

ORIGINAL

State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

RECEIVED
CLERK'S OFFICE

MAY 09 2008

STATE OF ILLINOIS
Pollution Control Board

In The Matter Of:)
)
Anne McDonagh & David Fishbaum)
1464 Linden Avenue)
Highland Park, IL 60035)
)
Complainants,)
v.)
)
Richard and Amy Michelin)
1474 Linden Avenue)
Highland Park, IL 60035)
)
Respondents.)

PCB 20 08-76

NOTICE OF FILING

TO: Anne McDonagh and David Fishbaum
1464 Linden Avenue
Highland Park, IL 60035

PLEASE TAKE NOTICE that on May 9, 2008, the undersigned filed with the State of Illinois Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601, a copy of Respondents' Motion to Dismiss Pursuant to 415 ILCS 5/32(d) of the Illinois Administrative Code and 103.212(b) of Title 35, Chapter 1, Pollution Control Board, a copy of which is attached hereto and served upon you.

Elliot Wiczer es

CERTIFICATE OF SERVICE

I, Elliot S. Wiczer, an attorney, on oath state that I caused a copy of the foregoing Notice and Motion to be served upon the person(s) named above by depositing the same in the United States Mail at 500 Skokie Boulevard, Northbrook, Illinois, before 5:00 p.m. on this 9th day of May, 2008, with proper postage prepaid.

Elliot Wiczer es

Elliot S. Wiczer
WICZER & ZELMAR, LLC
500 Skokie Boulevard, Suite 350
Northbrook, IL 60062
(847) 849-4800
Attorney No. 37886

State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Handwritten signature

In The Matter Of:)
)
Anne McDonagh & David Fishbaum)
1464 Linden Avenue)
Highland Park, IL 60035)
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v.) PCB 20
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Richard and Amy Michelon)
1474 Linden Avenue)
Highland Park, IL 60035)
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STATE OF ILLINOIS
Pollution Control Board

RESPONDENTS' MOTION TO DISMISS PURSUANT TO 415 ILCS 5/31(d)
OF THE ILLINOIS ADMINISTRATIVE CODE AND 103.212(b)
OF TITLE 35 CHAPTER 1, POLLUTION CONTROL BOARD

NOW COME the Respondents, RICHARD and AMY MICHELON, by and through their attorneys, Wiczer & Zelmar, LLC, and for their Motion to Dismiss the Claimants' Complaint as frivolous and duplicative pursuant to 415 ILCS 5/31(d), state as follows:

BACKGROUND

Richard and Amy Michelon (the "Michelons") are the owners of residential property located at 1474 Linden, Highland Park, Illinois. (See Complainant's Complaint) The Complainants, Anne McDonagh and David Fishbaum ("Complainants"), are the owners of residential property located at 1464 Linden Avenue, Highland Park, Illinois. The Complainants' allegations relate to residential grade air conditioner compressors and

the sound being emitted there from. The facts that support a dismissal of Complainant's Complaint are set forth herein below.

On or about May 13, 2005, the Michelons filed an Application for Zoning Relief before the Highland Park Zoning Board of Appeals, Highland Park, Lake County, Illinois. A copy of the application is attached hereto as Exhibit A.

Essentially, the Michelons were seeking to place their air conditioning compressors for their newly constructed home on the side yard of their property which is directly adjacent to the Complainants' property. The Michelons were unable to install the air conditioning compressors ("compressors") in their side yard under Highland Park Code because the compressors, if installed would violate City of Highland Park Zoning Code for the side yard requirements for residential lots by 3 feet. The Michelons' side yard was deficient for the installation of the compressors by 3 feet. A copy of the legal notice concerning the Request for Zoning Relief is attached hereto as Exhibit B.

A rendering of the location and installation of the compressors is attached hereto as Exhibit C.

After filing the application for relief before the Zoning Board of Appeals (Exhibit A) on or about July 21, 2005, the Zoning Board of Appeals considered the request for variation, Exhibit D, and granted the same by ordinance dated July 21, 2005. Exhibit D.

Leading up to the hearing before the Zoning Board of Appeals the Michelons and their representatives had discussed the locating of the compressors with the Complainant. Representatives visited an area in Highland Park on Cloverdale Avenue where the representatives installed similar compressors. The representatives with the Complainants measured off in increments the air conditioning compressors 20 feet then the distance of

45 feet and the Complainant was satisfied that she would not hear the air conditioning compressors when installed. In fact, the Complainant suggested that it seemed better to install the compressors in the side yard of the Michelons' property rather than where the Michelons could have placed the compressors in their rear yard as a matter of right and without any zoning relief from the City of Highland Park. (See pages 9 and 10 of the transcript attached hereto as Exhibit E.) Most significantly, the Complainants in writing on July 2, 2005, agreed to the placement of the compressors in the side yard. Exhibit F.

The Zoning Board of Appeals approved the request for variation and the Michelons with the agreement and approval of the Complainants installed the compressors in the side yard of the property. Pages 9 and 10 of the transcript ,Exhibit E and Exhibit F.

Furthermore, it should be noted that the Michelons have gone to great expense to address the purported issues of the Complainant. The Michelons have spent thousands of dollars in upgrades to their compressors even though the compressors are state of the art. Group Exhibit G.

For the reasons set forth herein the Complainants Complaint is frivolous and should therefore be dismissed.

ARGUMENT

THE CLAIMANTS' CLAIM IS FRIVOLOUS AND DUPLICATIVE AS SET FORTH IN 415 ILCS 5/531(d)(1).

A. The Claimants' Complaint is frivolous because they previously expressly agreed that the Michelons should place the air conditioning compressors in their side yard as opposed to the rear yard.

As noted in the factual statement hereinabove, Exhibit E is the transcript of the proceedings. In addition, Exhibit B is a copy of the letter sent to the Complainant

notifying Complainant of the Zoning Board of Appeals hearing (as required by ordinance) in the City of Highland Park and referring to the placement of the compressors in the side yard of the Michelin residence.

In addition, and perhaps more importantly, the Complainant expressly requested that the compressors be placed in the side yard and not the rear yard as she believed that this would benefit her more than if the compressors were in the rear yard. See page 9, Exhibit E and Exhibit F.

Thus, this board is empowered to dismiss a claim as frivolous based upon the foregoing. Rocke v. Illinois Pollution Control Board, 397 N.E.2d 51, 56 (1979). See also 415 ILCS 5/31(d).

Complainant's Complaint is frivolous in light of the fact that Claimants expressly agreed to have the compressors placed exactly where they are. Thus, Complainant has waived any right to now complain of the location of the compressors. Not only should the Complainant's claim be bared because of the foregoing, it is frivolous and it is also duplicitous in light of the Highland Park, Illinois Zoning Board proceedings.¹

B. The Complaint filed by the Claimants fails to comply with Title 35 of the Illinois Administrative Code Part 103, Section 204.

Complainant's Complaint fails to comply with 103.24(f). The aforesaid section provides that any parties serving a complaint upon another party must include the following language in the notice:

¹ Complainant has attached data to her Complaint concerning the state of the art compressors newly installed by the Michelons indicating that the compressors are emitting 65 decibels. It seems of great import that based upon a review of the Board's decision this may be a case of first impression. As such, the implications are vast. While the Michelons believe that the proofs will reveal that there is no "noise pollution" emanating from their property, the Complainants' Complaint could implicate every air conditioning compressor on practically every street in every neighborhood in Illinois.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office or an attorney.

As a procedural matter the Complainant's Complaint fails to comply with the aforesaid section and therefore should be dismissed. It does not appear that proper notice or service was made upon the Michelons.

