DRAFT

VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
January 22, 2013

Members present: Fricke, Holdren, Williams, Loomis
Also present: Himes, Chess, Newell, Patton, Edwards, Byron, Lannon

The meeting was called to order at 8:00 p.m. by Chairman Wade Fricke.

ORGANIZATION

Mr. Fricke opened nominations for Board of Zoning Appeals Chairman. Moved by Mr. Williams, seconded by Mr. Holdren that Mr. Fricke serve as Board of Zoning Appeals Chairman. Carried. Ayes: Williams, Loomis, Holdren. Abstain: Fricke. Nays: None. Moved by Mr. Williams, seconded by Mr. Holdren that the nominations for Board of Zoning Appeals Chairman be closed. Carried. Ayes: Williams, Loomis, Holdren. Abstain: Fricke. Nays: None.

Mr. Fricke opened nominations for Board of Zoning Appeals Secretary. Moved by Mrs. Loomis, seconded by Mr. Holdren that Mr. Williams serve as Board of Zoning Appeals Secretary. Carried. Ayes: Fricke, Holdren, Loomis. Abstain: Williams. Nays: None. Moved by Mrs. Loomis, seconded by Mr. Holdren that the nominations for Board of Zoning Appeals Secretary be closed. Carried. Ayes: Fricke, Holdren, Loomis. Abstain: Williams. Nays: None.

APPROVAL OF MINUTES

Moved by Mr. Williams, seconded by Mrs. Loomis that the minutes of the meeting held December 18, 2012 be approved. Carried. Ayes: Williams, Loomis, Fricke, Holdren. Nays: None.

ORANGE & MAIN LLC, 22 WEST ORANGE STREET - AN APPEAL TO THE DECEMBER 18, 2012 DECISION OF THE ARCHITECTURAL REVIEW BOARD, PERMANENT PARCEL NOS. 931-12-024, 931-12-025, AND 931-12-026.

Mr. Fricke said this application has been withdrawn and will not be heard by the Board.

SWEARING OF WITNESSES

All were sworn in.

Mr. Fricke said there are only four members on the board right now. Our code requires an affirmative vote of three members of the board to approve a motion. You will need three out of four of those in attendance tonight to vote affirmatively. The applicant agreed to move forward tonight.

RIVERWALK AT CHAGRIN FALLS, WEST ORANGE STREET - REQUEST FOR A VARIANCE TO SECTION 1125.03(e)(f)(g)(j), AREA, YARD, AND HEIGHT REGULATIONS: MAIN BUILDINGS, AND SECTION 1125.04(b)(1)&(3), AREA, YARD, AND HEIGHT REGULATION; ACCESSORY STRUCTURES, PERMANENT PARCEL NOS. 931-12-018, 931-12-019, and 931-12-020.

Mr. Fricke said I have lived in Chagrin now twenty years and I don't know that I recall a more controversial project going back all the way to the acquisition of the property by the village, the sale of the property, and a couple passes at variances. I get that, we all get that. I think where we are today there have been some unfortunate developments in the state of the property. I think everyone in this room wishes that perhaps some things had gone differently. There is litigation on going that I understand. There has been other litigation initiated. I want to emphasize that what has happened is unfortunate. We are not here tonight to go back through the litigation or raise issues that have been discussed. That will be addressed by other parties. I just want to make sure that we are here for all the right reasons, which is to review an application that has been submitted. The question is whether the applicant meets the standard that is set forth in our code for practical difficulty that would allow the applicant to get certain variances.

Mr. Fricke said the petitioner gets to make a presentation, the board will ask questions of the applicant, and anyone in the audience who would like to speak can do so. We ask that the audience direct their questions and comments to the board.

