

VILLAGE OF WESTERN SPRINGS, ILLINOIS.

BOARD OF ZONING APPEALS

April 29, 2025 - 7:00 P.M.

REPORT OF PROCEEDINGS taken at the Western Springs Village Hall, 740 Hillgrove Avenue, Western Springs, Illinois, reported by Hailey M. Schoot, an Illinois Certified Shorthand Reporter, License Number 084-004897.

BOARD MEMBERS PRESENT:

BRANDON CALVERT, Chariman

MITCH JOHNSON, Member

JEFFREY FUS, Member

LEE FRY, Member

STEVE GRESKA, Member

ROBERT BURTKER, Member

ALSO PRESENT:

ANNE SKRODZKI, Village Attorney

HEATHER VALONE, Director of Community Development

KELSEY FAWELL, Senior Planner

HEIDI RUDOLPH, Village President

1           CHAIRPERSON CALVERT: Okay. All right.  
2 Hello, everyone. It is now 7:01 and I would like  
3 to call to order the Board of Zoning Appeals of the  
4 Village of Western Springs, Illinois on today,  
5 April 29th, 2025.

6                     Heather Valone, can you please  
7 conduct a roll call for us?

8           DIRECTOR VALONE: Absolutely.

9                     Burtker?

10          COMMISSIONER BURTKER: Here.

11          DIRECTOR VALONE: Fry?

12          COMMISSIONER FRY: Here.

13          DIRECTOR VALONE: Fus?

14          COMMISSIONER FUS: Here.

15          DIRECTOR VALONE: Greska?

16          COMMISSIONER GRESKA: Here.

17          DIRECTOR VALONE: Johnson?

18          COMMISSIONER JOHNSON: Here.

19          DIRECTOR VALONE: Chairman Calvert?

20          CHAIRPERSON CALVERT: Here.

21          DIRECTOR VALONE: We do have a quorum.

22          CHAIRPERSON CALVERT: Wonderful.

23                     Today we have the following on our  
24 agenda: Call to order, approval of minutes from

1 the September 30th, 2024 meeting, a public hearing,  
2 considerations; today we have one, public hearing  
3 regarding a variation request for 4616 Harvey  
4 Avenue, other business and adjournment.

5 At this time I would like to go ahead  
6 with approving the transcript of the  
7 September 30th, 2024 meeting.

8 Board members, have you had a chance  
9 to review that transcript?

10 COMMISSIONER GRESKA: I'll make a motion to  
11 approve.

12 CHAIRPERSON CALVERT: Okay. Is there a  
13 second?

14 COMMISSIONER FRY: Second.

15 CHAIRPERSON CALVERT: All in favor?

16 (Chorus of ayes.)

17 CHAIRPERSON CALVERT: All right. The ayes  
18 have it.

19 I would like to now open up the  
20 public comment portion of today's meeting.

21 Is there anyone here who would like  
22 to make public comments not related to 4616 Harvey  
23 Avenue?

24 Seeing none, we can move to our

1 consideration.

2 Before we get started, can we swear  
3 in the witnesses? So if you're here to testify in  
4 connection with 4616 Harvey Avenue, please stand.

5 That would be you.

6 DANIEL CUNNINGHAM: Sorry.

7 CHAIRPERSON CALVERT: Court reporter, can you  
8 please swear in the witness?

9 (Daniel Cunningham duly sworn.)

10 CHAIRPERSON CALVERT: Thank you, sir.

11 We'll now open the public hearing for  
12 consideration of the variation request of 4616  
13 Harvey Ave Western Springs.

14 Can I have a motion to open the  
15 public hearing, please?

16 COMMISSIONER GRESKA: I'll make that motion.

17 CHAIRPERSON CALVERT: Is there a second?

18 COMMISSIONER FRY: Second.

19 CHAIRPERSON CALVERT: Okay. All in favor?

20 (Chorus of ayes.)

21 CHAIRPERSON CALVERT: All right. Hearing  
22 none -- any opposed? No. The ayes have it.

23 All right. The matter before us  
24 today is a variation request regarding 4616 Harvey

1 Avenue Western Springs, Illinois, specifically the  
2 consideration of an ordinance approving variations  
3 from the Development Control Ordinance relating to  
4 accessory building and structure setbacks and  
5 interior side yard setbacks in the R2 residential  
6 zoning classification.

7 Village Staff, do you have a  
8 presentation regarding this matter today?

9 MS. FAWELL: Yes. Thank you, Chair.

10 CHAIRPERSON CALVERT: Okay.

11 MS. FAWELL: Okay. So the applicants before  
12 you today are Daniel and Christina Cunningham. The  
13 applicant is here in attendance.

14 So some information about the subject  
15 property. The subject property is designated  
16 single-family detached residential per the  
17 Village's 2003 Comprehensive Land Use Plan. It's  
18 an approximately 10,680 square foot lot within the  
19 Village's R2 single-family residence district. The  
20 property has a lot width of 50 feet, meaning the  
21 required side yards of the property are ten feet  
22 and five feet.

23 Okay. So the proposal. The  
24 applicant is requesting approval of an outdoor

1 grill area indicated in yellow on the crop site  
2 plan. The existing structure can be seen in the  
3 image to the right. The outdoor grill area was  
4 installed without a permit in 2022. In late April  
5 2022 Village Staff became aware of the structure  
6 and the applicants then received violation notice.  
7 This has been an ongoing issue since. In the  
8 applicants' cover letter the applicant states the  
9 grill was installed in the spring of 2021.

10 The structure is composed of a roof  
11 structure with three walls. The interior contains  
12 cabinets, refrigerator, and a television. The area  
13 is approximately 12 feet long by two and a half  
14 feet wide. It should be noted that there is  
15 additional fencing attached to the structure  
16 flanking either side that runs the entire length of  
17 the outdoor patio. You can then see this yellow is  
18 that entire length with the grill and the fencing  
19 and this is the patio, and you can see it in the  
20 picture on the screen right here if you follow the  
21 red, the fencing flanking either side you can see  
22 right there.

23 The Village's building official  
24 visited the property in May of 2022 and noted the

1 height of the overall structure was just above  
2 eight feet. The applicant states in their  
3 application that the walls of the grill area are a  
4 Trex material. As previously mentioned, the  
5 structure was completed without the benefit of a  
6 permit meaning the structure has not been inspected  
7 and it is unknown if it meets standards --  
8 standards within the Village's Building Codes. In  
9 the event the request is approved, the structure  
10 will be inspected as part of the permitting  
11 process. So the structure is proposed at a zero  
12 foot setback from the lot line.

13           Aside from proximity to the interior  
14 side lot line, the structure is in compliance with  
15 other zoning regulations such as required yards,  
16 height, building, lot coverages, and full area  
17 ratio.

18           So the applicant is here before you  
19 requesting variations from two different sections  
20 of the code. The first section is 10-4-4-8-5,  
21 which states that no accessory building or  
22 structure shall be closer than five feet to the  
23 interior side of rear lot line, and then the second  
24 section is 10-6-3(E)(3), which mandates the

1 required side yards of the property to be ten feet  
2 and five feet. As previously stated, the applicant  
3 is proposing a zero foot setback from the lot line.  
4 We have received one public comment, which was  
5 anonymous, and it was included in the packet. No  
6 other public comments have been received.

7 As outlined in the item summary  
8 report that you all should have received before  
9 today's meeting, Staff is recommending the  
10 application be denied. The decisions leading to  
11 each variation request are subjective and based on  
12 the findings of fact and the opinions of the BZA.  
13 The DCO stipulates that variations should be  
14 granted in the instance where the BZA makes  
15 findings of fact in accordance with the DCO, which  
16 standards are detailed in the item summary report.