WHEREFORE, for the reasons set forth herein, the Complainant's Complaint should be dismissed.²

Respectfully submitted,

RICHARD and AMY MICHELON

By: Elliot Wiczer
One of Their Attorneys

Elliot S. Wiczer
WICZER & ZELMAR, LLC
500 Skokie Boulevard, Suite 350
Northbrook, IL 60062
(847) 849-4800
Attorney No. 37886

² The City of Highland Park though notified has taken no action as no violation of any city ordinance has occurred.

EXHIBIT A

APPLICATION CHECKLIST

Z B A Application

- Application Form** (see page 2)
 - Complete in its entirety.
 - Petitioners' name(s) should be written *exactly* as on the proof of ownership.
 - Notarized signatures of all owner(s) and petitioner(s) are mandatory.
- Summary Sheet** (see pages 3 & 4)
Complete in its entirety, including height and F.A.R. calculations for any covered addition, regardless of requested variance.
- Letter of Situation and Hardship**
Explain in detail the proposed project, the variances to be requested, all alternatives to the proposal, and the hardship to be incurred if the variance is denied. (Refer to *Standards for Granting a Variation* in this packet for further information.)
- Established Building Setback Survey** (see form on pages 5 & 6)
- F.A.R. Calculations of Neighborhood**
For F.A.R. variation requests only (see form on page 7)
- Proof of Ownership**
 - *Warranty deed or owner's title policy* in its entirety.
 - If the property is held in trust, the Trust Agreement in its entirety.
 - If petitioner is contract purchaser or lessee, proof of authority to file on behalf of the owner is required.
- Affidavit of Title** (see page 8)
Any form of ownership must be accompanied by a notarized affidavit of title citing date of title and/or trust agreement.
- 1 Full Size Plat of Survey Drawn to Scale**
 - Legal description of property
 - Dated and stamped by surveyor
- Reduced Plat of Survey (11" x 17")**
- Affidavit of Survey** (see page 9)
Needed for all surveys over a year old
- 1 Full Size Set of Plans Drawn To Scale:**
 - Dated and stamped by architect (if applicable)
 - Folded to size suitable for mailing
 - Proposed Site Plan showing:**
 - Illustration clearly indicating the location of proposed variance
 - Dimensions of variance(s) requested
 - All required yard setbacks, including the established front yard setback
 - Dimensions to all lot lines
 - Existing and Proposed Floor Plans**
COMPLETE floor plans with room names & dimensions
 - Existing and Proposed Elevations**
- 1 Reduced (11" x 17") Set of Plans**
 - Site Plan**
 - Existing / Proposed Floor Plans & Elevations**
- Tree Survey (11" x 17")**
Regardless of the proposed work, submit a tree survey showing all existing trees. A hand drawing of tree locations on a plat of survey is usually acceptable.
- Other Exhibits**
 - Photos, letters, reports, requested materials, etc.
- Proof of Lot of Record** (see useful definitions)
Required for issuance of a building permit
- Cost Recovery Acknowledgement & Fee**
Make check payable to: City of Highland Park (see form on page 10)
 - Deposit \$250.00
 - Continuation fee \$ 50.00
- Application Fee**
Make check payable to: City of Highland Park
 - Fence \$100.00
 - All Others \$225.00

Signature of Petitioner *Richard M. [Signature]*

Date 11/4/13, 2005

Signature of Owner's Agent _____ Date _____

Property Address: 1474 LINDEN HIGHLAND PARK, INDIAN 60035 1

APPLICATION FOR ZONING VARIATION REQUEST

OFFICE USE ONLY



CITY OF HIGHLAND PARK
1150 Half Day Road
Highland Park, IL 60035
phone: 847/432-0867 fax: 847/432-0964
www.cityhpil.com

Submission Date: _____
Appeal No.: _____
Hearing Date: _____
Fee: _____

Address: 1474 LINDEN Zoning District: R5
Present Use Of Property: VACANT

Petitioner's Name (s): RICHARD I + AMY MICHELON
Address: 55 WEST GOETHE CHICAGO, ILLINOIS 60610 Daytime Phone: 312-587-9842
Home Phone: 312-587-9842 Fax: 312-587-8295
Email: _____

Title Holder's Name (s): RICHARD MICHELON AND AMY MICHELON, HUSBAND AND WIFE, AS TENANTS BY THE ENTIRETY
Address: 55 WEST GOETHE CHICAGO, ILLINOIS 60610
Phone: 312-587-9842 Fax: 312-587-8295
Email: _____

If Petitioner Is Different From Title Holder, Explain:

Attorney's Name: Elliot S. Wiczer
Address: 500 Skokie Boulevard, Suite 350, Northbrook, IL 60062
Phone: (847) 849-4800 Fax: (847) 205-9444

Architect/Builder: FWC ARCHITECTS DIAMOND SPONSORED HOMES Contact: ART COTTRELL JIM DIAMOND
Address: 303 WAUKEGAN HIGHLAND PARK, ILL. 60035
Phone: 847-579-5200 847-433-2400 EXT #18 Fax: 847-579-5203 847-433-2450
Email: ART@FWCARCHITECTS.COM jimdiamondschreiberhomes.com

AFFIDAVIT

I HEREBY DEPOSE AND SAY THAT I HAVE READ THE REQUIREMENTS AND PROCEDURES OUTLINED IN ARTICLE XII OF THE 1997 HIGHLAND PARK ZONING ORDINANCE, AS AMENDED, AND ALL OF THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN MY APPLICATION PACKET ARE TRUE.

Property Owner(s) [Signature] ELLIOT S. WIOZER Notary Public, State of Illinois
My Commission Expires 7/2/2008

Sworn to before me this 12th day of May, 2005. Sworn to before me this _____ day of _____, 20____.

Notary

Notary

SUMMARY SHEET

City of Chicago

Plan Examiner: _____

Zoning District: R5

Description of Project:

SINGLE FAMILY RESIDENCE

1. COMPLETE THE FOLLOWING: (regardless of requested variance)

a) Height Calculations: (see 'Useful Definitions' sheet)

- Maximum Allowable Height for Subject Zoning District: 715.75 feet
- Maximum Height of Proposed Structure (for residential property height is measured from grade at City sidewalk or top of curb to peak of roof): 683.75 feet

b) Floor Area Ratio (F.A.R.) Calculations (see 'Useful Definitions' sheet)

F.A.R. = Floor Area/ Lot Size

- Area of Lot: 27,777.75 square feet
- Allowable Floor Area: 8,055.5 square feet Allowable F.A.R.: 29 %
- Total Existing Floor Area: N/A square feet Existing F.A.R.: N/A %
- Area of Addition: N/A square feet
- Total Proposed Floor Area: 7149 square feet Proposed F.A.R.: 26 %

2. INDICATE ALL REQUESTED VARIANCES:

Front Yard Encroachment: (specify below as many as apply)

Structure will encroach _____ feet into the *minimum* front yard of _____ feet on the (north / south / east / west) side of the property for a distance of _____ feet.

Structure will encroach _____ feet into the *established* building setback of _____ feet on the (north / south / east / west) side of the property for a distance of _____ feet.

Structure will encroach _____ feet into the *minimum* front yard of _____ feet on the (north / south / east / west) side of the property for a distance of _____ feet.

Structure will encroach _____ feet into the *established* building setback of _____ feet on the (north / south / east / west) side of the property for a distance of _____ feet.

Property Address: 1474 LINDEN HIGHLAND PARK, IL 60035

SUMMARY SHEET (CONT.)

ZBA Application

Side Yard Encroachment: *(specify below as many as apply)*

Structure will encroach 3.0 feet into the *minimum* side yard of 16.2" feet on the (north / south / east / west) side of the property for a distance of 8 feet.