Mr. Himes said the previous variances were granted in October of 2009. There were various variances for building height, hillside ordinance disturbed area, lot coverage of main buildings, driveway coverage, shared driveway, and rear yard setback. Three buildings of Phase I have been constructed. Those are on the parcels that were not hillside lots. The hillside variance that you granted had conditions requiring the applicant to submit geo-technical investigation and engineering reports for approval by the Village Engineer. Phase II has been redesigned in part due to some of those engineering challenges and requirements by the Village Engineer. Our code requires that changed conditions vacate or withdraw the previous variance approvals. So the developer is now proposing three single-family units where three duplex units had previously been planned. The western most unit had been rotated 90 degrees to be parallel with Orange Street and this new plan has the following variances that are required for it to be built.

Mr. Himes said Section 1125.03(j) of our code sets a height limit if 35 feet and the applicant is requesting 46 feet. That is the same as previously granted. Section 1125.03(b) & (c) deal with lot width. The code requires a lot width of 50 feet and unit number 44 has a proposed lot width of 44 feet. The lot widths were adjusted under the previous design and they are currently 56 feet and 54.9 feet for sub lots 4, 5, & 6. Those are the last three lots from east to west. Section 1125.03(f) of our code is the front yard setback. The requirement is 30 feet and unit 48, or the furthest west most unit, has a proposed setback of 11 feet. Section 1125.03(g) of our code is the required side yard. The code requires a 3 foot side yard setback. The west most unit is proposing a 1 foot side yard setback on the interior lot line or the eastern lot line. Section 1125.04(b)(1) of our code requires that each

dwelling be served by a separate driveway. The applicant is proposing to have a shared driveway for all these units. That is the same as the previous plan. Section 1125.04(b)(2) is driveway coverage of the front yard. The code limits that coverage to 25%. Units 44 and 46 have proposed front yard coverage by the driveway of 90% and 86%.

The variance to the disturbed area restriction of the hillside ordinance that was previously granted has essentially been used at this point. The lots have been disturbed and re-graded. So that variance goes with the land and will continue along with the conditions for geotechnical investigations and review that are still in effect. Despite the appearance that not a lot has gone on over the past three years, there has been quite a bit of activity.

Mr. Himes said in October of 2009 the variances were granted for the 6 units with the geo-technical review and investigation. Mr. Fricke said at that time we were talking about 5 duplexes and 1 single residence, weren't we? Mr. Williams said that is correct. Mr. Fricke said it was single-family units on the east end, as I recall. Mr. Himes said it was the western end.

George White, 77 West Cottage Street, asked in granting those original variances for the 6 units and requiring the geo-technical study and review, the first three units or the Phase I units were not part of that geo-technical study? Is that right? Mr. Himes said correct, those were not hillside lots. They were less than 12% slope. Mr. White asked, the variances for the geo-technical were just this second phase? Mr. Himes said right.

Mr. Himes said in November of 2010 the developer's geo-technical soils engineer, Professional Services Industry (PSI), submitted a soils report and associated wall design that were rejected by the village's geotechnical engineer, EDP Geo-sciences. PSI disputed EDP's findings that the study was inadequate and insisted that their report was adequate for the wall design. There was a heated debate over this issue and to resolve it the Village and developer agreed to hire a third party geo-technical engineer. In December of 2010 we hired Lynton Price to review the soils report and settle that dispute. Lynton Price agreed generally with the Village's geotechnical opinion.

In June of 2011 PSI revised the Phase II soils testing plan and that was approved. Shortly thereafter, in August of 2011 PSI walked away from involvement in the development. The developer sought another geotechnical firm and ended up hiring Paul C. Rizzo and Associates out of Pittsburgh. The Village reviewed and approved the testing plan developed by Rizzo and shortly thereafter instrumentation was installed on the hillside to commence testing.

In November of 2011 the village's engineer requested temporary stabilization installation on the hillside pending the final stabilization plan and those measures were installed. In July of 2012 the developer submitted retaining wall plans designed by a Midwest Foundation tech and the Village review found some inadequacies and returned comments to the developer. In October of 2012 a redesign was submitted to you for variances and subsequently a continuance was requested, which brings us to this meeting. The applicant has redesigned again to accommodate the retaining wall and submitted these variances to you for your consideration.

Mr. Himes said preliminary engineering calculations have been submitted to the engineer for a retaining wall design. Mr. Fricke asked, what is the area of the retaining wall? What area are we talking about on the site? Mr. Himes said it is immediately behind the three units that are proposed on the north side of those units and then wraps around the west end of the last unit.

Mr. Byron said the code doesn't allow for a change in the variances that were granted unless there is a change of circumstance and that is what is being presented here. Then you are on to the question of the reasons for granting variances understanding that many of these same variances that are being requested now have been granted before.

Robert Vitt said if you recall when we were here originally here there were five duplexes similar to those in Phase I and one single unit. He said in Phase I we obviously had variances on lot width. As we got into the issues with respect to the hillside, I have to state that there have been at least four, maybe five geo-techincal engineers that have reviewed, critiqued, tested, whatever on that hillside. We had many differences of opinion as to what the issues were, if any, and what the solutions were. In essence those controversies between the various geotech consultants delayed us to the point that we are here today. It was that information that came from the geotechnical engineer's exercises that drove the design development of Phase II. At one time we contemplated not having a Phase II and the engineers looked at what would have to be done, if anything, to the hillside if we didn't build beyond the first phase. My development company decided that we wanted to complete the project in a reasonable manner taking into account how to best address the hillside issues which drove us to this configuration with three single units. It permitted us to do a couple of things. Originally we had a building sitting in the north west corner, which required the deepest retaining wall. By turning a unit 90 degrees it allows room for tie backs necessary to support the wall. The wall is not shown on this drawing because this drawing is strictly addressing the specific variances. The two work in conjunction with one another.

Mr. Vitt said the specific variances that we are requesting on unit 44. The lot requirement is 50 feet for a single unit versus if we were building a duplex it would be 60 feet. We are requesting 44 feet. Even though we are requesting 44 feet, which is a variance of 6 feet, we are still maintaining the same side yards as we had in Phase I. So you will see we are 6 feet from the sub lot with unit 42 and the same thing on the other side. And that is really what has dictated the width of that lot. We have 6 foot side yards plus the width of the unit. That is where the 44 feet came from. That is one variance on the width. Lot 46 does not require a variance on lot width, it is 50 feet. The other unit that requires several variances is unit 48. There are three because there is also a height variance that we are asking for all of these buildings. The one is the 1 foot side yard and that requirement is 5 feet but because of the orientation here we are still maintaining the same 12 feet. So even though we are asking for a variance on the side yard here, we are really maintaining the same separation as if we had a standard size lot. I guess we could have asked for a variance on the lot width of 46 and maintain the 6 foot side yard and maintain the 6 foot side yard here without a variance. So we just traded out variances.

We could have possibly pushed this building further west but again this is part of our desire to

maintain a maximum distance from the west lot line to permit an appropriate grade going to the parcel to our west. This building was turned 90 degrees to stay off this hillside but also to form a buttress. If you recall when we built the first phase, the entire first level of these units is a very heavily reinforced structural concrete wall. That is a secondary hillside retention. You will see on a later drawing the primary retaining wall.

In Phase I the structural engineer designed the rear wall of the building to retain the forces of the land behind it but in addition to that we did build a wall. So in this case the primary wall is the wall of the building, the secondary wall is the one behind it. On the west end it is reversed. The secondary wall is actually the first floor of the building and the primary wall is the retaining wall. The front yard variance is 19 feet because a front yard setback in this zoning area is 30 feet. We did a drawing to show the setbacks of the adjacent structures in this area. When we turn this building to stay off this hillside and form this buttress and that also gave us a sense of enclosure at the end of our development. In the original development we actually had an entrance drive at the west end of the complex and it came out on Williams Street. We always had a concern about site lines and issues with traffic. When we began this process of redesigning Phase II we decided that we would access the site from Williams Street come in and have a turnaround and we have a 44 foot diameter turnaround at this point. So you'd come in and turn and exit on to Williams Street. So we no longer have a curb cut or entrance on this west end of our development. Architecturally by turning the unit also it gave us kind of a sense of closure on the end of the project. You will notice across the street the buildings that are illustrated, two buildings are sitting right on the property line. We are asking for a variance of 19 feet to an 11 foot setback so we are sitting 11 feet to the north of the right-of-way. Those are the variances on the front yard, side yard, lot width, and also the amount of paving on the front yard. We have a substantial amount of paving in the front for obvious reasons.