17 I'm happy to take any questions.

18 CHAIRPERSON CALVERT: Thank you.

19 Okay. Note that the applicant is  
20 here.

21 Applicant, would you like to testify  
22 today?

23 MR. CUNNINGHAM: Sure. Please.

24 CHAIRPERSON CALVERT: Okay. Can you please

1 stand and approach here. Before you begin, I would  
2 ask you to state your name for the record, please.

3 MR. CUNNINGHAM: Dan Cunningham.

4 CHAIRPERSON CALVERT: Okay. Thank you.

5 Mr. Cunningham, we, as a Board, are  
6 charged with establishing that -- establishing  
7 findings of fact in connection with your variation  
8 request. Okay. So that's what we're going to try  
9 to do here today.

10 If you can please talk to us about  
11 your application and speak to any of the  
12 requirements for our granting of your variation  
13 request that would be great.

14 MR. CUNNINGHAM: Is this on? Hello.

15 CHAIRPERSON CALVERT: I think we can hear you.

16 MR. CUNNINGHAM: Yeah. Okay. Can I put it  
17 down? I don't think it's -- it's working.

18 All right. Do you mind if I  
19 actually -- it might be helpful -- so I appreciate  
20 Heather and Kelsey. I just want to say thank you  
21 for actually getting here four years later.  
22 Without you, I wouldn't even have the chance to  
23 spend some time with you folks, so thank you for  
24 that. The other thing I would say, I apologize for

1 all you having to show up tonight. I do thank you  
2 for your time as well, and this is very easy from  
3 my standpoint just to say the biggest thing is I  
4 get all the details and the facts of where you all  
5 are coming from as far as the zoning and having to  
6 enforce code, but the reason we got here and the  
7 back story is the home that was built during COVID  
8 from the builder that -- this whole thing has been  
9 an absolute nightmare and, as far as code, I was  
10 not aware of any of this. I invited Robert from  
11 the Village into my backyard to spend time with me  
12 on this while he was here back in, I think it was,  
13 May of '22. So it has been a -- I think 10 or 12  
14 times I have been to court in the -- in Bridgeview  
15 and finally get the opportunity with you all, so  
16 thank you for that. It has been a journey, but I  
17 appreciate it.

18 Do you mind if I hand out some  
19 pictures? I think it will be actually helpful for  
20 you to understand.

21 MS. SKRODZKI: Yeah, we can accept some  
22 evidence into the record.

23 MR. CUNNINGHAM: Okay. I'm not trying  
24 overstep. I just --

1 CHAIRPERSON CALVERT: No, that's fine.

2 DIRECTOR VALONE: Totally fine.

3 CHAIRPERSON CALVERT: That's fine.

4 MR. CUNNINGHAM: I think it will be clearer  
5 for you to see. I took some wider -- from  
6 different angles so you can get an idea.

7 The biggest thing is, so 2020 we move  
8 out of the city, move in with my in-laws, this  
9 house was supposed to be built, completed by  
10 July 4th. Using existing foundation, it's going to  
11 be torn down by Brownstone Builders, and the whole  
12 thing was going to be a spec home, not knowing, as  
13 a first time home buyer -- home builder with  
14 another builder, I had no idea some of these  
15 questions to ask, which is kind of how we got here.  
16 And he starts the build, its supposed to be done  
17 July 4th, we move in, I think, ten -- ten days  
18 before Christmas or so, like somewhere within  
19 December 13th ish and it got pushed back. The  
20 builder ran out of money. I had paid over \$250,000  
21 out of pocket just to get it closed over the finish  
22 line to get out of my in-laws' house, which we were  
23 living in at the time. And the grill that is  
24 actually -- we're all talking about today was a

1 part of the original conversation with the builder  
2 from day one. We walked through it, it was the  
3 plan. I had no idea that this wasn't on the actual  
4 plot until we got the sticker slapped on us, I  
5 think it was in the beginning of Spring of '22.

6           The way it all went down is he ran  
7 out of money, I influxed the capital to come off  
8 the back end, he then took care of all the  
9 construction. Everything that was done in there  
10 was done by Drip Drop Plumbing. All the  
11 contractors that he used, they're licensed, bonded,  
12 insured by Western Springs, and so when we were  
13 given -- when we actually closed in December of  
14 2020, the house took another -- we didn't get  
15 certificate of occupancy I think for another 18 to  
16 24 months, and we had code violations -- I can't  
17 even -- like my daughter sliding underneath the  
18 railings. It was an absolute nightmare. So this  
19 is one of many things. I got four -- four times my  
20 basement has flooded, landscaping was not graded  
21 correctly, you just -- there's a laundry list of  
22 things. You know, the electricians quit, the labor  
23 quit, it's ten months -- it's, what, six  
24 months-post, so there's all these different things.

1                   And so my whole thing, even starting  
2 back four years ago when I invited Robert into my  
3 yard, I had no idea I even did anything wrong. He  
4 spent, like, an hour and a half going through  
5 everything. I had no idea it wasn't even to code  
6 when he was there. He was giving me ideas of  
7 things to do. He's a nice guy. Then he leaves the  
8 Village in the middle of all this, I believe --  
9 this is what I remember -- and him and his boss  
10 left the Village so I didn't get any back and  
11 forth, I just kept going to court getting these  
12 continuances and I was like I'm trying to work with  
13 the Village, I'm trying to get with the Village. I  
14 couldn't get a response until these nice ladies --  
15 regardless of what you all decide -- were the first  
16 ones to step in and actually give me some sort of  
17 direction in what could be done. And the whole  
18 thing I kept telling Bridgeview is, look, I'm not  
19 asking for anything in particular. All I want is  
20 an opportunity to tell the story of how we got  
21 here. I didn't try to pull one over and put in a  
22 patio or a grill so that I couldn't get a permit.  
23 This was from day one. I had no idea I did  
24 anything wrong. And I'm just trying to appeal to

1 you all.

2 I'm probably, honestly, about \$30,000  
3 into this thing. There's four posts in the ground  
4 and Trex that float. I dug a drainage ditch, there  
5 is a -- the walls on that thing are fire retardant.  
6 I got flashing, I got gutters. I literally thought  
7 of everything as far as the architecture on it. So  
8 it's -- it's not some fly by night. I would be  
9 happy to -- when you talk about looking to code, I  
10 would love the opportunity for someone to talk  
11 about code, because I -- I would be shocked if  
12 there's too much wrong. It was done by all the  
13 licensed, bonded, and insured contractors you all  
14 had. I think that's the biggest thing.

15 Whatever you decide, I get it. I  
16 just wanted a chance over four years and my wife  
17 screaming at me about this grill. Because it was  
18 complete when they slapped the sticker on. That  
19 thing is just waiting for paint. Can you imagine  
20 finishing a \$30,000 project? Again, so it is what  
21 it is, but I just kept going to court with no  
22 answers and it was just frustrating because I was  
23 like I live in this great town, my kids go to SJC,  
24 I'm trying to figure this stuff out. We got good

1 schools, we got good friends all over and people  
2 come in my yard and they're like, you can't keep  
3 that. I'm like I understand the code enforcement.  
4 It's technically off the grid, but I had no idea I  
5 did anything wrong. And so, again, my whole pitch  
6 here to you all is I understand you all have jobs  
7 to do, I completely get it, but it's more along the  
8 line of just trying to appeal to see if someone can  
9 hear me out and say, hey, look, I -- no one is at a  
10 dysfunction from this. The one person who wrote  
11 in, I spoke to them today and the gentleman, he  
12 thought that I was running an off and underground  
13 gas line. It's not. It's off a propane tank and  
14 so he thought he had an opportunity for this thing  
15 to explode and -- very nice guy. I said, hey, just  
16 want to let you know it's obvious when the letter  
17 came through it wasn't that anonymous, it was the  
18 one person next door. And they're really good  
19 people. He had a garage that burned down like 15  
20 years ago in a different town, so I was like I hear  
21 you, and good conversation. I just said look -- I  
22 brought him over and I said here is the propane  
23 tank, and he goes, "I'm sorry I even wrote in. Let  
24 me know if I can do anything to help on the back

1 end."