Structure will encroach _____ feet into the *minimum* side yard of _____ feet on the (north / south / east / west) side of the property for a distance of _____ feet.

Structure will encroach _____ feet into the *total combined* side yard of _____ feet.

Rear Yard Encroachment: *(specify below)*

Structure will encroach _____ feet into the *minimum* rear yard of _____ feet for a distance of _____ feet.

F.A.R.: *(specify below)*

Structure will exceed the maximum permitted F.A.R. of _____ % by _____ square feet for a total F.A.R. of _____ %.

Height: *(specify below)*

Structure will exceed the maximum permitted height of _____ feet by _____ feet for a height of _____ feet.

Steep Slope Encroachment: *(specify below)*

Structure will encroach _____ feet into the 10 / 20 / 40 / 50 foot Steep Slope setback for a distance of _____ feet.

Fence: *(specify below)*

Structure will exceed the maximum permitted fence height of _____ feet in the minimum _____ yard by _____ feet for a distance of _____ feet.

Other: *(please specify):*

COMPERE REFERRAL TO CITY COUNCIL:		OFFICE USE ONLY
City Council Date: _____	Describe Referral: _____	
<input type="checkbox"/> ZBA Final Disposition		
<input type="checkbox"/> ZBA Recommendation to City Council on: _____		

Property Address: 1474 LINDEN HIGHLAND PARK, ILL. 60035

ESTABLISHED BUILDING SETBACK SURVEY

2014-01-01 10:00:00

	ADDRESS	ACTUAL SETBACK	SOURCE/NOTES
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
AVERAGE SETBACK			

Property Address: 1474 LINDEN HIGHLAND PARK, ILW 60035

**AFFIDAVIT OF TITLE
COVENANT AND WARRANTY**

ZBA Application

STATE OF ILLINOIS
COUNTY OF LAKE

The undersigned affiant, being first duly sworn, on oath says, and also covenants with and warrants to the City of Highland Park:

- 1) That affiant has an interest in the real estate described below:

1474 LINDEN HIGHLAND PARK, ILLINOIS 60035

- 2) The following mortgagees, firms, corporations or persons are holders of liens against the above described real estate:

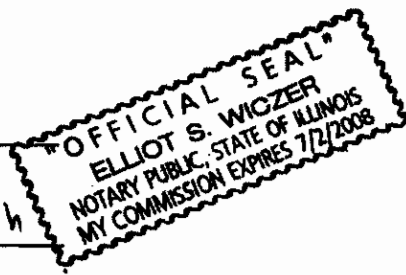
None

- 3) That since the title date of March 10, 2005 in the policy of title insurance issued by Chicago Title Insurance Company affiant has not done or suffered to be done anything that could in any way affect the title to premises, and no proceedings have been filed by or against affiant, nor has any judgment or decree been rendered against affiant, nor is there any judgement note or other instrument that can result in a judgment or decree against affiant within five days from the date hereof.

- 4) That this instrument is made to induce the City of Highland Park to accept for review the affiant's application for a variation request.

- 5) Affiant further states:

[Signature]
Affiant



Subscribed and sworn to before me this 13th
Day of July, 2005

[Signature]
Notary Public

(SEAL)

Property Address: 1474 LINDEN HIGHLAND PARK, ILLINOIS 60035

ZONING BOARD OF APPEALS COST RECOVERY FEES

ZBA Application

Third Party Cost Recovery

During the course of reviewing and processing development applications, the City of Highland Park often incurs expenses for third party consulting costs. In order to efficiently process zoning applications, every filed petition is subject to certain cost recovery fees ("Cost Recovery Fees") that are placed in a City escrow account ("Cost Recovery Fee Escrow"), as provided in Section 150.306 of "The Highland Park Zoning Code of 1997," as amended. Cost Recovery Fees are in addition to any and all other filing fees and other charges established by the City. Based on their typical complexity and need for third party consulting services, the Cost Recovery Fee is:

- Zoning Board of Appeals Application Cost Recovery Fee: **\$250.00 deposit**
- Zoning Board of Appeals Hearing Continuation Fee: **\$ 50.00 deposit**

The following items denote costs incurred for *all* Zoning Board of Appeals applications that will be deducted from the Cost Recovery Fee Escrow:

- Publication of notices
- Court reporter

The following items denote other costs occasionally incurred for Zoning Board of Appeals cases that would be deducted from the Cost Recovery Fee Escrow:

- Professional and technical consultant services
- Document recordation
- Corporation Counsel, or other City retained attorney or law firm, consultation, meeting attendance, document preparation, and review
- Copy reproduction

Process

- Every petition must be accompanied by the required petition fee and Cost Recovery Fee. Cost Recovery Fees will be forwarded to the Finance Division and deposited in a Cost Recovery Fee Escrow.
- Within 90 days following final action on a petition, a final accounting will be made and any remaining funds in the Cost Recovery Fee Escrow after payment of the total actual costs due will be returned to the owner or petitioner.
- Failure to pay any portion of the Cost Recovery Fee or submit the continuation deposit fee prior to the Zoning Board of Appeals' consideration of the case shall be grounds for refusing to process a petition and for denying or revoking any permit.

Owner Agreement

By signing below, the owner or petitioner acknowledges that it is subject to all of the provisions contained in Section 150.306 of the Zoning Code and agrees to pay, and to have consented to, (i) the Cost Recovery Fees, (ii) any amount of collection that have not been paid within 30 days following the mailing of a written demand for payment to the owner or petitioner at the address set forth on the petition, and (iii) any additional Cost Recovery Fees assessed. No petition filed shall be considered complete unless and until all fees and deposits have been paid. Every approval granted and every permit issued, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of Cost Recovery Fees as required pursuant to City ordinance.

