

Item #3:

Ordinance Re: Setback, Accessory Structure Floor Area & Use Variations

VILLAGE OF LONG GROVE

ORDINANCE NO. 2011-O-__

**AN ORDINANCE GRANTING ACCESSORY STRUCTURE FLOOR AREA
AND USE VARIATIONS FOR 4255 ROUTE 83**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this 25th Day of October, 2011

Published in pamphlet form by direction
and authority of the Village of Long Grove
Lake County, Illinois
this 25th Day of October, 2011

VILLAGE OF LONG GROVE

ORDINANCE NO. 2011-O-__

**AN ORDINANCE GRANTING ACCESSORY STRUCTURE FLOOR AREA
AND USE VARIATIONS FOR 4255 ROUTE 83**

WHEREAS, Ira T. Nevel ("**Owner**") is the owner of that certain real property commonly known as at 4255 Route 83, Long Grove, Illinois and legally described in **Exhibit A** attached hereto ("**Property**"); and

WHEREAS, Section 5-9-1 of the Zoning Code requires that accessory structures be subordinate in floor area to the principal structure and under the use and control of the same entity that occupies and controls the principal structure; and

WHEREAS, a building permit (the "**Permit**") was erroneously issued for the construction of an accessory structure on the Property (the "**Accessory Structure**"), the floor area of which exceeded the floor area of the principal structure on the Property; and

WHEREAS, the Property owner sued the Village seeking authorization to construct the Accessory Structure as initially contemplated in the Permit; and

WHEREAS, the Owner submitted an application requesting a variation from the Zoning Code requirements, and the Zoning Board of Appeals considered whether to grant zoning relief (i) to permit the construction of the Accessory Structure with a floor area larger than the principal structure, and (ii) to authorize the use of the Accessory Structure by an entity other than the occupant of the principal structure; and

WHEREAS, pursuant to notice, including notice duly published in the *Daily Herald*, the Zoning Board of Appeals of the Village of Long Grove did conduct a public hearing on October 18, 2011, regarding Owner's requests for variations; and

WHEREAS, the Zoning Board of Appeals, having fully heard and considered the testimony by all those attending the public hearing who wished to testify, made no recommendation; and

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WHEREAS, the President and Board of Trustees of the Village (the "**Village Board**"),

having fully heard and considered the evidence, made the following findings:

1. The Property is located within the R-2 Single Family Residence District under the Long Grove Zoning Code. The Property is improved with a detached single family residence (the "**Existing Residence**"). The Existing Residence is currently in need of repair.
2. Owner proposes to construct the Accessory Structure, which Accessory would be larger than the principal structure and used by an entity that may not be occupying the principal structure.
3. The evidence presented indicates that construction of the Accessory Structure in compliance with the Zoning Code will create a hardship because (i) the Property will not yield the Owner's expected return if permitted to be used only under the conditions allowed; (ii) the requested floor area and use variations are consistent with the character of the neighborhood since other similar buildings exist in the Village; (iii) the Owner's circumstances are unique in that he purportedly expended funds in reliance on an erroneous building permit issued by the Village; and (iv) the Owner will experience a practical difficulty and particular hardship if the Village were to carry out the strict letter of the Zoning Code.
4. The evidence presented indicates that the construction of the Accessory Structure in the proposed location on the Property will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, and will not result in other detrimental effects to the area of the Property.

and intend to grant the requested variation, subject to certain conditions and limitations; and

WHEREAS, the Village Board, having considered Owner's request for a variation and the available relief to permit the construction of the Accessory Structure on the Property, have determined that it is in the best interests of the Village and its residents to grant Owner a variation, subject to the terms and conditions of this Ordinance as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,

as follows:

SECTION ONE: Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

SECTION TWO: Approval of Variation. Pursuant to Section 5-11-15 of the Long Grove Zoning Code, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, the Board of Trustees does hereby grant variations from the regulations contained in Paragraphs 5-9-1 of the Long Grove Zoning Code to permit the construction of the Accessory Structure on the Property (i) with a floor area larger than the principal structure, as more fully depicted on the site plan attached to this Ordinance as **Exhibit B** (the "**Site Plan**"), (ii) and to be used by the Owner even if the principal structure is occupied by a different entity.