2                   So I think that's pretty much it.  
3 Like we -- it has been a nightmare as far as they  
4 finished the house with no windows in it, moisture,  
5 I mean, just crazy stuff you couldn't even imagine.  
6 And, honestly, every step of the way my builder was  
7 given opportunity to pass inspections and go on to  
8 the next thing before we even knew what was even  
9 going on. I got floors that shouldn't be in there,  
10 took on moisture. It's -- I will never -- I hope  
11 we never have another pandemic, I'll never build  
12 another house, and I don't ever plan on leaving  
13 this Village, I can promise you that, but I don't  
14 want to build another house or another grill.

15           CHAIRPERSON CALVERT: Okay. Thank you. We  
16 appreciate you addressing us today. I don't see  
17 anyone else here that would want to speak to the  
18 matter.

19                   Before we ask questions, Staff -- and  
20 I know applicant, you mentioned it -- Staff, we  
21 have received one letter, I believe --

22           MS. FAWELL: Correct.

23           CHAIRPERSON CALVERT: -- from a resident, and  
24 that is in the record?

1 MS. SKRODZKI: Yes, it's in the packet.

2 CHAIRPERSON CALVERT: Okay.

3 MS. SKRODZKI: It will be accepted into the  
4 record.

5 CHAIRPERSON CALVERT: Okay. It was an  
6 anonymous letter, but the Board has received that,  
7 so we have copies of that.

8 And, you know, we understand what the  
9 applicant just said. The letter is not in support  
10 of the request, but we understand what you just --  
11 what you just stated to us, so that's helpful.

12 MR. CUNNINGHAM: He did say if it did matter  
13 and you all were going to make a decision based on  
14 that, he said to let him know and he would have no  
15 problem stepping up, but I just said for the time  
16 being like why put him -- it's not really --

17 CHAIRPERSON CALVERT: Okay. Understood. A  
18 little bit of housekeeping before we go on.

19 For the record, Village Attorney, was  
20 a notice of this hearing provided via mail and  
21 posted in the Village?

22 MS. SKRODZKI: Yes. I received Staff's  
23 affidavit of compliance with all of those  
24 requirements earlier today.

1           CHAIRPERSON CALVERT: Okay. Thank you.

2                         Board members, while we have the  
3 applicant here, do you have any questions for the  
4 applicant?

5           COMMISSIONER FRY: Yeah, I got a question.  
6 I'm confused at how did the Village give you an  
7 occupancy permit with all this problem?

8           MR. CUNNINGHAM: You're just as confused as  
9 me. So I remember being in the closing in December  
10 of '20 and my dad, who -- don't do that either --  
11 was my agent trying to come into this market. Very  
12 tough. And I said -- there were certain questions  
13 he was like, "I don't think you should be closing  
14 on this house. This thing -- the inside of this --  
15 your bathrooms aren't done, closets," and I don't  
16 believe -- I don't know that anyone actually  
17 visited. I don't -- at that point I honestly don't  
18 remember, but my builder was trying to close and  
19 get his money because he said he lost on the house  
20 and he had to go through two or three other builds  
21 and his money -- his money guy got his money and he  
22 was out. I don't remember as far as -- but I just  
23 remember my wife being like this house is a mess  
24 and we're living in it. We had guys in there for

1 another year and a half still finishing.

2 COMMISSIONER FRY: Yeah, I just --

3 MR. CUNNINGHAM: Like I had guys in there last  
4 summer.

5 COMMISSIONER FRY: I'm just confused as how  
6 did the Village give it to you if -- I think  
7 there's a little problem here with the Village.

8 MR. CUNNINGHAM: Look, I'm not -- I didn't  
9 want to come in here and start pointing fingers at  
10 the Village --

11 COMMISSIONER FRY: Well, it is what it is.

12 MR. CUNNINGHAM: -- but, I'll be honest with  
13 you, my biggest contention there was -- there are  
14 so many things in this house that should not have  
15 passed while we were living in it, and that's how I  
16 think this grill went unnoticed, because it wasn't  
17 until, I believe, my neighbors got water on the  
18 other side corner of their house in their yard, and  
19 they had someone from the Village come out and they  
20 said, "what's that?" And then that's how the  
21 conversation got started and then I got the notice  
22 to stop construction or whatever. And I was like  
23 all I have left is the painters.

24 But, to your point, it's a great

1 question. To this day I wish we would have bought  
2 an existing built home in the neighborhood that was  
3 not this because there are so many things wrong  
4 with this house.

5 CHAIRPERSON CALVERT: Any other questions?

6 COMMISSIONER FUS: Yeah. So regarding the  
7 structure, utility wise, so there's clearly  
8 electric going out to it?

9 MR. CUNNINGHAM: Yes, sir.

10 COMMISSIONER FUS: Plumbing? Is there  
11 plumbing as well?

12 MR. CUNNINGHAM: No plumbing. No plumbing.  
13 Nope.

14 COMMISSIONER FUS: So it's just electric,  
15 then?

16 MR. CUNNINGHAM: Yep.

17 COMMISSIONER FUS: So no gas, it's just  
18 electric.

19 MR. CUNNINGHAM: Everything there is -- there  
20 is a spigot for gas that the builder put in --  
21 again, the builder literally put in the spigot to  
22 run to this. We didn't end up doing it, I ended up  
23 doing the propane.

24 COMMISSIONER FUS: Okay.

1 MR. CUNNINGHAM: So we cut that off.

2 COMMISSIONER FUS: So there's no gas. All  
3 right.

4 MR. CUNNINGHAM: So there's no underlying --  
5 well, there's no underlying gas we're using. It's  
6 a propane tank. There is electric, and it  
7 was electricians who were bonded here. H&H -- I'll  
8 have to remember -- but they're right out of  
9 Hinsdale. It's a father and son that have the  
10 company here and they did a lot of our stuff in the  
11 house.

12 And, that was the other thing, our  
13 electricians, one of them committed suicide in the  
14 middle of the build, so that got pushed back. The  
15 windows didn't show up. It's -- I can't even make  
16 this stuff up.

17 COMMISSIONER FUS: Okay. Did they provide  
18 as-built drawings?

19 MR. CUNNINGHAM: I'm sorry?

20 COMMISSIONER FUS: Did they provide as-built  
21 drawings?

22 MR. CUNNINGHAM: As-built?

23 COMMISSIONER FUS: Like you typically have --  
24 you know, a set of plans that your builders build

1 to, but then, you know, things might change, so  
2 then they --

3 MR. CUNNINGHAM: Yeah, we had an actual -- so  
4 this actually had ironically, from my builder, a  
5 hydraulic front. I paid to have, like, hydraulic  
6 arms on the front so this thing would open and  
7 close, and when Robert came out he suggested that  
8 was a bad idea, and so I removed them, but just  
9 scraped it, and you can see like where the red is,  
10 and then the bolts, like we scraped it all. And  
11 there's steel on the outside, it's four Trex that  
12 float and then just those beams on the outside, as  
13 you guys can see in the images, that's the only  
14 thing on the ground. We drudged out -- like  
15 there's a drain tile system in this whole thing.  
16 Like I said, I didn't know I was doing anything  
17 wrong. I tried to do this to the best capability  
18 possible. It's better built than the house, I can  
19 tell you that.