Applicant Signature: _____

Date: _____

Property Address: _____

1474 LINDEN HIGHLAND PARK, ILL. 60035

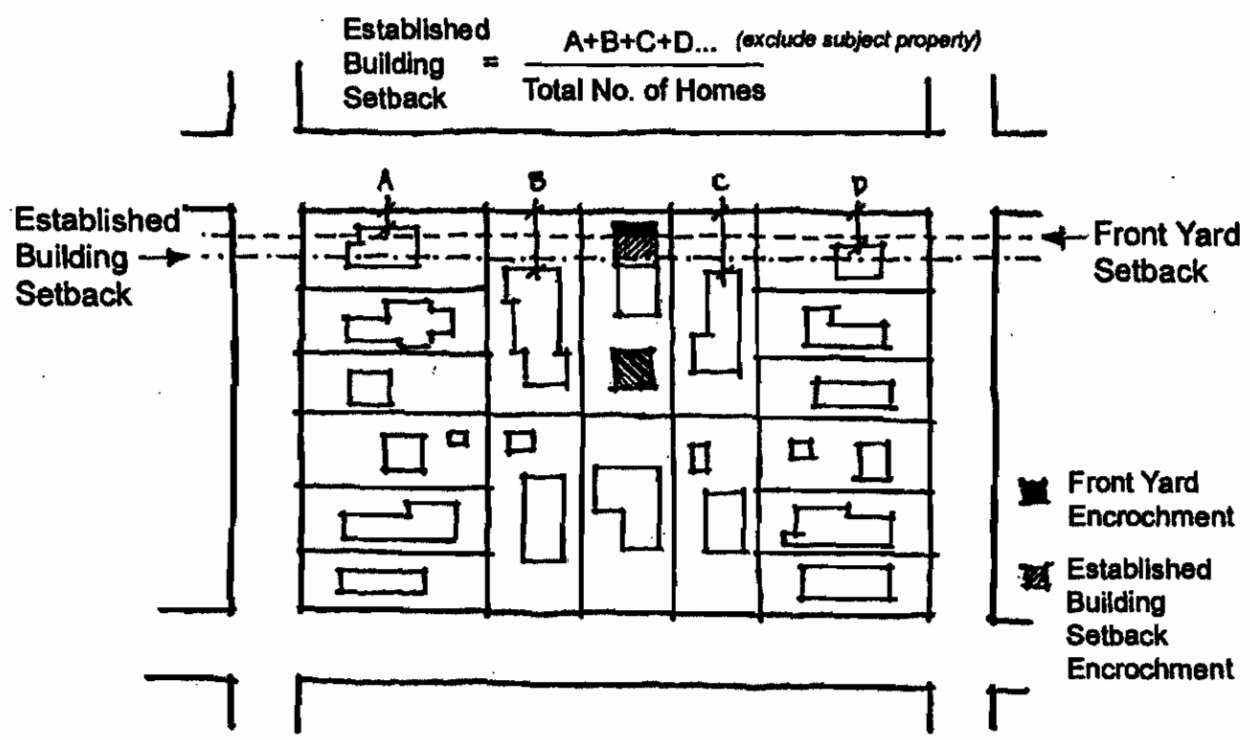
10

ESTABLISHED BUILDING SETBACK SURVEY

ZBA Application

In any single family residential zoning district, if the established building setback (the average of the existing building setbacks on one side of a block*) is greater than the minimum front yard setback required for the zoning district, no new structure or addition may be erected closer to the street than the established building setback.

The regulation applies to blocks containing three (3) or more single-family residences in which fifty percent (50%) or more of the lots fronting on one side of the block are improved with principal buildings that have setbacks greater in depth than required for the zoning district.



Completion of an established building setback survey ensures compliance with the regulation, or alternatively, determines whether a variation may be necessary. This survey is also required prior to the issuance of a building permit. The subject property should be excluded from the established building setback calculation.

*A block is defined as a tract of land bounded by streets or cul-de-sacs, or in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, ravines, corporate boundary lines of municipalities, or the shoreline of Lake Michigan.

**CHICAGO TITLE INSURANCE COMPANY
OWNER'S POLICY (1992)
SCHEDULE A**

POLICY NO. : 1409 000702113 VH

DATE OF POLICY: MARCH 10, 2004

AMOUNT OF INSURANCE: \$1,100,000.00

1. NAME OF INSURED:

RICHARD MICHELON AND AMY MICHELON, HUSBAND AND WIFE, AS TENANTS BY THE ENTIRETY

2. THE ESTATE OR INTEREST IN THE LAND AND WHICH IS COVERED BY THIS POLICY IS A
FEE SIMPLE, UNLESS OTHERWISE NOTED.

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

THE INSURED.

4. THE LAND HEREIN DESCRIBED IS ENCUMBERED BY THE FOLLOWING MORTGAGE OR TRUST DEED
AND ASSIGNMENTS:

NONE

**CHICAGO TITLE INSURANCE COMPANY
OWNER'S POLICY (1992)**



SCHEDULE A (CONTINUED)

5. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

LOTS 1 AND 2 IN HUMMEL RESUBDIVISION OF LOT 4 IN BLOCK 70 IN THE ORIGINAL PLAT OF HIGHLAND PARK, IN THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED JANUARY 9, 2003 AS DOCUMENT 5092565 IN LAKE COUNTY, ILLINOIS.

ENDORSEMENT

ATTACHED TO AND FORMING A PART OF
POLICY NUMBER 1409 000702113 VH

ISSUED BY

CHICAGO TITLE INSURANCE COMPANY

POLICY MODIFICATION ENDORSEMENT 4

GENERAL EXCEPTION NUMBERS 1, 2, 3, 4 AND 5 OF SCHEDULE B OF THIS POLICY ARE

EXHIBIT B

WICZER
& ZELMAR, LLC
—ATTORNEYS AT LAW—

BERNARD WICZER
MICHAEL A. ZELMAR
ELLIOT S. WICZER
ROBERT S. SHULMAN
KRISTEN M. LEHNER

Suite 350
500 Skokie Boulevard
Northbrook, Illinois 60062
Telephone (847) 849-4800
Facsimile (847) 205-9444

July 1, 2005

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David J. Fishbaum
Annie M. McDonagh
1464 Linden
Highland Park, IL 60035


RE: 1474 Linden Avenue, Highland Park, Illinois

Dear Neighbor:

Our office represents Richard and Amy Michelin, the owners of the property located at 1474 Linden, Highland Park, Illinois. I am enclosing a legal notice that has been published in the Highland Park News dated June 30, 2005, regarding a request for variation that Richard and Amy are seeking. The request for variation is asking to place air conditioning units on the side of their house which is more fully described in the public notice enclosed.

If you have any questions at all, I urge you to contact me. I will make arrangements to meet with you to show you the proposed plans. Again, please contact me if you have any questions. Thank you.

Very truly yours,



Elliot S. Wiczer

ESW:hr

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

EW
WICZER & ZELMAR, LLC
500 SKOKIE BOULEVARD
SUITE 350
NORTHBROOK, ILLINOIS 60062

MICHELON

16



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DAVID J. FISHBAUM
AUNIE M. McDONALD
1464 LINDEN
HIGHLAND PARK, IL
60035

2. Article Number
(Transfer from service label)

7004 2510 0002 2683 2950

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* Addressee

B. Received by (Printed Name) _____ C. Date of Delivery _____

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

[Signature]

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

**PUBLIC NOTICE
ZONING BOARD OF APPEALS
CITY OF HIGHLAND PARK, ILLINOIS**

Notice is hereby given that a Public Hearing will be held at City Hall, 1707 St. Johns Avenue, in the City of Highland Park, Lake County, Illinois, on Thursday, July 21, 2005, at 7:30 P.M. Said Public Hearing will be conducted by the Zoning Board of Appeals for variation of provisions of the Zoning Ordinance of 1997, being Chapter 150 of the Highland Park Code, as amended.

05-07-VAR-035

**Richard and Amy Michelon
1474 Linden Ave.
Highland Park, Illinois 60035**

The petitioners and owners, Richard and Amy Michelon of 55 W. Goethe. Chicago IL. 60610, requests by authority of Section 150.1204 (1), a variation of provisions of Section 150.703, as required under the R5 zoning district, to construct a structure to encroach 3.0 feet into the total combined side yard of 25 feet, in order to locate air conditioner units in the side yard for a new single family residence.

Subject Property Consists of Lot 4 in Block 70 in the South Part of Highland Park, a Subdivision in the North Half of the Northeast Quarter of Section 26, Township 43 North, Range 12 East of the Third Principal Meridian in the City of Highland Park, commonly known as 1474 Linden Ave.

Any person who also desires to appear as an "interested party" with the right to cross-examine others at the hearing must complete and file an appearance form with the Highland Park City Clerk at the Highland Park City Hall, 1707 St. Johns, Highland Park, Illinois, no later than three business days before the date of the hearing. Appearance forms are available at the Finance Department on the first floor of the Highland Park City Hall, 1707 St. Johns, Highland Park, Illinois, during regular business hours.

