a 17 or 16 by 76 unit has a value of about \$42,000, where in other mobile parks, whether it's Carefree or other parts of the State would be less.

The other thing that Mr. Lofman indicated that's true is there has been a decline in sales, not just of regular real estate but also the mobile home market. The latest most newest mobile home in Westwood in this phase was built in 2009. Prior to that there was one built in 2008, and prior to that there were four in 2007, really the height of what was the real estate market. And the real estate market was at its height because lending practices were at its height, okay? He's had issues as everybody has issues selling places for people to live or leasing spots, people buying places to live.

I indicated in my memo that a 16 by 76 foot wide unit would be valued at \$42,000. That's 46 percent less than the average double wide in the phase that they're talking about, the Valley. And these people are concerned about that disparity in value. But like Mr. Lofman indicated, and staff will let you know, he has the right to put in a 16 by 60 foot mobile home. A 16 by 60 foot mobile home would probably be valued, if I use the same unit rate as the other one a little higher, about \$33,500, alright? Now, even if he puts in these 16 by 76 units, sure, they would sell for less. But if you have strong management maintaining the environment it maintains the values.

I can't say that putting in a twelve 16 by 76 foot wide units will increase anybody else's value, but I can't say it will reduce their value as long as management is strong and maintains the appearance and the integrity of that portion. There's always a concern going back to single wides. We've talked about the evolution. Well, the evolution went from 12 foot wide trailers, I think in some part we have a 10 food wide trailer, to 12 foot wide trailers, to 14 food wide trailers, to 16 foot wide trailers to double wides. And I think if you go in a section it's hard to tell that the double wides are actually mobile homes. They could just be modular homes. They could be stick built homes. They're handsome homes.

And the fear is if you go to a 16 foot wide home and it has that row appearance, but that doesn't mean that will happen if management is strong enough, and thus far they have been strong

enough to maintain the appearance in the park. But I want you to understand that they have the ability to put in a 16 by 60 if they don't get the variance, and the value will decline another 25 percent or so. Make sense? Anybody have any questions of me?

Steve Kumorkiewicz:

Yeah, I've got a question. Rocco, you're talking 25 percent reduction of the value --

Rocco Vita:

From the \$42,000 down to about the \$33,000, just round numbers.

Steve Kumorkiewicz:

How is that going to affect them over there?

Rocco Vita:

I don't know. This is the thing about real estate. We won't know how it affects them until those homes begin to sell. They already had declined since 2007 because of the lack of demand. If there was strong demand for those homes there'd be strong demand for their spec homes. They wouldn't have to rent them out. So we wouldn't have this issue. But there isn't strong demand. Some people in this area have paid up to \$125,000, \$135,000 for their homes. Right now my highest assessed value is probably \$92,500. So some people have lost value already. Do I think they'll lose more? Remember, it's not particularly the asset. If we were to say mobile home's a fair trade item, like buying a car, it doesn't make any difference where you buy it from really. But here it does make some difference in that the environment because of the purpose people are going to want to live in that location and the environment is important. The management here as created an environment where the sale prices have held up better than most places. Even though people don't necessarily like the new management I will say, the thing is a strong management protects peoples' values.

Christine Genthner:

Any other questions?

Tom Glassman:

I just have one. You said there's less of interest in the mobile home parks.

Rocco Vita:

I think there's less demand right now than there had been.

Tom Glassman:

I guess my question would be why build more?

Rocco Vita:

Well, they can build as many --

Tom Glassman:

I understand that. But if there was less of a demand --

Rocco Vita:

Well, the market will dictate how many they can spec and sell. I don't know, that's a question I don't know.

Mark Riley:

They have the land, they have to sell it sooner or later.

Rocco Vita:

The thing is they can lease it to someone with a 16 by 60 or a 12 by 56. They're willing to lease it to someone 16 by 76 with a lot of characteristics to try to mitigate any negative impact.

Christine Genthner:

Any other questions?

Deb Skarda:

I have a question. So when you purchased the land what did you say in 2008?

Marc Lofman:

2005.

Deb Skarda:

What capacity did you plan that your lots would be filled at?

Marc Lofman:

We thought they would all be filled [inaudible].