20 CHAIRPERSON CALVERT: Okay. So I have a  
21 couple questions.

22 MR. CUNNINGHAM: Yes, sir.

23 CHAIRPERSON CALVERT: I guess maybe the first  
24 is about timing because I just want to make sure

1 I'm clear on the timing.

2 So the home was built?

3 MR. CUNNINGHAM: Mm-hmm.

4 CHAIRPERSON CALVERT: And the grill was  
5 constructed at the same time as the home; is that  
6 correct?

7 MR. CUNNINGHAM: So the home -- we moved in in  
8 2020, so the home is -- let's call it 75 percent  
9 complete, so we're in it, and then they're still  
10 building it up, so his guys, the construction  
11 workers, were inside for another, like, year and a  
12 half. So part of those guys would do some of the  
13 inside stuff and they would pull over and they  
14 would come out and the electricians would be in the  
15 basement, they would be doing the stuff, and they  
16 would come over based on materials, they would do  
17 my outside stuff. So it's the same crews that were  
18 here, it just -- it depends on where the labor was  
19 at, if it's raining, certain things.

20 CHAIRPERSON CALVERT: More specific -- I guess  
21 a more specific question would be -- because I'm  
22 interested in the code enforcement issue. Okay?  
23 And the violation of the Code.

24 Was the grill completely finished

1 when you received a notice of a violation or did  
2 you -- was the grill partially finished and you  
3 received a notice that this was a violation of the  
4 zoning ordinance because of its area because of the  
5 place where it's -- you know, located within --

6 MR. CUNNINGHAM: Sure.

7 CHAIRPERSON CALVERT: -- on your property and  
8 then the grill was finished after that?

9 MR. CUNNINGHAM: No, sir. The grill was  
10 finished. So we started in 2021. We had  
11 materials, like the fire retardant walls took,  
12 like, six months to get in and then it's winter, so  
13 we had to wait for the next spring. So this thing  
14 didn't get completed until spring of '22, but it  
15 was actually started, the Trex was in, the base was  
16 in, so that's my point. It took --

17 CHAIRPERSON CALVERT: Was it completed after  
18 you received notice of a violation of any code or  
19 ordinance?

20 MR. CUNNINGHAM: Nothing has been done. This  
21 is where it's at. I haven't painted or done  
22 anything.

23 CHAIRPERSON CALVERT: So it's in the same  
24 state it was when you received a notice of the

1 violation?

2 MR. CUNNINGHAM: Yes, sir.

3 CHAIRPERSON CALVERT: Okay.

4 MR. CUNNINGHAM: Yep.

5 CHAIRPERSON CALVERT: All right.

6 MS. FAWELL: If I could just interject for one  
7 second.

8 CHAIRPERSON CALVERT: Sure.

9 MS. FAWELL: In looking at -- as Dan has been  
10 talking about, Robert Schmidt, our building  
11 official, in looking at the photos he took of the  
12 grill when he visited in May of 2022, it does look  
13 to be in a different state than it is today. So  
14 Staff assumed that it did have work done on it  
15 following that notice. How much work, I don't  
16 know.

17 CHAIRPERSON CALVERT: Okay.

18 MR. CUNNINGHAM: I mean, I -- it's -- there's  
19 not much. Like I didn't do anything. My wife is  
20 still screaming at me for it because it's an eye  
21 sore. She wants it painted. Whole side note.  
22 That's not the code enforcement.

23 CHAIRPERSON CALVERT: Okay. Well, I  
24 understand your testimony. I am asking for a

1 reason. So there's a difference of opinion between  
2 Staff and between you, sir, as the applicant on the  
3 timing with respect to when -- you know, with  
4 regard to when the grill was finished or if any  
5 work on the grill has been done after you received  
6 a notice of violation. Okay.

7 MR. CUNNINGHAM: Sure.

8 CHAIRPERSON CALVERT: All right. Let me ask  
9 you about placement of the grill and other options  
10 you may have.

11 So I understand that the grill is  
12 where it is now and you have referred to the four  
13 posts, right? One of the criteria that we have to  
14 approve a variance is that there is a hardship  
15 versus a mere inconvenience for you to strictly  
16 comply with the code. Okay? And so I guess my  
17 question is: Are there any -- is there anywhere  
18 else on your property where you could move this  
19 grill or, you know, have a similar set up as the  
20 grill now that is not in violation of a side  
21 setback, right, requirements of the ordinance?

22 MR. CUNNINGHAM: Honestly, no. I mean,  
23 there's -- I just wish I didn't do it, to be  
24 honest.

1 CHAIRPERSON CALVERT: I understand.

2 MR. CUNNINGHAM: I wish I just sat with a  
3 fireplace. We only use the grill -- here is the  
4 other thing -- probably six or seven times. My  
5 kids are young. They just watch a movie out there  
6 and I grill out. So it's not even like it's being  
7 used a ton.

8 CHAIRPERSON CALVERT: Yep.

9 MR. CUNNINGHAM: But there's really no -- like  
10 that structure, it can't be moved. It's in the  
11 ground on Treks. Like if I -- I would have to tear  
12 the whole thing out and start and, I mean, back to  
13 the budget, there's nowhere else -- nothing else I  
14 can do with it. And when I tear it out, I don't --  
15 the amount of work to tear it out -- because I  
16 think we did a nice job putting it in -- is pretty  
17 significant.

18 CHAIRPERSON CALVERT: Okay.

19 MR. CUNNINGHAM: I don't know if that answers  
20 your question.

21 CHAIRPERSON CALVERT: I understand your  
22 answer. Thank you for that.

23 Let's talk about the drainage. So I  
24 think in Staff's packet it -- that has been

1 submitted to us, I believe there have been drainage  
2 issues. Are you aware of the drainage issues?

3 MR. CUNNINGHAM: I was. So, again, so we  
4 built the house, the builder had the -- not the  
5 septic tank -- the ejector -- not the ejector  
6 pump -- sump pump in one corner of the house and  
7 then the neighbor said "we get water back here. We  
8 don't want it here," so he had moved it. And so I  
9 knew right away when we were doing this we had to  
10 trench it out, the entire side of the house with  
11 drain tile, limestone, and so we dug it all down.  
12 So, I can tell you this, it drains so well it  
13 drained through my basement windows and blew off  
14 the actual aluminum so they had to redig down  
15 because my builder didn't put them in right. He  
16 put them on the window instead of on the concrete  
17 and they blew through it because the drainage was  
18 so good it blew through it because my windows are  
19 on that side, it blew out the windows, which had to  
20 be dug down and redone, so the drainage is, I would  
21 tell you, zero issue there.

22 CHAIRPERSON CALVERT: Okay. Are you aware of  
23 any drainage issues for your neighbors, though?

24 MR. CUNNINGHAM: Yeah. They had them on

1 the -- on the back of their other garage -- on the  
2 back of their garage on the other side and nowhere  
3 near where this thing is.

4 CHAIRPERSON CALVERT: Okay. So, in your  
5 opinion, their drainage issues are not related to  
6 the grill?

7 MR. CUNNINGHAM: Nothing related to the grill.

8 CHAIRPERSON CALVERT: Okay.

9 MR. CUNNINGHAM: I know that they were upset  
10 with the very back of the property when he  
11 originally had -- they said he sloped it down, but  
12 it had -- we're talking, like, 20 yards behind  
13 where this would even be, maybe 15 yards.

14 CHAIRPERSON CALVERT: All right. Any other  
15 questions for the applicant?

16 All right. Thank you.

17 MR. CUNNINGHAM: Thank you for your time. I  
18 appreciate it. Sorry for taking up, but I -- four  
19 years I needed at least a chance to tell my side of  
20 the story.