**Zoning Board of Appeals
Cary Glenner, Chairman
June 30, 2005**

EXHIBIT C

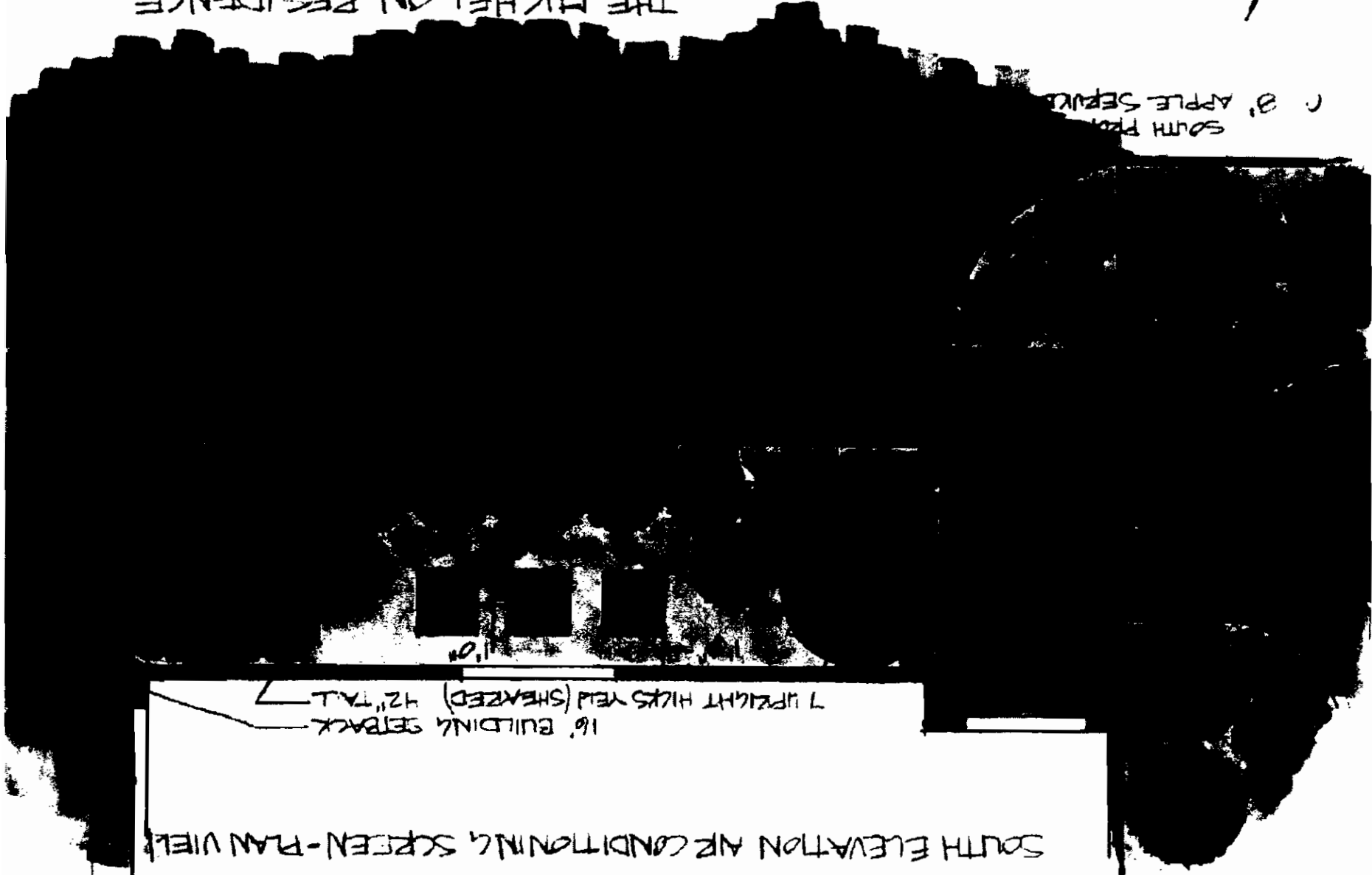
PH: 915.675.0055 FAX: 915.675.0055
EARTH DEVELOPMENTS, INC.

THE MICHELON RESIDENCE
174 LINDEN HIGHLAND PARK, IL.

SCALE 1/4" = 1'-0"
LANDSCAPE PLAN ONLY
JUNE 13, 2005



SOUTH PROPERTY
3' APPLE SERVICE



SOUTH ELEVATION AIR CONDITIONING SCREEN-RAN VIEW
16' BUILDING SETBACK
7 UPRIGHT HICKS YELD (SHEARED) 42" TALL

EXHIBIT D

13. That unless variations are granted in accordance with this application, the Property in question cannot yield a reasonable return, in that the house is situated on the lot in such a way as to make alternatives unreasonably expensive and prohibitive; and in that the plight of the owner was due to unique circumstances; and in that the variations requested are consistent with the purposes and intent of said Zoning Ordinance and Master Plan; and for additional reasons set forth in the application and transcript of this hearing.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That variations from the strict application of the Zoning Ordinance, and, in particular, 150.703 thereof, are hereby granted as to the real Property hereinabove described, in that the petitioners will be allowed to construct a structure to encroach 3.0 feet into the total combined side yard of 25 feet, in order to locate air conditioner units in the side yard for a new single family residence.

That this Order is to take effect only upon compliance with the following conditions:

- (a) All structures will be in substantial conformance with the submitted plans and a Landscape Plan prepared by Earth Developments, Inc. dated June 13, 2005.
- (b) Issuance of a building permit by the City of Highland Park.

This Order shall be valid for a period of no longer than twelve (12) months from the date of this Order unless a building permit is obtained within such period and the erection or alteration of a building is started, or unless the use is commenced within such period; and, in any case where a building permit shall be obtained for the erection or alteration of a building, unless such erection or alteration shall proceed to completion without unnecessary delay.

Order granted on July 21, 2005.

BOARD OF APPEALS
CITY OF HIGHLAND PARK
LAKE COUNTY, ILLINOIS

BY: _____

Cary Glenner, Chairman

EXHIBIT E

CITY OF HIGHLAND PARK
ZONING BOARD OF APPEALS
1707 St. Johns Avenue
Highland Park, Illinois

July 21, 2005
7:30 O'Clock P.M.

RE: Appeal Number 05-07-VAR-035
for property located at
1474 Linden Ave.

MEMBERS PRESENT:

MARC LICHTMAN, Acting Chairman

ADAM GLAZER, Member

CALVIN BERNSTEIN, Member

GLEN BERNFIELD, Member

JOHN PETERSON, Member

STAFF PRESENT:

MICHAEL CROAK, Plan Reviewer/Inspector

ROBERT FRALEY, Planning Technician

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1 ACTING CHAIRMAN LICHTMAN: The next case
2 is Case Number 05-07-VAR-035, property
3 located at 1474 Linden Avenue. The
4 petitioner is Richard and Amy Michelon.

5 Everybody on this case please
6 come forward.

7 MR. WICZER: Mr. Chairman, people who
8 are going to testify, or people who are here
9 for it?

10 ACTING CHAIRMAN LICHTMAN: Everybody who
11 is going to be testifying, come forward.
12 Please state your names and business
13 addresses for the record.

14 MR. MAHER: David Maher, CFM Group,
15 Incorporated, 405 Washington Boulevard, Suite
16 201, Mundelein, Illinois.

17 MR. WICZER: Elliot Wiczer, 500 Skokie
18 Boulevard, Northbrook, Illinois, attorney for
19 the petitioners.

20 MR. BEZARK: Leonard Bezark, no business
21 address, but I am at 1384 Linden.

22 ACTING CHAIRMAN LICHTMAN: Anybody else
23 who is going to be testifying?

1 MR. LASKO: Burt Lasko. 1211 Linden.

2 ACTING CHAIRMAN LICHTMAN: Please
3 present your case.

4 MR. WICZER: Before I get started, can I
5 pass up some additional information?

6 ACTING CHAIRMAN LICHTMAN: You certainly
7 can.

8 MR. WICZER: What I am passing up is
9 arguably the most affected neighbor to the
10 south.

11 ACTING CHAIRMAN LICHTMAN: What is this
12 case about?

13 MR. WICZER: I am giving you the
14 landscape design and the depiction of the air
15 conditioning units as well as a letter of
16 support from the neighbor.