Mr. Vitt said there is no need for a rear yard setback variance on any of the buildings in Phase II. The other variance is height. They are actually about a foot shorter than these buildings but as you see in this illustration they step up the hill so even these buildings are a foot shorter than Phase I because they step up the hill. So we are asking for a variance on the height similar to the variance that we had on Phase I. This shows the buildings drawn to scale at their proposed first floor height to show the roof height in relationship to Phase I.

Mr. Vitt said we were asked to do a calculation on site coverage but there is no variance required because as you see lot coverage on 44 the zoning requirement is a max of 27% and we are 26%. Lot 46 the zoning is 27% and we are 22%. 48 is a very large lot, 27% again and 19% is the coverage.

Mr. Vitt said when you first look at this slope your first inclination is that is runs north/south to West Orange from West Cottage. Actually it doesn't. This portion of the hill is on a bias so it is running somewhat from the northwest to the southeast. The retaining wall has a dog leg in it addressing that angle of the slope. The primary wall would be approximately 30 feet deep, but it has earth anchors that are going back at a 30 degree angle. The wall is going to be an augured and grouted soldier pile wall with flagging panels and tie backs.

We looked at a lot of different ways to build a retaining wall. Paul Rizzo Associates' credentials are substantial. They have done the engineering calculations to determine the design and location of this wall. They also looked at what we would have to do to the hillside if we did not build Phase II. It doesn't even require a wall if we don't build Phase II but it does require some earth work remediation. One of the things that we have mutually agreed to with the Village engineers is that we have an obligation to achieve a slope stability factor of 1.0 and up. There is a science to determining a slope stability factor of any piece of land. Between the city's engineer and our engineer I think we have a mutual agreement that the original hillside before we did anything was a 1.0 and that is the objective. The advantage of building Phase II is that I won't build a project on a 1.0. Before we bought this piece of property we hired PSI and they did a slope stability factor analysis of this site and the number was simply higher that 1.0. After much debate on the analysis they abandoned that position. Unfortunately we had acquired this piece of property based on that information and now we are obviously doing additional engineering to go back to square one and determine what was the slope stability factor before anything was done on the hillside. That is ultimately what we have to end up with. I will not build a project of this type without elevating that safety factor to a higher number and through discussions with Paul Rizzo Associates we have agreed that if we had to achieve a 1.3 slope stability factor that that would be the design criteria for the wall. That is essence is what is being proposed. 1.3 is a substantial improvement over the 1.0 that existed prior to even my acquisition of that site. The detail specifics of the wall have yet to be ironed out because Paul Rizzo Associates is trying to work closely with the Village's engineers and their outside geotechnical consultant to mutually agree on the analysis of the hillside and the factors that are necessary to design the wall. We don't have those details yet. Really they are somewhat driven by what happens in the course of this meeting today because the configuration of the buildings in this Phase II are integral to the design and placement of the wall. The wall is approximately 180 feet long, not including what was built in Phase I. We obviously didn't have the hillside forces in Phase I. The Phase I wall was really more for the purposes of safely pouring the concrete walls of the structures versus any function to retain any hillside.