21 CHAIRPERSON CALVERT: Understood. All right.

22 Board members, you know, I think it  
23 makes sense to walk through the criteria --

24 COMMISSIONER GRESKA: Okay.

1           CHAIRPERSON CALVERT: -- here and maybe have a  
2 discussion of each if anyone, you know, has any  
3 thoughts.

4                       So there are -- again, there are  
5 several requirements that we have to find to grant  
6 the variation requests in front of us, and I would  
7 like to walk through them.

8                       The first -- and I generally read  
9 these out, I think it's appropriate to do so in  
10 this instance.

11                      So the first is because of the  
12 particular physical surroundings, shape, or  
13 topographical conditions of the specific property  
14 involved a particular hardship to the owner would  
15 result as distinguished from a mere inconvenience  
16 if a strict letter of the regulations were to be  
17 applied.

18                      Do we have any thoughts on that?

19           COMMISSIONER FRY: Yeah. I guess, did you get  
20 an estimate on how much it would cost you to take  
21 that all down? Any idea?

22           MR. CUNNINGHAM: No, sir. I don't want to lie  
23 to you and say I know -- I mean, it's -- you would  
24 have to cut out the steel --

1           COMMISSIONER FRY: You're talking significant  
2 dollars?

3           MR. CUNNINGHAM: -- remove all the electrical.  
4 I mean, there's electric in the top. I think one  
5 of the images has all the actual nighttime  
6 pictures. You would have to dig it all up, remove  
7 the Trex, redo the drainage, the concrete in  
8 there -- to do it properly to make it look  
9 presentable --

10          COMMISSIONER FRY: Well, the reason I asked  
11 that is I consider that a hardship.

12          MR. CUNNINGHAM: Oh, yes, sir. Yeah. I  
13 believe you guys can probably tell me better than I  
14 can. There's -- you would have to get  
15 professionals in to do this correctly so they don't  
16 damage electrical.

17          COMMISSIONER FRY: Thank you.

18          MR. CUNNINGHAM: Yeah, thank you.

19          CHAIRPERSON CALVERT: Any other thoughts on  
20 that particular criteria?

21          COMMISSIONER FUS: No. I agree with you.

22          CHAIRPERSON CALVERT: Okay. The second is the  
23 conditions upon when an application for a variation  
24 are based are unique to the property for which the

1 variation is sought and are not applicable  
2 generally to other property within the same zoning  
3 classification.

4 My thought here -- and I will share  
5 my thoughts -- and that I think that this lot is a  
6 normal size lot. It does not seem to me to be a  
7 particularly unique lot in the Village. And, you  
8 know, my -- I'm a little surprised. Actually, I'm  
9 a lot surprised, and I understand that the  
10 applicant had issues with its builder, but there's  
11 zero setback for this structure. Not three feet,  
12 when the requirement is five feet. You know,  
13 oftentimes we will -- someone will come in and say,  
14 you know, can you give us six inches of, you know,  
15 relief? This is -- you know, there's zero setback.  
16 To me, that's problematic here, and the reason I'm  
17 making that point is because the lot -- the shape  
18 of the lot does not require that. It doesn't  
19 necessitate a zero setback, especially on new  
20 construction, right? And that's what this is. So,  
21 you know, those are my thoughts.

22 Board members --

23 COMMISSIONER FUS: Can I ask him a question?

24 CHAIRPERSON CALVERT: Sure.

1           COMMISSIONER FUS: Was this structure in the  
2 approved set of plans -- building plans or was this  
3 an after thought?

4           MR. CUNNINGHAM: So --

5           COMMISSIONER FRY: Great question.

6           MR. CUNNINGHAM: That's a great question, and,  
7 I'll tell you, we changed the plans three or four  
8 times. So the neighbors on the other side, she had  
9 a problem with the garage. So the garage that the  
10 builder suggested we put six feet on the garage so  
11 we can fit more stuff. Whatever. We followed his  
12 instruction there. So when they did that they  
13 changed the entire structure of the garage because  
14 she didn't want a window looking in her yard, and  
15 he was like, it's approved, Robert said you can  
16 build one. And I said, well, I don't want to be  
17 that kind of neighbor so we changed it all. That  
18 was one time. And we changed it again for the  
19 structure, then we changed it again to put the  
20 windows, then we changed it again.

21                       So that patio that you can see there  
22 that's like the pavers or whatever, this cement,  
23 that wasn't on the original one we did. Yeah, that  
24 was never part of the original. Like the driveway

1 was on there. I mean, we changed so many different  
2 things so I can't tell you one way or the other,  
3 right, the original plans we did, I honestly don't  
4 know. This is -- when I got the plans I said, the  
5 builder is telling me you're good to go, the same  
6 guys are building it, it obviously wasn't, and I  
7 missed it, so that's my fault and I'll acknowledge  
8 that.

9 CHAIRPERSON CALVERT: So to --

10 DIRECTOR VALONE: So, Chair --

11 CHAIRPERSON CALVERT: Hang on one second,  
12 please.

13 To the question from Member Fus here,  
14 we do have an as-built in front of us. It's in our  
15 packet.

16 COMMISSIONER FUS: Here we go.

17 CHAIRPERSON CALVERT: Okay. So this is the  
18 4616 Harvey Avenue as-built approved January 8th of  
19 2021, and this grill is not shown in the as-built.  
20 You can see it highlighted here, it's up on the  
21 screen as well.

22 So I think it's safe to say that it  
23 was not in the initial plans or any of the changed  
24 plans and it wasn't in the as-built either. In my

1 mind, all three of those things are problematic.

2 Mrs. Valone?

3 DIRECTOR VALONE: If it helps, we can provide  
4 just a quick, brief time line of a couple points  
5 that have just been questioned.

6 CHAIRPERSON CALVERT: Please.

7 DIRECTOR VALONE: So the applicant, as  
8 indicated, had quite a lengthy permit process, and  
9 based on a review of the records that we have in  
10 our system, a temporary -- a temporary certificate  
11 of occupancy was issued in November of 2020 upon  
12 completion of the installation of the kitchen  
13 appliances, the overhead garage door, those were  
14 the items that were listed to be completed for a  
15 final.

16 To be clear, the Village has a  
17 minimum building code. So that essentially means  
18 there are minimum standards the Village has to  
19 uphold to. Certain selections of types of  
20 materials are not necessarily something that is  
21 covered under code if they already meet our  
22 minimum. So when the Village is looking for  
23 compliance for building codes and then also for  
24 plans unless there have been changes to the plans

1 over the course of the time, which I think is  
2 indicated. So -- and then as you just read out, as  
3 well, the as-built was submitted in 2021 and  
4 received approval in -- later in the year as well.

5 CHAIRPERSON CALVERT: Okay.

6 All right. Criteria 3. The purpose  
7 of the variation is not based primarily upon a  
8 desire to increase financial gain. Generally we --  
9 you know, we give the applicant the benefit of the  
10 doubt. I don't think that's an issue here.

11 MR. CUNNINGHAM: No, sir.

12 CHAIRPERSON CALVERT: Okay. 4, the alleged  
13 difficulty or hardship is caused by this ordinance  
14 and has not been created by any person presently  
15 having an interest in the property.