17 This is a case about three air
18 conditioning units. The actual case is very
19 simple once you look at the site plan and the
20 landscape design, which you will have in a
21 minute

22 MR. CROAK: We will label the landscape
23 design Exhibit 1 and the letter Exhibit 2.

1 ACTING CHAIRMAN LICHTMAN: What we are
2 asking for, as published for, is to encroach
3 in the side yard for 3 feet of a total
4 combined side yard of 25 feet in order to
5 locate the air conditioning units.

6 And I would arguably say to
7 you that this is an effort between the
8 neighbor, the Michelons, the petitioners, and
9 Anne McDonagh, who represented herself and
10 her husband, to put these air conditioning
11 units in a place that we think is better for
12 her and better for us. And I will explain
13 why.

14 If you want to her from Mr.
15 Maher, he will testify.

16 We have two issues that we
17 raised, two issues that we are here.

18 The first issue is a
19 mechanical HVAC issue -- and I think Mr.
20 Peterson can appreciate this. The further
21 the distance from the furnace, and again, I
22 will use layman terms, to the actual air
23 conditioning compressors, the more difficult

1 it is to cool the home, even with three.

2 So because of the distance, if
3 we put them in the rear yard, which would be
4 allowable, the distance between the AC units
5 and the pipes would not provide for adequate
6 cooling for the home. It would always be,
7 especially on hot days like this, would be
8 extremely hot.

9 And it would be more efficient
10 both from economical, you know, payment of
11 Com Ed's bills, to have them here, but also
12 from a comfort level of cool his home.
13 That's issue number one.

14 Issue number two is placing
15 air conditioning units in the rear yard where
16 they will sit in the back and enjoy it under
17 a window as opposed to the side yard where --
18 and I will tell you why I make this statement
19 in a minute -- it would affect nobody,
20 doesn't seem to make sense.

21 So the real hardship is the
22 fact that we don't think that these air
23 conditioning compressors will adequately

1 cool. And Mr. Maher can give you another
2 three-sentence explanation as to why in a
3 moment.

4 But I would like to tell you a
5 little bit about how we ended up with the
6 plan we have and the landscape plan we have.

7 We sent notice and we invited
8 all the neighbors to contact, through me, any
9 questions they had. The neighbors to my
10 right were not on our notice list because we
11 are not required to give notice to everybody
12 on Linden. So the people that would be most
13 affected we gave notice to.

14 The person that is the most
15 affected, we actually brought her out to the
16 site that had similar units -- in fact, the
17 same units are in, with one exception. There
18 wasn't as much landscaping as being proposed
19 here.

20 MR. BERNFIELD: That would be the name
21 to the south?

22 MR. WICZER: Anne McDonagh, correct.

23 MR. BERNSTEIN: What's the address of

1 Ms. McDonagh? Is it 1464?

2 MR. WICZER: It is right to the south on
3 your map here. And I will look. It is 1464
4 Linden.

5 MR. BERNSTEIN: I have one question.
6 Looks like 1458, is that an interior lot?

7 MR. WICZER: Yes, that is a lot-in-
8 depth. And like I said, we sent our notice
9 and we didn't hear back from them, but we did
10 hear from Ms. McDonagh and we made arrange-
11 ments to walk her to another site where there
12 were three compressors like this.

13 She was worried about her
14 kitchen window. She informed us that she did
15 not have -- did not use air conditioning,
16 even though they have it. They like to keep
17 their windows open. She was concerned she
18 would hear the air conditioning units.

19 71 decibels at a distance of
20 45 feet, they are not going to hear it, on
21 top of the fact that the landscaping design
22 that we have here, which we gave it to you so
23 we can agree that we would put this in, I

1 think Ms. McDonagh appreciates that.

2 We have two sets of the seven
3 upright hicks along with the apple
4 serviceberry, and I am not sure if the apple
5 serviceberry tree itself is appropriate there
6 but a similar type of tree in size would be
7 placed in these three locations.

8 The deadening effect on the
9 units is -- Let me back up a minute.

10 When we took Ms. McDonagh to
11 Cloverdale Avenue in Highland Park and
12 measured off in increments the air
13 conditioning units, 20 feet, then to her
14 distance 45 feet, she was satisfied that she
15 won't hear it.

16 And when you consider she is
17 going to be inside her home, she signed off
18 on the letter. And that happened today,
19 about 10:00 this morning.

20 So what I am suggesting is we
21 could have put it in the rear yard, but we
22 can't landscape. If we put it in the rear
23 yard, Ms. McDonagh, it probably wouldn't have

1 affected them as much as noise, but it
2 probably would have affected them more, and
3 it would have affected our client's property
4 by not being able to cool the house
5 effectively.

6 And when we talked to her and
7 said "What do you think of this," she said
8 "It seems better here, although it is not in
9 the back. I will take the landscaping so I
10 am not looking at condensers in your rear
11 yard, and I will take the three trees, and I
12 can't hear it." So it is a win-win for
13 everybody.

14 I know that we are here asking
15 for a variation. I have described the
16 hardship. We understand that it is an
17 important issue. We understand that it is a
18 request that we are asking you to make, but
19 we think it is reasonable.

20 And I think that in light of
21 the efforts, in light of what we think the
22 neighbor wants, Anne McDonagh, what we know
23 we want and kind of need in order to be

1 effectively cooling this house, we would ask
2 that the variation be granted.

3 And can I just, if you have
4 any questions of -- I think I have summarized
5 what he would testify to, but if you have any
6 questions.

7 ACTING CHAIRMAN LICHTMAN: So you are
8 putting one of those new energy efficient
9 quiet air conditions that are as quiet as a
10 fan?

11 MR. MAHER: Yes. They are made by
12 American Standard and the compressor is
13 completely insulated.

14 ACTING CHAIRMAN LICHTMAN: But these are
15 the new models that are as quiet as a
16 household fan?

17 MR. MAHER: Yes. Most of your noise is
18 all just air movement.

19 MR. WICZER: Can I say one last thing:
20 But for the fact that I know it is there, you
21 will know it is there, the neighbor will know
22 it is there, I mean, no one is going to know
23 it is there really. It is going to be

1 invisible. You not going to hear it, you are
2 not going to smell it, you are not going to
3 see it.

4 ACTING CHAIRMAN LICHTMAN: Okay.

5 MR. BEZARK: In the first place, I don't
6 quite understand, you are encroaching 3 feet
7 into a combined side yard of 25 feet.
8 Actually, they are encroaching of what they
9 shouldn't be on by 3 feet, regardless of how
10 much it goes beyond that into their driveways
11 and public way.

12 I also wonder whether the next
13 house of the house next door, or if they want
14 to sell the house next door, is going to be
15 as receptive as they were to having something
16 in the yard.

17 But the main question I have
18 is: When this house was designed, were they
19 not aware that they were going to have an air
20 conditioner or three air conditioners? And
21 if so, why didn't they make arrangements for
22 it?

23 And if they didn't make

1 arrangements for it, I can't see why it
2 shouldn't be in back. As he points out, it
3 will be adjoining to the people in the house
4 if it is in back. Well, I think it should be
5 annoying to them rather than the people next
6 door or the potential people next door.