Christine Genthner:

If we could have Mr. Lofman back up at the microphone so we have a clear record.



Marc Lofman:

Sure. When we purchased it in 2005 I believe the pro forma that we would continue leasing at the same rate as the prior few years. And it would all be filled by 2009. We had an agreement with the Village to finish and dedicate 85th Street which runs right through the community. And at the time we thought we would wait until we finish the development before dedicating the street because this way we wouldn't have to have heavy machinery going over a brand new street. But we did dedicate -- we did spend the money, we finished the street, and we dedicated I think it was in 2011 or early 2012 just because the street needed to be finished.

Deb Skarda:

So what capacity are you at currently? So I'm assuming that you're not at the capacity that when you put your business plan together you anticipated.

Marc Lofman:

No, we're very far behind. Again, we thought we'd have all the lots leased by now. And they're doing us no good sitting empty, so we're going to put something there to create revenue. And what we're trying to do is come up with a product that the customers want, that's aesthetically pleasing, that doesn't harm the existing neighbors, and we're trying to come up with that plan.

Deb Skarda:

Okay, thank you.

Christine Genthner:

Any other questions of Mr. Lofman while he's up here? Thank you. The public hearing is still open. Is there anybody else who'd like to come forward?

Eric Guttormsen:

I'll be brief [inaudible].

Christine Genthner:

State your name for the record.

Eric Guttormsen:

My name is Eric Guttormsen:

Christine Genthner:

And your business address?

Eric Guttormsen:

My business address is 600 52nd Street, Suite 200, Kenosha, Wisconsin, 53140.

Christine Genthner:

Do you swear to tell the truth, the whole truth and nothing but the truth?

Eric Guttormsen:

I do.

Christine Genthner:

Please proceed.

Eric Guttormsen:

I just wanted to point out I am the preparer of the covenants. So if there's any questions from any members of the Board I'm happy to answer them. But I just wanted to kind of shoot off of what the assessor was saying in that management has the obligation to enforce these covenants, but the Village also has that ability as well. I realize it isn't their obligation, and their resources can be used for better purposes. But you've got the policing of Westwood but at the option of the Village they also can control and police those covenants that would be recorded against these lots.

Christine Genthner:

Any questions for counsel?

Jean Werbie-Harris:

Yes, have you given us the right but not that obligation to enforce the covenants, you did in the covenants themselves?

Eric Guttormsen:

Correct, correct. Under section A it states that the owner shall enforce them but they may be enforced by the Village. So it's not your obligation, but you have that opportunity if you feel that the developer is not doing the proper policing so to speak.

Jean Werbie-Harris:

And do you have any opinion with respect to extending these covenants to the other vacant lots within the Westwood Valley area?

Eric Guttormsen:

Assuming my client would be comfortable doing that we would certainly prepare the necessary

documentation to extend those to beyond the 12 lots that are at issue here and prepare the necessary documents to record those and have those applied to the additional lots that you would seek.

Jean Werbie-Harris:

Thank you.

Christine Genthner:

The public hearing is still open. Is there anybody else who'd like to come forward at this time? I do have a question before we get to any staff recommendation. Ms. Werbie-Harris, what is the purpose of the 20 foot rear setback?

Jean Werbie-Harris:

All of the new lots -- well, let me take a step back. When the Westwood Estates or Westwood Valley addition was presented to the Village back in the mid to late 1990s, at that time John Hartig was trying to come up -- who was the owner at that time was trying to come up with some type of reasonable setback to present to the Village for the expansion of a mobile home manufactured park. Up to that point we got mobile home parks in the Village, manufactured housing communities, this is the newest one with respect to the design, the layout, the number of units, with respect to how aesthetically pleasing and up to date with respect to more of the standards of the Village.

And so one of the things that we talked about, again, was establishing setbacks to the lot lines. And we actually imposed lots and like artificial lot lines in addition to the rear lot line. And so they recommended it and supported it because we thought it was a good idea to present those rear yard setbacks. Because the units that were being proposed were primarily double wides, and they wanted to increase the size and the value of the homes in the later phases. And a typical single family home setback is 25 feet in the single family residential districts. And we compromised at a 20 foot setback.

Christine Genthner:

Thank you. I apologize, I have this cough I just can't get rid of all of a sudden. Mr. Riley?