Mr. Fricke asked, can you please speak to your desire to have three single units as opposed to any other configuration there? Mr. Vitt said I could have done a duplex here. It would have been more difficult to turn a duplex because of the width. This gave me a narrow width to pull as far as I could down the hill but still give me this secondary retaining wall. I could not do a duplex here, a single really worked here. I could have put these two together and done a duplex there. Mr. Fricke asked, is there a reason why you didn't do that? Mr. Vitt said we already have six duplexes in the first phase. I've had a number of people that have asked how single units I could possibly put in the development. So I've had interest in single units. There are some people who can't share a wall in a duplex. Whether that is a duplex or two singles is probably more of a marketing decision.

Mr. Fricke asked, have you looked at what you can build if you were given no variances? Is there a worse case scenario or is it literally just build nothing? Mr. Vitt said we would probably do nothing because then I wouldn't have to build a retaining wall. It is the economics. Rizzo said if I don't build Phase II, if I were to terminate the project. We did submit a drawing where we did have a turnaround right at the end of Phase I. We came close to saying we weren't going to build Phase

II and it just kind of bothered me in that the project looked interrupted. It did not look complete and we thought we could do even more on the hillside by developing more and more for the hillside if we developed that second phase.

Mr. Fricke asked, what would happen if you didn't develop the second phase? Would it just be landscaped and be a hill or would you look to sell it to someone? Rizzo said we would grade it out and plant Crown Vetch, which is a wild Honeysuckle plant that is used as erosion control along most American highways. Mr. Fricke said if I am hearing you correctly, if you do any construction in Phase II whether it be a single unit that will still necessitate the building of a retaining wall and the cost of the retaining wall is such that building a single unit is not feasible? Mr. Vitt said I guess technically I could divide this into three fifty foot lots but the question would be whether or not three owners buying a single-family lot would get together with the neighbors to build a retaining wall. To build anything on the site you need to build a retaining wall because you have to have an excavation. Even if the unit was designed with a foundation that could withstand the forces, as soon as you begin to excavate on that hillside you need some form of either temporary retaining wall until the structure is built or you put in a permanent retaining wall. Then it is economics. If I were to sell a lot to someone the probability that there would be a unified theme architecturally is probably slim to none. What this does is it insures that even though these are single units architecturally they would be similar materials and similar architectural design details so that it would look like a neighborhood. It makes most sense to do it as a single project. Rather than building one at a time we would build all three simultaneously to complete the streetscape.

Mr. Holdren said there was an original design for a retention wall. Did it have that angle to it? Mr. Vitt said it did not have that angle to it. But it also was designed using a geotechnical report done by PSI that was challenged by the Village geotechnical firm. It was a schematic design of a wall based upon a geotechincal report that we are not using today.

Mr. Williams asked, is there a benefit to following the topography, the angle of that wall and this new design with increased slope stability? Mr. Vitt said yes.

Mr. Fricke said, you said EDP is continuing to work with Rizzo, there is no finality to this yet? Mr. Vitt said Rizzo has submitted his engineering calculations based on a hypothetical wall, which is a driven sheet pile wall. Essentially the same calculations will be used regardless of the type of wall. We have looked at soil nails, soldier pile and there are a couple other different types using cast caissons. Each one of them has unique construction issues. With some of these concepts you have to be able to build a road on the side of the hillside to take a large piece of equipment. Some of the solutions that have been proposed by the engineers have come back to us and we have gone to our contractors who do this work and they say it is great on paper but it physically is not possible to do on that site. We kind of backed into a methodology that will work on this site and that is also facilitated by that angle. There is a duel benefit of that angle. Now it appears that we ruled out sheet piling. When ever you drive sheet piling there is vibration so we would have to monitor every adjacent structure. That eliminated driving soldier pile, which is a large H-beam driven into the ground with a pneumatic hammer. Now we are really looking at the methodology where you place

the soldier pile, the H-beam. This is before you do any excavation on the hillside other than an access road and then you fill a hole with concrete and then you begin to excavate a section of the hill, slices of the hill. An earth anchor is a 6 or 8 inch diameter hole drilled on a 30 degree angle down through until they reach a ceratin point of resistance determined by the engineer. This wall begins to function as if it were 50 feet thick because you are tying this all together. That is what is necessary to get to a factor of safety of 1.3. If I want to get to 1.1 it becomes much simpler and there is nothing in the book that says I can't build on a site that has a slope stability factor of 1.1 except it doesn't meet my company's standards.