7 MR. BERNFIELD: Do you have a personal
8 interest or concern? Because you are not
9 adjacent to the property.

10 MR. BEZARK: No, I am not.

11 MR. BERNFIELD: You are just a concerned
12 citizen?

13 MR. BEZARK: Number one, I don't like
14 variances where they are not necessary and I
15 think where people take advantage. They knew
16 there were going to be air conditioners from
17 the day they designed the house. I don't
18 know why the Building Department doesn't ask
19 people --

20 MR. BERNFIELD: You are raising a good
21 question. The original plans of the house,
22 where did the original plans of the house
23 show the compressors?

1 MR. WICZER: The original proposal was
2 to put the --

3 MR. BERNFIELD: I mean, you filed a --

4 MR. WICZER: Not the proposal before the
5 ZBA. But the original plans were going to
6 have the air conditioning units in the rear
7 yard.

8 MR. BERNFIELD: For your permit.

9 MR. WICZER: Well, yes. What I would
10 say to you is this: We could put it in the
11 rear yard in that corner. I can guarantee
12 you to the extent it affects both neighbors
13 in the rear yard, it is going to affect them
14 more.

15 MR. BERNFIELD: You made that point. I
16 just wanted to find out factually. I mean,
17 this gentleman is raising the point about the
18 variation, and --

19 MR. WICZER: We have in the back, and
20 sometimes it happens -- and I wish I could
21 tell you it didn't happen -- but here it is a
22 problem and we are trying to address it.

23 ACTING CHAIRMAN LICHTMAN: Okay.

1 Anything else you would like to add?

2 MR. BEZARK: No, that's my story.

3 ACTING CHAIRMAN LICHTMAN: Mr. Lasko?

4 MR. LASKO: Very much the same thing.

5 We had a neighbor who had his plans approved,
6 and after they were approved, oh, we suddenly
7 remembered that we didn't provide well enough
8 for the drainage. He asked for a variation.
9 But here, you know, they have architects,
10 planners. I can't help, but in this
11 particular case he was looking for something
12 that would have impinged upon our back yard.

13 But the point that bothers me,
14 as Mr. Bezark has said, that people are very
15 conscious that they are going to have air
16 conditioning. They have three condensers.
17 You don't have three condensers unless you
18 have a lot of house to air condition. And
19 all of a sudden it is going to bother the
20 neighbors too much in the back so let's put
21 it on the side, and the City has restrictions
22 on that, but we can get around that.

23 I guess what I oppose is that

1 attitude that people appear to say, well,
2 there are restrictions but we can get around
3 that.

4 ACTING CHAIRMAN LICHTMAN: I would like
5 to thank you for coming out tonight, but I
6 would like to just say one thing, and that is
7 -- and I have talked to a lot of people on
8 this. And many architects will tell you that
9 the best place to put an air conditioner is
10 actually on the side of the house.

11 MR. BEZARK: So why didn't they leave
12 room for it?

13 ACTING CHAIRMAN LICHTMAN: The ordinance
14 when it was drafted really is one of these
15 ordinances that is out of date, because the
16 technology on these air conditioners, the
17 reason they put they didn't want air
18 conditioners in the side yard was because of
19 the noise. And it was predominantly in the
20 R-6 neighborhoods where you had 6 foot side
21 yards. And it was in the days where the air
22 conditioners were very noisy.

23 Well, now, the air

1 conditioners have become very quiet. They
2 are as quiet as a household fan or even a
3 refrigerator. And so what's happened is that
4 the ordinance hasn't kept up with the change
5 in technology. And there is a lot of -- the
6 intent of that ordinance was really, I
7 believe, for minimum 6 foot side yard
8 requirements.

9 MR. LASKO: Excuse me. This house is
10 built 6 feet from the line; is it not?

11 ACTING CHAIRMAN LICHTMAN: No, it is
12 built farther.

13 MR. LASKO: No, there is a driveway and
14 then the other house is -- I don't know how
15 close the other house is to the driveway.

16 I feel, as this gentleman did,
17 I can't understand that 25 foot side yard. I
18 have driven by there and --

19 ACTING CHAIRMAN LICHTMAN: Well, that's
20 the total side yards on both sides.

21 MR. CROAK: The 25 foot is the combined
22 side yard of the north and south side. It is
23 9 feet on the north and 16 feet on the south.

1 And the two have to add up to a percentage of
2 the lot width.

3 MR. LASKO: There is 16 feet between the
4 house and the property line on the south
5 side?

6 MR. CROAK: Yes, that's right.

7 MR. LASKO: If I may, from the
8 standpoint of noise, we do have three, not
9 one air conditioner. And yes, air
10 conditioners today are much more quiet. But
11 when they get old, they get noisy. I don't
12 know how noisy they get because I don't pay
13 that much attention to it. But let's not
14 judge the amount of noise on a brand new air
15 conditioner.

16 MR. BERNFIELD: Elliot, when you took
17 Ms. McDonagh to the other property on
18 Cloverdale, how many air conditioners were
19 there?

20 MR. WICZER: There were three. And we
21 ran them. That's why we just didn't let her
22 go by herself. We had to start the
23 compressors there. And there wasn't the type

1 of landscaping that we are proposing here.

2 MR. BERNFIELD: The same kind of air
3 conditioners?

4 MR. MAHER: Yes, American Standard.

5 MR. LASKO: May I ask how old they are?

6 MR. MAHER: They are about a year and a
7 half old now.

8 MR. BERNFIELD: Are these the quietest
9 possible air conditioners, compressors that
10 you can put in?

11 MR. MAHER: I am an American Standard
12 dealer. So yes. I have checked it out, and
13 Carrier claims they have one that actually is
14 at 65 db's but only up to three tons. And we
15 have to have five. And we are 71.

16 ACTING CHAIRMAN LICHTMAN: And American
17 Standard --

18 MR. BERNFIELD: That's decibels.

19 MR. MAHER: Decibels.

20 ACTING CHAIRMAN LICHTMAN: American
21 Standard also makes Trane.

22 MR. PETERSON: Also, there is a house
23 being remodeled next door to me. He's got

1 both air conditioners, been approved by the
2 City, they are located on the side yard, and
3 they got 10 feet to the property line. So
4 they meet within the requirements. So this
5 one is even farther back.

6 And I don't have a problem.
7 Even my yard is 6 feet side yard and two air
8 conditioners are sitting right on that. Most
9 50 foot lots, they were built when
10 remodelings were done before 1957, you will
11 see them all in the side yard because it
12 kills the back yard if you are ever going to
13 do anything to it. And the best place to put
14 it is the side yard because that's the
15 deadeast part.

16 MR. BEZARK: Why doesn't the house be 3
17 feet narrower and had room for it?

18 MR. PETERSON: You could say a lot of
19 reasons for that. When it comes down to air
20 conditioning units, not everybody thinks
21 about every little thing there is. These
22 units at this point, with the noise that it
23 produces is so minimal, that a lot of times

1 afterthoughts come in after a house is built.

2 MR. BERNFIELD: If you had any evidence
3 whatsoever that this was not an afterthought,
4 but that this was planned, then I could hear
5 you better.

6 MR. WICZER: No, this was an after-
7 thought.

8 MR. BERNFIELD: I understand that. Mr.
9 Bezark is saying you should have anticipated.

10 MR. WICZER: You know what? Building is
11 an art, it is not precise. And we are coming
12 before you. We have a big home. We are not
13 asking for any other variation, nothing. And
14 the bottom line is that I am telling you that
15 we can't cool this house if it is in the
16 back.

17 But more importantly, the
18 neighbor that is most affected, I believe,
19 based on the evidence we made with her, both
20 on the landscape and doing the test, I think
21 I can say would rather have it here than
22 there.