16 In my mind this is at issue for the  
17 request. Again, this was new construction. I  
18 understand that the applicant is not a builder and  
19 did not build the house, but the applicant is  
20 responsible for its home, for its contractors, for  
21 its agents, right? We have had situations before  
22 where come in front of this Board many years ago, I  
23 remember, an architect gave the applicant bad  
24 advice, right? And unfortunately, you know, we are

1 responsible, again, for those that represent us and  
2 work on our behalf. You know, a zero setback  
3 seems, you know, obvious to me, but I understand  
4 lay people may not understand that, right? But,  
5 you know, someone knew that that was an issue and,  
6 again, we're responsible for our agents. We have  
7 made the point here throughout my tenure on the  
8 Board, before I was Chair and as Chair, that we  
9 don't want to encourage people to, you know, do  
10 things that violate the code and then come ask for  
11 forgiveness later, you know, especially in  
12 situations where there are newly constructed  
13 structures.

14 So, you know, I don't know that this  
15 criteria is met, but those are my thoughts.

16 I open it to the board for theirs.

17 MR. CUNNINGHAM: Can I ask a question?

18 CHAIRPERSON CALVERT: Sure.

19 MR. CUNNINGHAM: When you say zero setback,  
20 it's not on the property line. I do have a few --  
21 I mean, it's probably six inches, maybe, because if  
22 you look at the fence, but it's not -- it's not  
23 three feet, it's not -- but it's definitely not  
24 even a foot off. It's close. But I don't -- and

1 then --

2 CHAIRPERSON CALVERT: Well let's address that  
3 one first. Okay?

4 MR. CUNNINGHAM: Okay.

5 CHAIRPERSON CALVERT: So I believe that what  
6 we have in front of us refers to there being no --  
7 the structure not being setback at all from the  
8 property line. Let me see if I can find that and  
9 Staff is here as well. Maybe they can speak to  
10 that.

11 MR. CUNNINGHAM: I still have a fence built on  
12 the other side, too, just so you know.

13 CHAIRPERSON CALVERT: Okay. In any event the  
14 requirement of the ordinance, right, I believe here  
15 is you're required to have five feet -- five feet  
16 to an interior side lot line, that's what this is.

17 MR. CUNNINGHAM: I have a question.

18 CHAIRPERSON CALVERT: Hang on one second,  
19 please, sir.

20 MR. CUNNINGHAM: Sorry.

21 CHAIRPERSON CALVERT: And then with respect to  
22 the -- so that's for accessory buildings and  
23 required yards. And then the interior side yard  
24 under 10-6-3(E)(3) is 10 feet. So, you know, maybe

1 it's a few inches off the lot line, but it's not  
2 necessarily close, and I don't believe you're  
3 asking us for -- well, I'll stop there.

4 Staff, do you want to chime in on  
5 this at all?

6 MS. FAWELL: Yeah. So I just wanted to say,  
7 so there are kind of two requests associated with  
8 this.

9 CHAIRPERSON CALVERT: Right.

10 MS. FAWELL: So there is one in our code that  
11 says accessory structures and buildings can't be  
12 closer than five feet to interior side yards, and  
13 then there's another section in the code that  
14 requires this property to have two side yards, so  
15 it's ten feet and five feet. So we take the five  
16 feet from the closest to the minimum, so that's  
17 where it's five feet on this side and ten feet on  
18 the other lot line.

19 CHAIRPERSON CALVERT: Okay. All right.

20 Applicant, did you have one other  
21 point?

22 MR. CUNNINGHAM: No, sir. I think you  
23 clarified that. Thank you.

24 CHAIRPERSON CALVERT: Okay. Thanks.

1 MR. CUNNINGHAM: And I'm not trying to be  
2 contentious. I'm just asking questions.

3 CHAIRPERSON CALVERT: All right. The next is  
4 the granting of the variation will not be  
5 detrimental to the public welfare or injurious to  
6 other property or improvements in the neighborhood  
7 in which the property is located.

8 So just reading from Staff's report,  
9 I believe, it does state that the Village  
10 engineering department has visited the subject  
11 property in response to a complaint from a neighbor  
12 regarding drainage concerns. It was found that the  
13 structure is blocking a designated drainage swell.

14 So that's -- I just want to get that  
15 into the record. We understand the applicant's  
16 testimony with respect to there being no drainage  
17 issues.

18 From a height standpoint I believe  
19 the structure -- and maybe I'll ask Staff to speak  
20 to this because I don't want to state it  
21 incorrectly, but is there an issue with respect to  
22 the height of the grill itself?

23 MS. FAWELL: No. The height complies with the  
24 code.

1 CHAIRPERSON CALVERT: Okay. Board members?

2 No. All right.

3 The next is the granting of the  
4 variation will not alter the essential character of  
5 the neighborhood. These grills are common in the  
6 neighborhood so I don't see that as being an issue.  
7 They are not commonly located in the setback,  
8 right, so there's that issue, but I don't think we  
9 have an issue there.

10 All right. And then the last is the  
11 proposed variation will not impair an adequate  
12 supply of light or air to adjacent property or  
13 substantially increase the congestion of the public  
14 street or increase the danger of fire or impair  
15 natural drainage or create drainage problems on  
16 adjacent properties or endanger the public safety  
17 or substantially diminish or impair property values  
18 within the neighborhood.

19 There's a lot there. I think we have  
20 addressed some of those issues. What stands out to  
21 me is increase the danger of fire, create drainage  
22 problems on adjacent properties or impair natural  
23 drainage. You know, Board, I don't know if there's  
24 any additional discussion regarding those?

1 COMMISSIONER FUS: I don't think so.

2 CHAIRPERSON CALVERT: Okay.

3 MR. CUNNINGHAM: Can I make one comment?

4 CHAIRPERSON CALVERT: Absolutely. Absolutely.

5 MR. CUNNINGHAM: So the same complaint you got  
6 for the drainage was the same person that wrote in  
7 this last time, they have zero complaints on the  
8 drainage just to acknowledge that. It was the  
9 actual gas line. Their drainage is fine. They  
10 understand now the drainage that we put in. I  
11 think the original complaint is we took -- they  
12 came to my daughter's birthday party, saw what the  
13 builder had done back in the yard with the way he  
14 swaled the actual soil, and that's what the issue  
15 was. It wasn't the actual -- we actually helped  
16 the problem when we built this.

17 CHAIRPERSON CALVERT: So I have a follow-up  
18 question, then.

19 MR. CUNNINGHAM: Okay. Yes.

20 CHAIRPERSON CALVERT: Because we have an  
21 anonymous complaint, I understand you may or may  
22 not know who that is, but we don't know who that  
23 is, right?

24 MR. CUNNINGHAM: Sure. Absolutely.

1           CHAIRPERSON CALVERT: Not complaint, but a  
2 letter in opposition. Okay. I think that you're  
3 addressing that particular neighbor and, you know,  
4 saying that once they took a look at this maybe  
5 their, you know, not opposed anymore, but, as I  
6 read just a few minutes ago, the Village engineer  
7 has visited the property in response to a complaint  
8 from a neighbor regarding drainage concerns and I  
9 think -- is it your testimony that that's the same  
10 person?

11           MR. CUNNINGHAM: I talked to him earlier, it's  
12 the same person, yes.

13           CHAIRPERSON CALVERT: Okay. All right. So I  
14 understand your testimony. We don't know that,  
15 right? So I think we just have to use our best  
16 judgment on that point.

17           MR. CUNNINGHAM: And I just wondered, if it  
18 helped, he would -- he was the gentleman earlier I  
19 said that would have no problem --

20           CHAIRPERSON CALVERT: Understood.

21           MR. CUNNINGHAM: Okay.

22           CHAIRPERSON CALVERT: Appreciate that.

23                   All right. Board, any other  
24 questions? You know, we need to take a vote here.

1 Any other thoughts? No. All right.

2 Member Fus?

3 COMMISSIONER FUS: Yeah. I think this is -- I  
4 mean, it's a tough one for me just because it's  
5 clearly a bad contractor, you know?

6 COMMISSIONER FRY: Yeah.

7 COMMISSIONER FUS: You know, if -- if it's  
8 clearly not built, you know, to the ordinance, you  
9 know, it's obviously in the building setback line,  
10 you know, I'm more on the side of approving it with  
11 conditions that, you know, be inspected, right? I  
12 mean, it's -- that's what the code is for, you  
13 know, for the safety and -- but what does that  
14 mean? I mean, that's going to be digging up and,  
15 you know, making sure the electric is to code and  
16 it's going to be -- it's going to be a mess and  
17 expensive regardless.

18 COMMISSIONER FRY: Yeah, that's why I asked  
19 about that.

20 COMMISSIONER FUS: Yeah.

21 CHAIRPERSON CALVERT: Yeah. So -- go ahead.

22 COMMISSIONER GRESKA: You know, this issue  
23 with the expenses has come up a couple times now.  
24 It just seems to me it's not clear from what Staff

1 said how much of the expense has been incurred or  
2 would be incurred after a building that was done  
3 after the notice came in. That seems to be a  
4 little ambiguous as to when the -- do you know what  
5 I mean? I mean, some of the building could have  
6 been after that, and so I don't know if you would  
7 put that in your expense.

8 COMMISSIONER FUS: It sounds like the  
9 structure was there. I mean, if he added -- I  
10 mean, I don't know, I would love to see the photos,  
11 but, I mean, if the structure was there and he  
12 added a TV, I mean, you know, that's what makes the  
13 picture look different, then it's a little  
14 different, right? I mean, it's --

15 CHAIRPERSON CALVERT: Understood.

16 COMMISSIONER FUS: Yeah.

17 CHAIRPERSON CALVERT: So I had two thoughts.

18 One -- and our Village Attorney can  
19 help me out on this, but I believe that strictly  
20 economic or financial concerns are not a basis for  
21 which zoning relief can be granted. Now,  
22 obviously, each board member, you know, we have --  
23 we have a significant amount of discretion, right,  
24 in what constitutes a hardship, but strictly

1 financial concerns don't rise to meet that; is that  
2 correct?

3 MS. SKRODZKI: That's correct in most -- in  
4 almost all cases.

5 CHAIRPERSON CALVERT: Okay.

6 MS. SKRODZKI: As a general rule.

7 CHAIRPERSON CALVERT: So just putting it out  
8 there.

9 COMMISSIONER FUS: Sure. And, to be clear,  
10 I'm not saying -- I'm just saying it's going to  
11 be -- like the way I'm leaning is it's going to  
12 cost money regardless because it's going to have to  
13 be inspected.

14 CHAIRPERSON CALVERT: Yeah.

15 COMMISSIONER FUS: And if it's being run  
16 underground, I mean, there's only one way to look  
17 at it.

18 COMMISSIONER FRY: Yeah.

19 CHAIRPERSON CALVERT: Understood. Yeah.

20 Well, we can take a vote or we can  
21 discuss it a little more.

22 COMMISSIONER FRY: I'm still concerned how  
23 this hasn't been -- wasn't caught somewhere in the  
24 permitting process. Who was inspecting it?

1 Shouldn't have been gone through. That's my  
2 personal opinion. Somebody dropped the ball on  
3 this thing.

4 Now, you're right about all what it  
5 should be and -- but I have a little problem --  
6 maybe I'm wrong, but I have a problem with who was  
7 out there inspecting it and why didn't they find it  
8 and why didn't they correct it?

9 CHAIRPERSON CALVERT: Agreed. I mean, I agree  
10 with that 100 percent. I also recognize that it  
11 was not in the plans, which is not -- I don't think  
12 is an excuse for an inspector not to catch it.

13 That being said from a timing -- this  
14 was 2021 maybe initially. I mean, is COVID an  
15 issue? I don't know.

16 Staff, can you maybe speak to that?

17 DIRECTOR VALONE: Sure. I would like to  
18 clarify again what the time line is.

19 CHAIRPERSON CALVERT: Sure.

20 DIRECTOR VALONE: So the home received a  
21 temporary certificate of occupancy in 2020 upon  
22 completion of the things that were listed, again,  
23 related to installation of kitchen appliances,  
24 installation of the overhead door, they could have

1 been issued a certificate of occupancy.

2           Again, as you read out, their  
3 as-built survey was not submitted until early 2021,  
4 and then was not approved until June of 2021, and  
5 it does not appear on the as-built. An inspection  
6 is required to confirm that the as-built matches  
7 what is on the ground.

8           So, again, I am not sure that the  
9 time line that the applicant has indicated lines up  
10 with the plans we have submitted and as a result of  
11 the inspections. The inspection was -- for the  
12 as-built was conducted by the Village's third-party  
13 engineer, who is no longer with the Village, so I  
14 cannot -- I cannot ask him a questions, but,  
15 generally, again, the timeline shows that the  
16 submittal of the as-built does not indicate that  
17 the structure was there at the time.

18           CHAIRPERSON CALVERT: Okay. That's helpful.  
19 Thank you.

20           All right. Well, you know, I -- what  
21 I will say -- and I would like the Village Attorney  
22 to confirm this -- is that we have to determine  
23 that all of these criteria are met.

24           MS. SKRODZKI: That's correct. In order to

1 grant a variation you have to find that each of the  
2 criteria is met. It's not a balancing test or a  
3 majority, it's the applicant has to meet each of  
4 the criteria that's listed.

5 CHAIRPERSON CALVERT: Yeah. And, you know,  
6 for my Board members' benefit, you know, I  
7 personally don't think that all of them have been  
8 met. You know, I think the applicant -- I  
9 sympathize with the applicant, their contractor and  
10 architect clearly did them a disservice, but I  
11 personally don't think that all of these were met,  
12 but Board members obviously have their own thoughts  
13 on that. Let's take a vote.

14 So can I -- I would like to entertain  
15 a motion to approve the variation request in front  
16 of us with respect to 4616 Harvey Avenue.

17 COMMISSIONER GRESKA: What's the specific  
18 motion?

19 CHAIRPERSON CALVERT: Well, the motion is to  
20 approve the matter. If you do not agree with the  
21 approval of the matter you would -- when I say, you  
22 know, all opposed, you would vote that way. If  
23 you're in favor of it --

24 DIRECTOR VALONE: We will do a roll call vote.

1           CHAIRPERSON CALVERT: Okay. And we will do a  
2 roll call. Correct.

3                         Is that -- are we clear?

4           COMMISSIONER FUS: Clear. I mean, you know,  
5 as it's -- if we're voting as is, I oppose, just to  
6 be clear, but, you know, with -- we have passed  
7 these with conditions in the past, right? So I  
8 would be comfortable with conditions. You know,  
9 obviously with inspections that its -- you know --  
10 you know, it passes the code and that the neighbor  
11 is okay with it, you know, as -- because there's  
12 not a gas line. You know, drainage doesn't sound  
13 like it's an issue per the applicant, but we don't  
14 have that information in front of us.

15           MR. CUNNINGHAM: I would be happy to honor  
16 that if you allow me.

17           CHAIRPERSON CALVERT: So I understand that,  
18 and I appreciate it --

19           COMMISSIONER FUS: Mm-hmm.

20           CHAIRPERSON CALVERT: -- I think, though, if  
21 we were to approve the -- this request, the  
22 structure would still need to be inspected.

23           COMMISSIONER FUS: Mm-hmm.

24           CHAIRPERSON CALVERT: Right?

1 COMMISSIONER FUS: Yes.

2 CHAIRPERSON CALVERT: And any issues with  
3 respect to the gas line or drainage would need to  
4 be remedied.

5 COMMISSIONER FUS: Mm-hmm.

6 CHAIRPERSON CALVERT: So I don't know that the  
7 motion to approve, you know, as requested needs to  
8 be changed. Does that make sense? Because if we  
9 approve it, it still has to be inspected.