Mr. Holdren asked, the 1.3 you are referring to, that is with the dual structure the wall and the foundation. Mr. Vitt said this wall at 1.3 will stand without the benefit of the secondary one. Mr. Holdren asked, so you put that wall in there and it will be at 1.3 even if there are no houses? Mr. Vitt said correct. He said because of the litigation involved in this, everybody's safety factors have been rammed up. I could build that to 1.1 but 1.3 would be a much higher standard. The structural engineer who will design the foundations for these, he will have his own redundancy in there.

Mr. Williams said the two engineering firms, yours and the Villages, are now talking about the wall design and the engineering behind it around this 1.3. This 1.3 safety factor that you are designing towards, so are they in agreement on the macro design and now it is a questions of execution of what the final design is going to look like? Mr. Vitt said it is possible that the data that was provided to Tim Lannon may have been for the initial design of the 1.1.

Mr. Fricke said what is interesting here is the 800 pound gorilla in the room is this retaining wall and what is happening with the hill but that is not really our issue regarding the variances. Our issue is whether your request for variances meet the practical difficulty standard of the code. But I think this is great information that is helpful to all of us.

Tim Lannon, CT Consultants and Chagrin Falls Village engineer, said one important factor is there is a base line study of the hillside. It includes at least 6 soil borings, analysis of those soils, and that testing was done by Rizzo in August of 2011. The requirements of that study were agreed to before hand. EDP is a sub-consultant to me and Rizzo agreed to that basic study parameters. So the results of that study are the basis for the slope stability analysis for the various solution that we are talking about today. That soils study showed the preconstruction slope stability factor of safety was a 1.0 plus or minus, which you would expect. 1.0 is a slope that is balanced. It could on the verge of collapse with an earthquake or a change in ground water conditions. So, any slope you see that has some slumping or trees that are growing at odd angles or are bowing because they have slipped and now they are trying to grow back vertical would be a classic slope at a 1.0. This slope was studied and the determination was it was at 1.0. The slope after some of the work that has been done is slightly less than what is was before construction began. Still it is at that 1.0 mark. Dwelling on the factor safety is another geotechnical term that has some variation to it depending on who is looking at it.

A wall that is designed to a factor safety of 1.3 using a soils study with a minimum amount of

borings is not the same as a wall designed to a 1.3 that has a more rigorous background study. The factor safety of 1.3 can mean different things depending on the amount of soils analysis that has gone into it. In this case there has been a rigorous study so something in the range of a 1.3 to a 1.5 probably will be considered appropriate for this situation. There is nothing in the Village code to require this. Our hillside ordinance does not consider technical issues on how to study the stability of the slope. Depending on slope of a lot, the code just restricts the amount of land that can be disturbed, which may or may not have anything to do with the stability of a lot. It talks about the aesthetics of the hillside, which again mean nothing for the stability. That is something that the Planning Commission is looking at to revamp that ordinance.

Slope stability was addressed in this case with the first variance. This board came up with the clause that reduce the coverage limitations if there was a engineering study to determine the stability and protect surrounding properties as well as the property itself. We are still following that clause.

Mr. Fricke asked, so you have not fully opined on the proposal by Rizzo? It is a new proposal, this 1.3 slope stability? Mr. Lannon said correct. We received conceptual design calculations last week for a sheet pile wall with lagging. That general concept was discussed with them ahead of time. It is a legitimate concept for a wall but they are not just going to design a wall and put all that effort in to that not knowing whether it is the appropriate solution from a constructability standpoint and from the Village review standpoint.

Mr. Fricke asked, any idea how long it will take you to complete your analysis? Mr. Lannon said we have a conceptual study and we have some questions that go along with it but they may not apply knowing that there are additional calculations on the way. But that is something that would be less than a month.