SECTION THREE: Conditions on Approval. The relief granted pursuant to Section Two of this Ordinance shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, render void the approvals granted by this Ordinance:

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance except only after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law. Notwithstanding the foregoing, the stop order affecting the Permit shall be lifted and the Permit reactivated upon the Owner's satisfaction of the conditions in Sections Three C, I.1, and Section Four of this Ordinance.
- B. **Compliance with Laws.** The Zoning Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. **Security.** To ensure the completion and survival of the screening required pursuant to Section Three F of this Ordinance, Owner shall deliver to the Village a \$20,000 security in cash or as a letter of credit in a form reasonably acceptable to the Village Attorney. Such security may be utilized for the installation of the screening or the replacement

of plantings that do not survive two years following their installation. Following such two-year period, the Village shall return such security (or any amount thereof that remains unused) to the Owner.

- D. Site Plan Compliance. The Accessory Structure must be located on the Property in substantial compliance with the Site Plan.
- E. Septic Field Inspection and Repair. No later than November 30, 2011 and before any certificate of occupancy ("**C/O**") is issued for the Accessory Structure, the Owner shall be required to have the existing septic field and system on the Property inspected by the Lake Public Health Department to confirm its proper function for the existing residence and Accessory Structure. To the extent that such inspection identifies any repairs or improvements that are needed to such septic field or system, such repairs or improvement must be satisfactorily completed prior to the issuance of a C/O for the Accessory Structure.
- F. Screening. Within 45 days after the issuance of the C/O for the Accessory Structure or by June 1, 2012, whichever is later, the Owner shall install 19 Arborvitae, having a minimum height of ten feet at the time of planting along the north and south property lines as depicted on the Landscaping Plan, attached hereto as **Exhibit C**. The Arborvitae shall be planted at 5.5' to 6' on center.
- G. Landscaping. By June 1, 2012, the Owner shall cause to be trimmed and/or removed, consistent with good forestry principles, the existing overgrown hedge and landscaping throughout the Property, including along Illinois Route 83 and to the rear of the Existing Residence. The Village manager and/or forester shall be entitled to enter upon the Property for purposes of identifying with greater specificity the trimming and/or removal activities required on the Property pursuant this Section Three G.
- H. Rehabilitation of Existing Residence. The Existing Residence and Property shall be brought into and maintained in compliance with the Village Building Code, Property Maintenance Code, and all other applicable provisions of the Village Code. Without limiting the foregoing, the Owner shall complete at least the following items no later than June 30, 2012:
 - 1. Replacement of the existing asphalt driveway;
 - 2. Scraping, priming and repainting all wood exterior materials (siding, fascia, soffit, etc.) on the Existing Residence to a neutral color;
 - 3. Replacement and/or repair of the gutters on the Existing Residence; and
 - 4. Removal of plywood coverings from all exterior windows and installation of replacement window(s) as necessary on the Existing Residence.

- I. Removal of Construction Materials.
 - 1. Within 14 days after the approval of this Ordinance, the Owner shall remove all construction materials and debris not needed in connection with the Accessory Structure or the activities set forth in Section Three H above.
 - 2. Within 14 days after the issuance of the C/O for the Accessory Structure, the Owner shall remove all construction materials and debris relating to the Accessory Structure.
 - 3. By June 30, 2012, the Owner shall remove all construction materials and debris relating to the activities set forth in Section Three H above.