Mark Riley:

Yeah, I have the same question you did but I want to ask it a little different. I guess I'd like to ask what is the spirit of the 20 foot setback especially in the event that you have a 40 foot landscape buffer setback. Is there anything we should know about that 20 feet. Does it make the backyard bigger, is it a fire lane? What is the spirit of the 20 foot setback? Is a normal setback just 20 feet off the lot line and this one happened to get doubled up because they had a 40 and a 20. Is really the spirit not necessary here?

Jean Werbie-Harris:

At the time there were no detailed covenants and restrictions that were put into place by the previous owner with respect to what the units were going to look like, how old that they were, what character or aesthetics that were going to be established with these units. And as such we wanted to make sure that there was enough of a separation spacing and there was some berming and separation between those units and the adjacent lands to the south. In this case we identified a 40 foot wide. Because of how the development laid out these lots would have been excessively deep just on how the roads laid out. And so it was discussed why don't we just put a nice green space separation buffer. And so there's a 40 foot wide green space for landscaping and utility. In this case, obviously, We Energies chose to use the ten feet furthest to the north so that there wouldn't be a conflict with the berms and the landscaping. And then the ordinance at that time was 20 foot.

Again, they're proposing some unique characteristics to help preserve the aesthetics. And so it is for that reason that if, in fact that the Board decides to recommend approval of this variance, I would be very enthusiastic to see that those covenants extend at their volunteering to the other vacant lots. Because if it's good enough for these 12 it should be good enough to improve and maintain that value throughout that Westwood Valley. Again, we don't have that in any of the mobile home parks at this time with respect to the aesthetics.

Mark Riley:

I just want to make one last comment here. There's kind of some negotiating kind of out there right now based on aesthetics and whatnot for the last 34 lots and some other things going on that we won't have the answer for it today.

Jean Werbie-Harris:

Unless the Board chooses to make that as a condition of approval.

Mark Riley:

Okay. Maybe you can even answer this followup question. If that happens does the staff change their recommendation?

Jean Werbie-Harris:

Certainly. We haven't presented a formal one yet. There is a written recommendation. But, again, that was written prior to hearing all the testimony this evening by the Board, the staff, Mr. Vita as well as the petitioner.

Mark Riley:

So protocol you're going to read that and you really can't alter that at this time?

Jean Werbie-Harris:

I certainly can alter it.

Mark Riley:

You can alter it?

Jean Werbie-Harris:

I can.

Mark Riley:

Alright, I have no more questions.

Jennie Holman:

I'm just kind of curious. My interpretation of this whole area is mostly senior citizens, and if it is do they really use that 20 feet setback? Anyone can answer that.

Christine Genthner:

Is the question directed to staff?

Jennie Holman:

Anyone. The majority of the residents are they senior citizens?

Christine Genthner:

Please come forward.

Jennie Holman:

And, second, do they use that?

Christine Genthner:

It's Ms. Clark?

Dorothy Clark:

Yes.

Christine Genthner:

Alright, you're still under oath.

Dorothy Clark:

Yes. All of us our backyards are basically gardens, flowers, whatever. Personally my husband and I do not use our backyard we use our side yard because that's where our patio is and things of that nature. But our backyard has grass and flowers and a big tree, and we love the big tree. And I think most of us are that way, aren't we? Our backyards are -- Carolyn, what do you have in your backyard?

--:

A berm of mini-forest.

Dorothy Clark:

Okay, a forest, a mini-forest. But per se our backyards are not actively used unless we have grandchildren who come over and want to run around.

Christine Genthner:

Ms. Holman, does that answer your question?

Jennie Holman:

Yes, I was thinking that the 40 feet landscape easement is sufficient for the backyard.

Christine Genthner:

Any other questions? The public hearing is still open.

Steve Kumorkiewicz:

Yeah, for Jean. Jean, I've got a question. If we approve this [inaudible] will we set up a precedent or the rest of the community [inaudible] to change a [inaudible] to a larger [inaudible] or extension to the property?

Jean Werbie-Harris:

The reference in the zoning ordinance conditional use section under Section 148 specifically is a provision that was put into place back in the late 1990s. There are no other mobile home parks that really are impacted by that particular provision. As you know, the other mobile home parks, City View and Scotty's on Highway 50 they are extremely landlocked. And their lot sizes and lot areas are much smaller. With respect to Timber Ridge on 104th they had one new addition area but, again, they are pretty much landlocked, and they are very limited on the expansion area. And they don't come close to even meeting any of those setbacks. So the only development that we have that even addresses this is the Westwood development.

There have not been any requests for new mobile home parks in my almost 24 years here. There

has been a few additions, one for Timber Ridge a number of years before that, and then Westwood in 1999. So this isn't precedent setting in that there really aren't any other applicable situations today. And, to be perfectly honest, if there's some thought with respect to this provision really not being relevant or applicable maybe there needs to be some modification with respect to, a, the ordinance and this provision or, b, whether or not if a planned unit development, for example, which would also create some variations within a development for a development, if this isn't relevant or applicable maybe the provision shouldn't be there to begin with. And maybe that's as part of if you decided to grant the variance this evening one of the directions maybe that you direct Plan Commission and Village Board to rethink that particular provision if it's not really a relevant position to have in the zoning ordinance as part of the text.

Christine Genthner:

But procedurally wouldn't it be better to have that change made if it was going to be made, and then there wouldn't be a need for a variance?

Jean Werbie-Harris:

Oftentimes that is the case, but I'm not sure if you recall back in the early 1990s we had a number of situations where variances were being requested for the size of an accessory structure based on the size of the first floor of a home and based on the area of a lot. And we were routinely granting variances because it just didn't seem practical to have someone who had a five acre piece of land that's zoned residential that they couldn't put up more than a 1,000 square foot pole barn. So they were routinely granted for probably four or five years, and then the Board of Appeals sent the direction back to the staff to say maybe you should look at rethinking this ordinance and maybe making some modifications to make it a little bit more flexible to have these accessory structures. And so the same could be said here. I mean maybe there's an action taken this evening and there is a direction for the Village staff, which would be Peggy and I, to relook at that particular provision and bring it back to the Plan Commission and the Board at some point in the future.

Christine Genthner:

But my concern is now with the new case law then, not new anymore, but probably since then we have this case law that indicates that if we grant a variance we have to find that there is either an unnecessary hardship or -- let me make sure I've got the right language.

Jean Werbie-Harris:

The literal enforcement of the provisions will result in a practical difficulty or an unnecessary hardship.

Christine Genthner:

Correct.

Jean Werbie-Harris:

So the question this evening will be have they presented enough information to you for you to make the determination that this is a practical difficulty for them citing the information that was presented this evening.

Christine Genthner:

But if the determination is it's not, and I'm not pre-judging, because they can bring in right now units that would fit within the dimensions, would there still be the opportunity to go back to is it either the Board or the city plan to discuss or have looked at that 20 foot rear setback issue?

Jean Werbie-Harris:

Yes, that option is still available. And there would be a public hearing before the Plan Commission, and everyone would receive notification again, and they would make a recommendation based on the public hearing, and then it would go to the Village Board for final action.

Christine Genthner:

Because even if we didn't feel there was a need for it, that doesn't mean either city plan or Village Board would feel the same way.

Steve Kumorkiewicz:

That's my concern.

Christine Genthner:

Any other questions before we close the public hearing? Counsel?

Eric Guttormsen:

I'd just like to point out. I didn't know you were referencing the case law, that there is reference in the case law to the fact that there isn't a hard and fast determining the definition of what an unnecessary hardship is. And then you guys do have some discretion on that. So I don't know if that's something that in looking at the unnecessary hardship I think our idea behind unnecessary hardship is the fact that there's that landscape easement there and whether or not that's truly necessary.

Christine Genthner:

You mean the setback.

Eric Guttormsen:

Excuse me, yes, concerning the spirit of the rule as Mr. Riley said.



Christine Genthner:

Thank you. The public hearing is still open. Is there anybody else who would like to come up? Seeing nobody else, before we move to staff recommendations, does the Board have any questions for staff? With that, Ms Werbie-Harris, do you want to proceed to the staff recommendation? And you're still under oath.

Jean Werbie-Harris:

With respect to the staff recommendation, and I might not make a recommendation other than I'm going to modify what I've written right here and what Peggy's written. Based on the findings of fact and the variance application filed, the Village staff finds that the application may meet the requirements for the granting of the requested variance, and the request cannot be based solely on economic hardship. So if there are circumstances and facts that have been brought out this evening for the Board to declare that there is a practical difficulty that has been created as a result of this 40 and 20 foot setback, then the grounds for the granting of the variance would be warranted.

As an unnecessary hardship or practical difficulty the applicant in his application had stated that the housing community has evolved, and the size and shape of homes has evolved, too. Long single section homes are more popular now than short double section homes. And this is a true statement, but there is a lot of other additional information that came out in the meeting this evening that you should take into consideration as part of your deliberations.

The initial concern I had was that in 1999 when the 86 lot addition to Westwood Estates was approved, developed and marketed, again not by this developer and not with the economic times we've seen in the last four to five years, there was a master plan, a certified survey map, related development agreement, conditional use, site and operational plans and a much better economy. All of those things existed with the previous developer.

And it was with the intent, again, although it was not stated because there were no restrictive covenants that were filed by the developer, but it was stated by John, I was here, so was Peggy, that the double wide manufactured homes would be the ones that would likely be constructed on the lots, and that they would help to bring some of the increased property value for that particular area. In addition, if they were smaller double wides, we would be encouraging of garages as opposed to just sheds in order to store a lot of the personal belongings that oftentimes get stored outside.

If the Board finds that the application and the facts presented warrant the granting of the variance requested, the staff is recommending that the proposed declaration and establishment of conditions, reservations and restrictions as presented with the application shall be revised to include all of the vacant lots out there. Because if it truly is their intent to maintain a certain value and aesthetics and continue to improve on things within the development that they should equally apply to the other vacant lots out there. In addition that there be a much stronger recommendation for not only these smaller 64 square foot sheds, but the encouragement of garages at the new addition area. The declarations would need to be recorded and a recorded copy provided back to the Village.

The variance if granted by the Board of Appeals does not waive any other requirements which are imposed by the Village's zoning and land division and development control ordinances or building or municipal codes. And, again, one of the things that we have done over the last maybe 15 years is we have put a little bit stricter requirements in for setbacks and some other items with respect to manufactured housing communities. Most of the other communities are almost 100 percent built out. This is really the only development that really triggers a lot of those provisions because they are having still quite a few vacant lots. Again, when new ones come in, new units come in and old units are moved out they have to try to comply with those regulations as well.

The Village will prepare any variance grant document if it's granted by the Zoning Board of Appeals. The developer would be responsible for any recording costs that would be associated. And just as a side note, if there is a denial in the variance, a lot of the provisions that I've been talking about the staff would strongly recommend to be included as part of a planned unit development that would go before the Village Plan Commission and the Village Board, again, for the very reasons that we've talked about and the reasons that they want to maintain the aesthetics and they want to encourage development to be newer and to fit in with the new developments that they have created in that new Westwood Valley area.

Christine Genthner:

Thank you. The public hearing is still open. Are there any questions of staff before I close the public hearing. Mr. Kumorkiewicz?

Steve Kumorkiewicz:

Yes. Jean, where you say is whatever decision we make tonight the code is going to be revised to adopt new site [inaudible], right?

Jean Werbie-Harris:

Are you asking me or telling me?

Steve Kumorkiewicz:

No, asking you.

Jean Werbie-Harris:

I have no idea. It really depends on if there's direction by the Zoning Board of Appeals, the Village Plan Commission or the Village Board. Whenever a municipal body wants to see a change or have the staff evaluate a change in the zoning ordinance, there needs to be a resolution that's adopted in the first instance to have us study it, then to prepare something, hold a public hearing, and then it comes to the Boards. So there has to be some direction that's given to us in order to do it.

Christine Genthner:

Any other questions of staff before I close the public hearing? We have somebody who wants --

Jean Werbie-Harris:

Have you closed the public hearing?

Christine Genthner:

I have not closed the public hearing yet. So, ma'am, if you want to come up. Please state your name for the record and provide your address.

Carolyn Henry:

Carolyn Henry, 7801 88th Avenue, Number 267, Westwood Valley Estates.

Christine Genthner:

Ms. Henry, do you swear to tell the truth, the whole truth and nothing but the truth?

Carolyn Henry:

Yes, always. I just have two questions to ask when I should ask these questions and where. Is it ever possible to buy the land for our own little lot? Because some places in different states do that.

Christine Genthner:

Probably a question for management, and I'm not sure that --

Carolyn Henry:

So I just don't know where to ask that question, what Board or town or whatever. If anybody knows let me know. And the second question is some condos have a cap on rent, and I just wonder if that's something possible that we could have sometime also. I don't know where to ask that question. So if anybody can let me know.

Christine Genthner:

After the hearing would staff be available to maybe give her some direction after the meeting?

Jean Werbie-Harris:

Sure.

Carolyn Henry:

Thank you.

Christine Genthner:

And you may want to talk with management about the buying and leasing. Are those the only questions you had? Thank you. With that then I'm going to close the public hearing. Now that the public hearing is closed, do I have a motion by the Board?

Mark Riley:

I'd like to make a motion that we accept the staff's recommendation as so stated by Jean Werbie.

Christine Genthner:

There's a motion to accept the recommendation of Ms. Werbie-Harris. I guess for clarification the recommendation was it may meet the variance, so is the motion to --

Mark Riley:

Grant the variance.

Christine Genthner:

-- grant the variance?

Mark Riley:

Yes.

Christine Genthner:

Subject to the --

Mark Riley:

Yes.

Christine Genthner:

-- the recommendations set forth by Ms. Werbie-Harris?

Mark Riley:

Yes, to grant the variance.

Christine Genthner:

The motion on the floor is to grant the variance. Is there --

Jennie Holman:

I'll second it.

Christine Genthner:

There's a second by Ms. Holman. Prior to taking a vote is there any discussion on the motion? Mr. Werbie-Harris?

Jean Werbie-Harris:

Just as part of the motion if you are supporting the variance, you'll need to state in the motion that it's subject to the special conditions and the practical difficulty and the other matters that were raised that you've come to that conclusion as part of your motion.

Mark Riley:

Yes, I have come to the conclusion that it's both an unnecessary hardship, and I believe that to be true because the 40 foot setback I think would have met the spirit of the unnecessary 20 foot setback. And because of that now it's causing a practical difficulty I guess. Because I do believe that they demonstrated that the industry has changed. The economy I don't think that really falls into it, but their business has changed. I don't think anybody's arguing against that. So I think they've provided enough information for both of them. And I don't know that it's necessary an economic benefit that we're granting them at all.

Jennie Holman:

I want to also add that when it comes to practical difficulty that the lots have been there and nothing's been happening, and so this is an opportunity to lessen that difficulty of leasing them.

Christine Genthner:

That was included by Ms. Holman. Mr. Riley is that part of your motion also?

Mark Riley:

I don't think it's for us to help them get their lots leased. I think it's up to us to decide whether the ordinance or the zoning creates an unnecessary hardship on them, and I do believe it does. And it was probably more or less just an oversight. Hey, we have this 40 foot landscape buffer, and we also have a 20 foot setback, and nobody was really thinking about it at the time. If you thought through it today you'd probably just say wherever there's a 40 foot landscape buffer we'll have zero setbacks there but 20 foot anywhere else where there's nothing. So I just believe it's unnecessary.

Christine Genthner:

Any other discussion on the motion. Seeing none then, a roll call vote. I support the motion to approve.

Deb Skarda:

I support the motion.

Mark Riley:

I support.

Jennie Holman:

I support.

Tom Glassman:

Support.

Steve Kumorkiewicz:

Support the motion.

Christine Genthner:

Motion then to approve has been granted subject to the restrictions that were set forth by staff and the recommendations.

## **7. ADJOURNMENT.**

Steve Kumorkiewicz:

So moved.

Christine Genthner:

Mr. Kumorkiewicz moves to adjourn. Do I have a second?

Tom Glassman:

I'll second.

Christine Genthner:

I have a second by Mr. Glassman. All in favor?

Voices:

Aye.

Christine Genthner:

No one opposed? The meeting is concluded.

**Meeting Adjourned: 7:25 p.m.**