23 And plus, our problem with

1 cooling the home, so I clearly understand
2 what our neighbors on Linden are saying, I
3 don't disagree with them. But if we put them
4 in the back, you have heard what I had to
5 say. It is clearly an afterthought, but it
6 is not precise building all the time. Things
7 happen, and --

8 MR. PETERSON: Not only that, you dealt
9 with the neighbor that's directly affected by
10 this, and did a lot of research on it, and
11 plus you did an excellent landscape plan.

12 MR. WICZER: But more important than
13 anything, honestly, is that when you total it
14 up, unlike a lot of the variations for
15 improvement, remodeling, additions, bay
16 windows that came before you before this, no
17 one is going to see it.

18 The question was, is anybody
19 going to hear it? And we have resolved that
20 with Ms. McDonagh. She is over 45 feet away
21 from these units in her kitchen window. She
22 is going to be inside with the window open.
23 She is fine with it. She accepted it.

1 MR. BERNSTEIN: Mr. Bezark, Dr. Lasko --
2 or Mr. Lasko? Are you a doctor?

3 MR. LASKO: No.

4 MR. BERNSTEIN: You weren't on the
5 notice list. How did you know about the
6 hearing tonight?

7 MR. LASKO: We saw --

8 MR. BERNSTEIN: In response to the sign?

9 MR. LASKO: Yes.

10 ACTING CHAIRMAN LICHTMAN: Okay. We
11 have one more person who would like to
12 testify. I am going to have to swear you in,
13 ma'am.

14 (Whereupon the oath
15 was duly administered.)

16 ACTING CHAIRMAN LICHTMAN: Please state
17 your name for the record.

18 MS. BEZARK: Mary Jane Bezark, also at
19 1384 Linden.

20 ACTING CHAIRMAN LICHTMAN: Okay.

21 MS. BEZARK: The only thing I wanted to
22 say is, what happened to the back yard?
23 There was a point made that there was no

1 variance granted, but there were 26 mature
2 trees in that back yard that got a variance
3 to be chopped down. What is the back yard?
4 Why isn't there room for lots of things in
5 it? That's all I wanted to say.

6 ACTING CHAIRMAN LICHTMAN: Thank you.

7 Okay. At this point in time
8 let's close the proofs.

9 Let's have a little bit of
10 discussion. Glen?

11 MR. BERNFIELD: Any time that we get a
12 request for a variance on new construction I
13 am troubled. But based upon the testimony
14 that we have had here, we have heard nothing
15 to the contrary, this was an afterthought
16 that appears to be better for the property
17 and for the neighbor. And so I think that
18 there is a hardship here, and I reluctantly
19 am in favor.

20 ACTING CHAIRMAN LICHTMAN: Anybody else
21 want to say anything?

22 MR. BERNSTEIN: The only thing I wanted
23 to add is I want to make a point that I

1 appreciate the neighbors came out tonight,
2 because in our experience with Linden Avenue
3 there is a very strong sense of community on
4 that street. I know we had several cases
5 about a year or two ago regarding height
6 issues, and we appreciated the neighbors
7 coming out then, and we appreciate them
8 coming out tonight. It is nice to know they
9 care enough about the neighborhood to come
10 out on a Thursday night at 9:00 to talk about
11 air conditioners.

12 MR. BERNFIELD: I don't want my comments
13 to have them feel that their feelings were
14 ignored, because I don't think they were.
15 And I certainly share their views. I mean,
16 but you have to understand that the purpose
17 of our Zoning Board here is we recognize that
18 our ordinances don't always fit every
19 property and sometimes people are entitled to
20 exceptions. And we want to be able to give
21 people exceptions where we feel that they are
22 entitled to them. So there is always a
23 reluctance to give it, but we are looking for

1 situations that warrant it.

2 ACTING CHAIRMAN LICHTMAN: I would like
3 to say a couple things. I would like to
4 thank the neighbors for coming out. And I
5 think it is important that when people feel
6 strongly about something, even though they
7 are not directly affected, that they speak
8 their mind.

9 I think that I am not bothered
10 by this because I understand from somebody
11 who is in the middle of this process right
12 now, and I understand that these air
13 conditioners now have become very quiet.

14 I think that in many
15 instances, I think the City ought to revisit
16 this area of the ordinance because I think
17 that many times it creates a very difficult
18 burden on homeowners because there is many
19 homeowners right now that have air
20 conditioners that are in the side yards, that
21 have been there time after time, and then
22 when they go to replace it and the contractor
23 says, "you know, I think I need to get a

1 permit," they would have to come before us
2 for a variation or maybe just forget about it
3 and do it.

4 MR. CROAK: We did an amendment about a
5 year ago that says you can replace existing.

6 ACTING CHAIRMAN LICHTMAN: I just think
7 that this is a tough ordinance, and I think
8 if they can prove they are putting a quiet
9 one in, I think it would help the people in
10 this building process. Because the air
11 conditioners many times do become an
12 afterthought and nobody ever recognizes that
13 they are detached accessory structures within
14 the provisions of our building code.

15 So that's all that I have to
16 say. I think the City should think about
17 revisiting this area.

18 Is there any motion on this?

19 MR. BERNSTEIN: Mr. Chairman, I move
20 that we approve the variation as requested,
21 subject to and conditioned upon the
22 implementation of the landscape plan dated
23 June 13, 2005 that was submitted tonight.

1 ACTING CHAIRMAN LICHTMAN: Is there a
2 second?

3 MR. PETERSON: I second.

4 MR. BERNFIELD: I second.

5 ACTING CHAIRMAN LICHTMAN: Okay. We
6 have a motion that's been made by Member
7 Bernstein, seconded by Member Bernfield.

8 All those in favor of the
9 motion say "aye",

10 (Whereupon there was a
11 unanimous chorus of ayes.)

12 ACTING CHAIRMAN LICHTMAN:
13 Congratulations, your zoning variation
14 request has been granted. Good luck with
15 your construction.

16
17 (End of hearing.)

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1 STATE OF ILLINOIS)
2)
3 COUNTY OF C O O K)

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I, RANDY BARINHOLTZ, a Certified Shorthand Reporter, so certified by the State of Illinois, do hereby certify that on the 21st day of July, 2005, I reported in shorthand the hearing of the above-entitled matter at 1707 St. Johns Avenue, Highland Park, Illinois, and that the foregoing is a true and correct transcript of my shorthand notes so taken at said hearing.

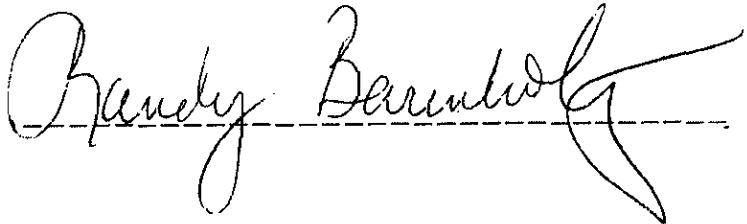


EXHIBIT F

July 2, 2005

To Whom It May Concern:

I have seen the proposed location for the air conditioner compressors and do not object to the Michelons placing them as drawn on the south side of the garage.

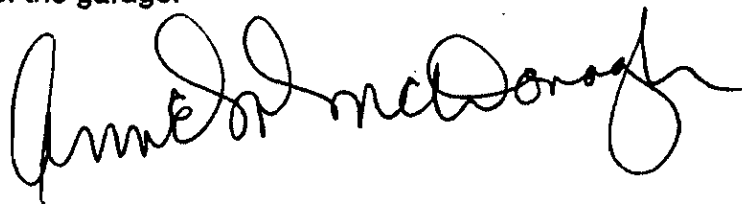
A handwritten signature in black ink, appearing to read "Anne D. McDonough". The signature is written in a cursive style with large, flowing loops.

EXHIBIT G