- J. Accessory Structure Use. Notwithstanding the general requirements of Paragraphs 5-9-1 of the Long Grove Zoning Code, the Accessory Structure may be used by Owner even if Owner is not the occupant of the Existing Residence; provided, however, that (i) the Owner shall make no interior changes to the Accessory Structure without the prior approval by written resolution of the Village Board; (b) the Owner shall not use the Accessory Structure for a home occupation (as defined in the Zoning Code); and (c) the relief granted in this Ordinance shall be personal to the Owner and may not be assigned or hypothecated to any other person without the prior approval by written resolution of the Village Board.

- K. Violations of Conditions. Any violation of this Ordinance shall be deemed a violation of the Village Zoning Code and subject the Owner to fines, penalties, and other actions authorized under the Village Zoning Code.

SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall, in the discretion of the Village Board of Trustees, be of no force or effect if Owner has not (i) executed and (ii) thereafter filed with the Village Clerk, within 45 days following the passage of this Ordinance, the unconditional agreement and consent, in the form attached hereto as **Exhibit D** and by this reference made a part hereof, to accept and abide by each and all of the terms, conditions, and limitations set forth herein. The Village Clerk is hereby directed to record this Ordinance and such agreement and consent with the Recorder of Deeds of Lake County.

PASSED THIS 25th DAY OF OCTOBER, 2011.

AYES: ()

NAYS: ()

ABSENT: ()

ABSTAIN: ()

APPROVED THIS 25th DAY OF OCTOBER, 2011.

Village President, Maria Rodriguez

ATTEST:

Village Clerk, Karen Schultheis

#10686934_v3

EXHIBIT A

Legal Description of Property

P.I.N. No.

Commonly known as: 4255 Route 83, Long Grove, Illinois

EXHIBIT B

Site Plan

DuPage and Kane Counties
 Phone: 630-690-3733
 Fax: 630-690-3735

SHAPIRO SURVEYING, P.C.

SUBMIT PROFESSIONAL DESIGN FILE #184-00267

1131 B W. 175th Street
 Homewood, IL 60430
 Phone: 708-430-4077
 Fax: 708-598-0696
 Web Site: www.shaprosurveying.com

TOPOGRAPHIC SURVEY

LEGAL DESCRIPTION: THE NORTH 1/2 OF LOT 14 IN SKYCREST ESTATES, A SUBDIVISION OF PART OF SEWCTION 19, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 13, 1949, AS DOCUMENT 687847, IN BOOK 32 OF PLATS, PAGES 10 AND 11, IN LAKE COUNTY, ILLINOIS.