George White asked several questions, that were answered, about the slope retention system and the geotechnical study data.

Valerie Bertsch, 97 Williams Street, said that the hill is already unstable and is most likely still moving and digging more out to put up a wall will make it even more unstable. Mr. Vitt said all hillsides move or creep. He asked Mr. Lannon is that is correct? Mr. Lannon said that is a fair assumption. Mr. Vitt said the question is whether or not this is creeping within the norm or beyond the norm and that has been nothing in the reports that state that it is creeping beyond the norm.

Mrs. Manley, 61 West Cottage Street, asked about the Rizzo report and what information it is based on. Mr. Fricke asked, is the Rizzo study based off of data that is from February of 2012? Mr. Vitt said I would assume it is from data accumulated in 2012, correct. She said there has been a lot of change in the hill since February of 2012. Mr. Lannon said the soils report determines several things, the types of soils and the nature of the soils. These things are not going to change overtime. It checks for water table elevation that will fluctuate seasonally. Moisture content of the soils could also change. This study included monitoring water level and also install slope. Inclinometers were also set to measure potential change in the slope at various depths over time. So those are the

readings that were taken and at some point the instruments will no longer be active but as long as they are active they are still providing good data. The basics of that study are good for the time period we are talking about for design.

Mike Chess, 51 West Summit Street, said the Rizzo study I think they are referring to is January 13, 2012. On page No. 10 it talks about slippage and slopes stability analysis. Mr. Chess asked who will own the wall? Mr. Vitt said the Condominium association.

Mr. Fricke asked, what is the projected life of a wall like this? Mr. Lannon said that is some of the discussion that has been taking place.

Jim Weingart, 55 Greentree, said a lot of mistakes were made in granting the previous variances on this project. He spoke in opposition to the granting of these variance requests.

Mr. Fricke said I mentioned that the retaining wall situation really doesn't directly impact the decision to decide on the variances but I am wondering since it seems so obviously connected whether it makes sense to table our discussion to have the engineering folks come up with a final recommendation. It is relatively newly submitted to you Tim and I am just wondering out loud to the board whether it makes sense to table the discussion on the variances until we have some conclusion from the engineering folks.

Mrs. Loomis asked, if the information comes back different from the engineerand we passed a variance tonight, couldn't it change of circumstances of the variance? I am wondering if that might be a good idea to table it. Mr. Fricke said I don't think it changes the request for the variances but it might make one more likely to say no if you were not convinced that the retaining wall was going to be effective. I don't know if we can even consider the retaining wall with respect to the variances.

Mr. Byron said the applicant has put before you the request to build three structures or leave things pretty much status quo with some earth work that would buttress the slope. We do not have any design detail. If you were to table it and the engineers reached a conceptual agreement, then they could move on to the design phase and they would have the total cost, and they would know the economic feasibility of the project. I think, by tabling this now, you get some additional data relative to the whole picture, the whole variance request, practical difficulties, the impact on the neighborhood, and all of that and get a little additional time. It is discretionary with you as to whether you do that and I would also consult with the applicant.

Mr. Vitt said I can't even begin to tell you the cost of designing these systems; it is huge numbers. If I go to the expense of designing the wall and then I don't get the variances It doesn't make any sense. If I am given the variances and I design a wall then I have the ability to recapture that. At the same time, if you approve the variances and I design the wall and it comes back that they can't mutually agree on the design to achieve the 1.3 then that is my problem.

Mr. Byron asked, would you be agreeable to having a variance if the variance were to be granted and

a condition of the variance was the design of the wall that the engineer determines to be 1.3? Is that a relief you are requesting? Mr. Vitt said correct. Right, because then the burden is on the engineers to come up with a design to achieve the 1.3. That way I can justify the expenditure of money to pay for the additional engineering. But to spend the money and then come back and say well, we are not going to give you the variances then I spent all that money for nothing.

Mr. Byron asked, is there a possibility that the engineers would reach a closer conceptual agreement than you are now with the current data? Mr. Lannon said yes. Mr. Byron said it sounds to me like there could still be some further development on the conceptual level before the big design dollars are spent and that might be helpful to the Village. We'd like to do that and the Village Engineer is thinking it may be possible but we don't have clear conceptual agreement.

Mr. Fricke said I personally would feel better about making a decision if there was some consensus between the Village Engineer and Rizzo on the right way to go and whether a 1.3 stabilizing factor is appropriate.

Mr. Williams said it seems to me that the interests of the neighbors up the hill and the future neighbors down the hill are mutually aligned. The neighbors down the hill certainly don't want a hillside coming down in the back of their new homes and the neighbors up the hill certainly don't want the hillside to slip any further wether anything is built there or not. So it strikes me that the interest of everybody, both future and present, is to have some system that is going to stabilize the hillside in a more permanent fashion than it is now. I think this is where the expert engineers on both sides have to tell us what it is going to take in order to accomplish that whether it is putting the hillside back to a natural state or doing something more aggressive with a retaining wall that exceeds the current stability of the slope now. It strikes me that if we reach some kind of consensus based on the input of these various experts that the interest of both sides are going be served in this. I don't think anybody is in disagreement of what the overall objective is. The question is how do we get there?

Mr. Williams said I still have an open question as to exactly how much discussion remains to be had regarding the data and the recommended standard for the design of the wall.

Fricke asked, Tim, does more time get you time to do anything different than where we stand today? Mr. Lannon said not with the information I have. Right now I have a conceptional design and is not the current plan. It is a concept that is one step behind. I don't have a specific plan to restore the site as it is without a retaining wall and buildings.

Mr. Fricke asked, if we were to table this, is giving you a month give you value to do what Mr. Vitt is suggesting, an opportunity to talk to Rizzo, to look at the data, and to concur the data is accurate? Mr. Lannon said yes, absolutely.

Mr. Fricke asked, Mr. Vitt, if we are inclined to table for a month so that Rizzo can talk with the Village Engineer, do you object? Mr. Vitt said you can table for a month. I will submit both plans.

I will submit a plan for 1.0 factor of safety, our baseline if we do nothing, and a 1.3 with a retaining wall. It won't the actual design wall but it will be basically the data because obviously until the variances I don't want to go into the process of designing the specifics of the 1.3 wall. But, at the same time, by submitting simultaneously the 1.0 if I don't get the variances we have that in place and I can begin to implement because I am running out of a time frame weather wise and to stabilize and do whatever work on that hill come April so we area already approaching the first of February. From a standpoint of another month if I submit both the 1.0 and the 1.3 if I don't get the variances I can move forward with the 1.0 assuming your engineer and our engineer are on the same page as how to achieve that.

Mr. Holdren said the 11 foot variance building 6, I haven't heard a reason why it has to be that close to the road. I just wonder if you can comment on that. Why can't it be pushed back closer to the wall? I know that the wall is there and that is why you have it up further. Mr. Vitt said I could make it 12 feet, 13 feet but it really is to get access to the garage. Mr. Holdren asked, it is an appearance thing so you want those lines all in a row? Mr. Vitt said it is giving access to the garage and also that when you pull out of one garage you don't back into the garage door of the unit next to it. It is the geometry of the configuration of the two garage access points.

Mr. Fricke said we did receive a letter from the fire chief stating that he had no problem with the design as proposed. Mr. Himes said right, he reviewed the site plan and didn't see any problem with fighting fires there.

Moved by Mr. Williams, seconded by Mrs. Loomis to table the applicant's variance requests for one month pending further discussion between the Village's engineer and the applicant's engineer regarding the data involved in the hillside stability factor.

Williams: Aye.

Loomis: Aye.

Fricke: Aye.

Holdren: Aye.

The meeting adjourned at 9:59 p.m.

DRAFT

Wade Fricke, Chairman
lgb