10 COMMISSIONER FUS: Mm-hmm.

11 CHAIRPERSON CALVERT: So, in my mind, it's  
12 either a blanket approval or a blanket denial.

13 COMMISSIONER FUS: I guess -- I mean, how is  
14 that -- how is that different from what we have  
15 done in the past with conditions? Like we have  
16 done -- you know, we have approved, you know,  
17 applications in the past with a condition that, you  
18 know, the Village engineer, you know, approves the  
19 drainage.

20 CHAIRPERSON CALVERT: Okay.

21 COMMISSIONER FUS: So I guess how is this, you  
22 know, different from that?

23 DIRECTOR VALONE: So, I think, Attorney  
24 Skrodzki, could you clarify, though, if they need a

1 condition related to a future inspection if the  
2 results were one way or the other on that, how that  
3 would play out related to their recommendations?

4 MS. SKRODZKI: Conditioning on the result of a  
5 future inspection would -- it's a little messy, for  
6 lack of a better term, because if there's not a  
7 straight pass, then it's unclear whether the relief  
8 would have to be rolled back and in what way. So  
9 it's -- it's -- if -- I would suggest that if you  
10 were going to go in that direction that the matter  
11 be preliminarily approved and then the inspection  
12 be done in some time period so that we can come  
13 back and do a final approval before the action move  
14 forward.

15 COMMISSIONER FUS: Okay.

16 MS. SKRODZKI: Because, ultimately, the issue  
17 is this is zoning relief, so it -- in order to  
18 condition it on compliance with the other parts of  
19 the code, the other building parts of the code,  
20 those are two things that don't necessarily  
21 interplay with each other, so if the results of the  
22 inspection were just not uniformly positive, it  
23 would be difficult to tell what has happened with  
24 regard to the zoning relief. Is the zero setback

1 still okay, for example. Do you know what I mean?

2 COMMISSIONER FUS: I do. I gotcha.

3 MS. SKRODZKI: But another -- like I  
4 mentioned, another possibility might be to, you  
5 know, have a conditional approval recommendation,  
6 continue it for some time period, have the  
7 inspection done in the interim, have the result of  
8 the inspection before a final recommendation is  
9 made and the matter moves forward.

10 DIRECTOR VALONE: Also to clarify relating to  
11 the drainage item. The home clearly was approved a  
12 specific site plan that included topography and any  
13 sort of storm water management.

14 Regardless of the drainage complaint  
15 that was received, the structure does, in fact,  
16 block an approved swale. So regardless of the  
17 outcome of this, the applicant will have to show  
18 that he has either reestablished that swale as  
19 approved or he has provided some other plan.

20 So, essentially, as indicated in the  
21 Staff report, engineering plans would need to be  
22 provided regardless.

23 COMMISSIONER FUS: So we're voting as is  
24 presented right here?

1 CHAIRPERSON CALVERT: Yes.

2 COMMISSIONER FUS: Okay.

3 CHAIRPERSON CALVERT: So, at this time, can I  
4 have a motion to approve the variation request in  
5 front of us with respect to 4616 Harvey Avenue?

6 Can I have a motion?

7 COMMISSIONER GRESKA: I thought we were doing  
8 roll call?

9 DIRECTOR VALONE: So we'll need a motion --

10 CHAIRPERSON CALVERT: I need the motion --

11 COMMISSIONER GRESKA: Oh, okay. Okay. I'm  
12 sorry. I'll make that motion. I'm so sorry.

13 DIRECTOR VALONE: So Greska was the first and  
14 then is there a second?

15 CHAIRPERSON CALVERT: Is there a second to  
16 that motion?

17 COMMISSIONER FUS: For the roll call?

18 CHAIRPERSON CALVERT: For the roll call.

19 COMMISSIONER FUS: Oh, I'll second that, yeah.

20 DIRECTOR VALONE: All right.

21 So, Commissioner Burtker?

22 COMMISSIONER BURTKER: I vote to approve.

23 DIRECTOR VALONE: Fry?

24 COMMISSIONER FRY: Approve.

1 DIRECTOR VALONE: Fus?

2 COMMISSIONER FUS: I'm going to have to oppose  
3 it.

4 DIRECTOR VALONE: Greska?

5 COMMISSIONER GRESKA: Oppose.

6 DIRECTOR VALONE: Johnson?

7 COMMISSIONER JOHNSON: Oppose.

8 DIRECTOR VALONE: And Chairman Calvert?

9 CHAIRPERSON CALVERT: Oppose.

10 All right. So that is four opposed,  
11 two for, the opposed carries today. So this  
12 application has failed to pass. All right. I  
13 think that is the conclusion of this matter.

14 Can I please have a motion to close  
15 the public hearing with respect to 4616 Harvey  
16 Avenue?

17 COMMISSIONER GRESKA: I'll make that motion.

18 CHAIRPERSON CALVERT: Is there a second?

19 COMMISSIONER FUS: Second.

20 CHAIRPERSON CALVERT: All in favor?

21 (Chorus of ayes.)

22 DIRECTOR VALONE: And we need a motion to  
23 finalize the findings of fact to provide to the  
24 Chairman for his signature.

1 MS. SKRODZKI: Yes.

2 CHAIRPERSON CALVERT: All right. Can I have a  
3 motion to approve the findings of fact to be  
4 presented to me for a signature?

5 COMMISSIONER GRESKA: I'll make that motion.

6 DIRECTOR VALONE: Second? Is there a second?

7 COMMISSIONER FUS: Second.

8 DIRECTOR VALONE: Was that you, Jeff?

9 COMMISSIONER FUS: Yeah.

10 DIRECTOR VALONE: Thank you.

11 CHAIRPERSON CALVERT: All in favor?

12 (Chorus of ayes.)

13 CHAIRPERSON CALVERT: All right. The ayes  
14 have it.

15 Okay. That matter is done. Thank  
16 you very much. Applicant, thank you for --

17 MR. CUNNINGHAM: Appreciate your time.

18 CHAIRPERSON CALVERT: -- presenting to us. I  
19 hope you understand that we debated it robustly.  
20 We gave it --

21 MR. CUNNINGHAM: It's not a personal thing. I  
22 just -- I needed my chance.

23 CHAIRPERSON CALVERT: All right. Understood.

24 COMMISSIONER FRY: Good luck.

1 MR. CUNNINGHAM: Am I free to go?

2 CHAIRPERSON CALVERT: All right. Do we have  
3 any new business to discuss?

4 DIRECTOR VALONE: No.

5 CHAIRPERSON CALVERT: No. Okay. Seeing that  
6 there is nothing left on our agenda, can I please  
7 have a motion to close today's meeting?

8 COMMISSIONER GRESKA: I'll make a motion to  
9 close it.

10 CHAIRPERSON CALVERT: Is there a second?

11 COMMISSIONER FRY: Second.

12 CHAIRPERSON CALVERT: All in favor?

13 (Chorus of ayes )

14 CHAIRPERSON CALVERT: The meeting is closed.

15 Thank you.

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1 I, Hailey M. Schoot, CSR, RPR, being  
2 first duly sworn, on oath says that she is a court  
3 reporter doing business in the State of Illinois; and  
4 that she reported in shorthand the proceedings of said  
5 meeting and that the foregoing is a true and correct  
6 transcript of her shorthand notes so taken as aforesaid,  
7 and contains the proceedings given at said meeting.

8  
9  
10  
11 Hailey Schoot



12 Hailey Schoot, CSR, RPR

13 Illinois CSR License 084-004897  
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