LG0947

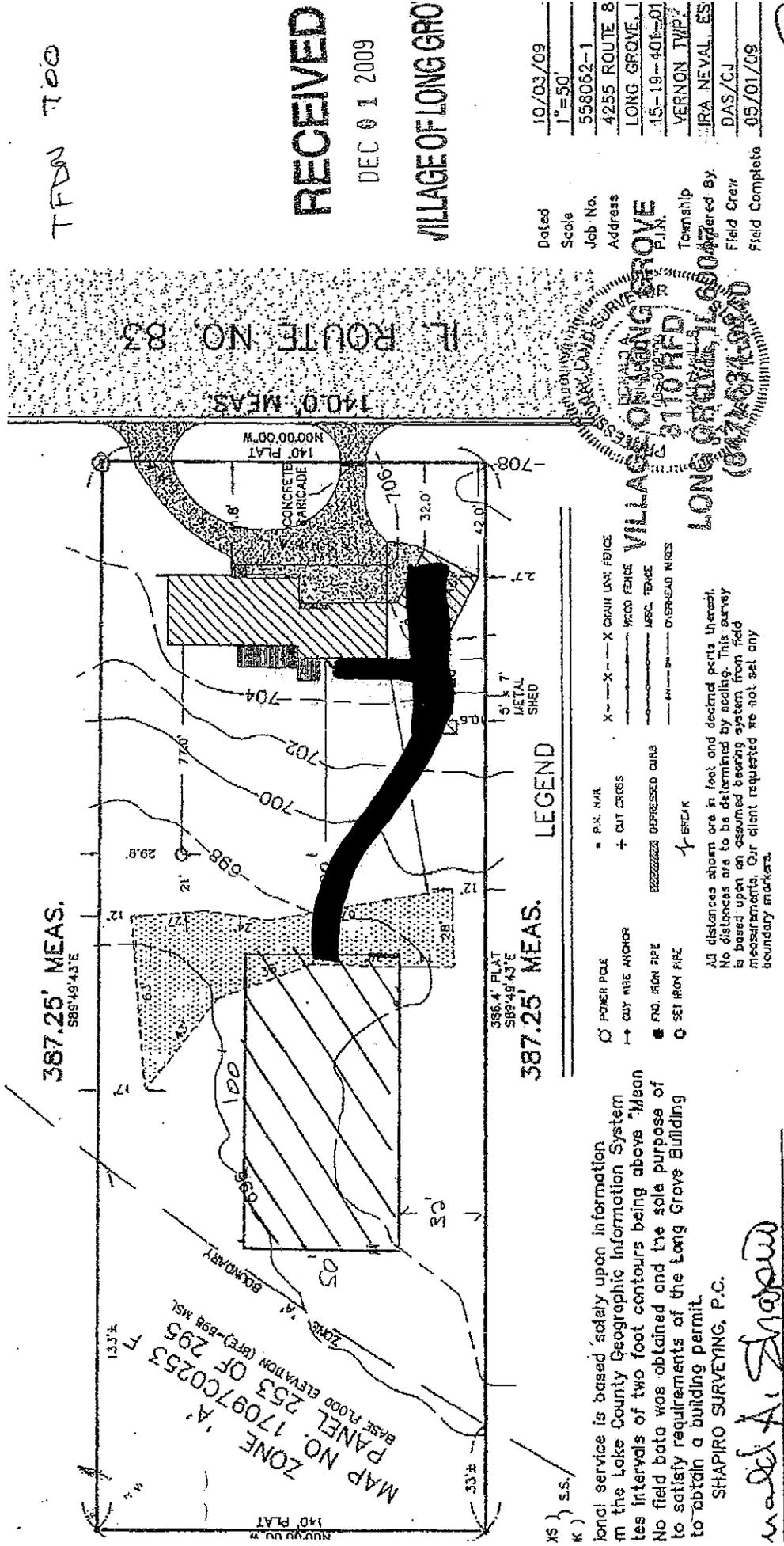
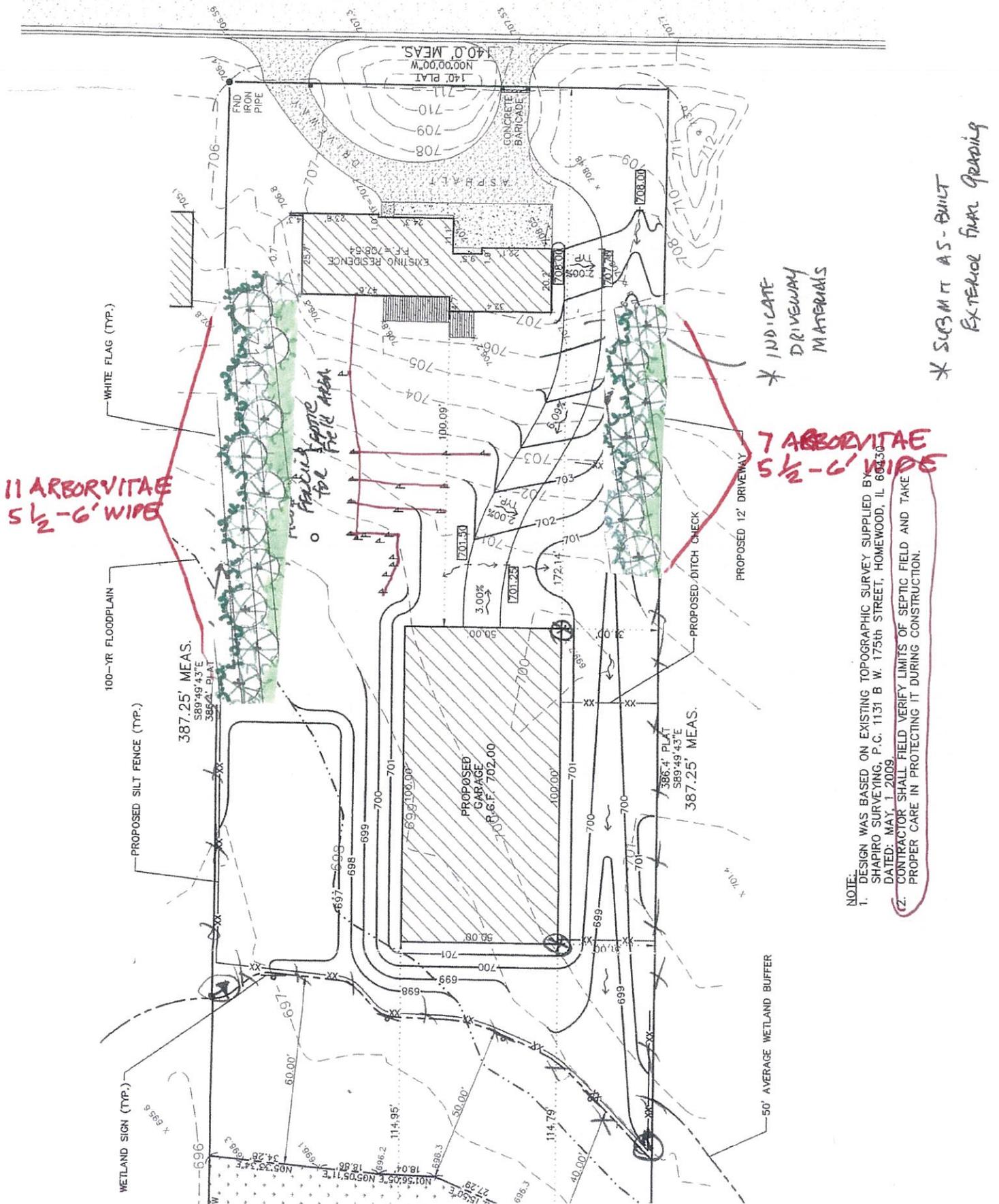


EXHIBIT C

Landscaping Plan

IL ROUTE 83



* INDICATE DRIVEWAY MATERIALS

7 ARBORVITAE 5 1/2 - 6' WIDE

11 ARBORVITAE 5 1/2 - 6' WIDE

NOTE:
 1. DESIGN WAS BASED ON EXISTING TOPOGRAPHIC SURVEY SUPPLIED BY SHAPIRO SURVEYING, P.C. 1131 B W. 175th STREET, HOMERWOOD, IL 60430 DATED: MAY, 1 2009.
 2. CONTRACTOR SHALL FIELD VERIFY LIMITS OF SEPTIC FIELD AND TAKE PROPER CARE IN PROTECTING IT DURING CONSTRUCTION.

* SUBMIT AS-BUILT EXTERIOR FINISH GRADING









EXHIBIT D

Unconditional Agreement and Consent

Pursuant to Section Four of Long Grove Ordinance No. 2011-O-____, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledges for themselves and their successors and assigns in title to the Property that they

1. have read and understand all of the terms and provisions of Ordinance No. 2011-O-____;
2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time;
4. acknowledge that the public notices and hearings have been given and held with respect to the adoption of the Ordinance;
5. agree to and do hereby hold harmless, defend, and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties with respect to the Property and the Village's adoption of the Ordinance or granting the approvals to the Owner pursuant to the Ordinance; and
6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Owner of the Property.

Ira T. Nevel

ATTEST:
