

**BOARD OF APPEALS  
VILLAGE OF TWIN LAKES**

**LAURIN, Gloria**

**February 4, 2009 - 6:30 P.M. – 8:10 P.M.**

\*tape available indefinitely\*

\*\*minutes transcribed from tape by Cynthia Skrypt\*\*

Meeting called to order by Chairman Tom Porps. Roll call: Boone, Kuhlmeier, Myers, Nathan, Porps. Porps announced that the purpose of the meeting was to hear the variance request of Gloria Laurin, 425 Wilmot Avenue, Twin Lakes, WI 53181. Porps gave the following instructions: This board meeting and public hearing to be considered today are open to the public. Anyone wishing to speak may do so providing they stand up, be sworn in and identify themselves. A tape recording is being made of these proceedings, therefore it is important that you state your name and address before addressing the Board. The purpose of this public hearing is to take evidence in this case. This Board is interested in hearing all of the evidence and will make a decision based on the evidence. Variances are not granted routinely. The applicant for a variance must clearly show the Board that the three statutory standards that govern granting a variance will be met. The three standards are unnecessary hardship, unique property limitation, and protection of the public interest. Unnecessary hardship – what constitutes an unnecessary hardship is a matter to be determined from the facts and circumstances of each individual appeal. In applying the statutory standards the Board must abide by court established principles. A self imposed hardship is not grounds for a variance. Loss of profit is not in and of itself grounds for a variance. An unnecessary hardship is a situation wherein the absence of a variance an owner can make no feasible use of the property or strict conformity is unnecessarily burdensome. For a dimensional variance which we are talking about this evening -- unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Whether this standard is met depends upon a consideration of the purpose of the zoning restriction in question, its effect on the property, and the effect of a variance on the neighborhood and the larger public interest. Unique property limitation - unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance. Protection of the public interest – granting of a variance must neither harm the public interest nor undermine the purpose of the ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Conditions may be attached to a variance to protect adjoining properties and to preserve the essential character of the neighborhood. A variance should include only the minimum relief necessary to allow reasonable use of a property. In granting a variance, this Board has the power to and will impose special conditions to insure that the public welfare will not be damaged.

GLORIA LAURIN VARIANCE REQUEST – 451 & 455 SOUTH LAKE AVENUE – 85-4-119-214-1340

Board of Appeals Clerk advised the news media, general public, applicant and property owners had been notified of this public hearing. Board members stated they reviewed the variance request and inspected the property in person. On site inspections, when conducted are in accordance with the Wisconsin Open Meeting Law. During the inspection process, no additional evidence was uncovered other than Porps except for himself driving by on a regular basis he does see a vehicle parked between the structure and the lake on a regular basis.

Gloria J. Laurin, 425 Wilmot Avenue, Twin Lakes, WI 53181 and Lawrence J. Laurin, 455 South Lake Avenue, Twin Lakes, WI 53181 were sworn in.

Porps read into the record Laurin's request for a variance: "You are requesting a variance to keep the recently installed non-compliant surface of the driveway and parking area, indicated on the attached drawing as "To Be Removed". The request for permission to maintain the non-compliant surface was considered and was denied in part by the Plan Commission and Design Review Commission. Larry Laurin stated it was pretty close to accurately describing the relief they are requesting. Gloria Laurin stated yes it does accurately describe the relief they are requesting.

Gloria Laurin stated they are here to ask for the variance from the Board of Appeals to retain all of the concrete driveway that is considered non-compliant surface at her property on Lake Avenue. When she appeared before the Design Review Commission in January of '08, they granted partial permission and they wanted part of the concrete removed. This would create a health and safety hazard for her and her brother and other handicap people using the property. Due to the physical disabilities that they have – when they started the property, their health was in a little better shape than what it has turned to in the last couple of years, especially hers in the last year. Due to the physical disabilities that they have, the non-compliant drive and parking area is necessary for their safety. She is asking for the variance so that she can enjoy the right to use her home and property unrestrictive. If they were to remove the part of the driveway that the Design Review originally recommended, they would not have enough of a flat surface when they pull down there with a car to get out of the car safely on to a flat surface so that they wouldn't be. At some point, she is probably going to have to use a walker or a wheelchair. The same condition is probably the same for Larry. Getting out on a slope is going to cause a hazardous condition for them to use. They also have some boating people that would be using that drive and there are two of them that are also handicapped that use wheelchairs and it would be again a safety hazard if they were going to have to get out on a slope and even with breaks on a wheelchair doesn't really lend to a good safety area. So that is one of the reasons. That is basically the reason why they are asking for the variance. She also brought in the other letter from their landscaper that even with the impervious surface with the buffer zone that they put in along the shoreline that it would more than adequately manage the stormwater – that rain, stormwater whatever would come off the impervious surface.

Larry Laurin stated going back to their original Design Review Commission back in September 14, 2005 this project and the only reason it was built was exempt from any shoreline zoning and that is stated quite frequently in this draft at that meeting. Also the first paragraph has a line right in the middle stated by Tim Popanda says, "Parking area is required to be paved." Tim stated original parking for this project requires two off street spaces and one for resident and one for handicapped. So there was a question about the paved surface at that time. Going further down in that paragraph, Tim Popanda stated this project was exempt from current shoreline zoning setbacks. Although they do have the setback now because he noticed you have a measurement here – I do not know who made this measurement that we have on this table. Porps asked if it was red or highlighted. The Laurins stated it was red. Porps stated he did not make those measurements. He calculated those off documents you gave to us. Larry Laurin stated okay. He wondered about the 15.4 and 13.8 at the shoreline. The ice did push the shoreline in like it does every year and we already contacted Heidi Hopkins at the DNR and she said that would be available to reset it because on mine when I measured it after it was just shortly put in by Bob Livingston, he had an 18 foot measurement and a 70 foot measurement. So that shoreline zoning of 15 feet is actually met with that buffer zone that we had Creative Landscaping put in. Porps stated as long as you brought that up he would like to explain where he got those numbers from. You supplied us with this particular survey here. If you notice the dimension on that is from the lake side as if you were at the water's edge the left side shows 25.8 feet. Laurin stated correct. Porps stated on your drawing here you show your patio as being 12 feet wide so if you deducted 12 from the survey of 25.8, that would leave you with 13.8. Laurin stated that was mathematically correct but at the time this was taken that high water mark was substantially pushed in by the ice again so when we reestablished that shoreline, which you are allowed to do, that is where we picked up the difference in the footage. That was just done this fall by Bob Livingston. Porps stated so you are saying that this survey is incorrect. Laurin stated the survey is correct but the measurement from the corner of the building to the high water mark is incorrect. Porps stated that means the survey is incorrect. Laurin stated the survey is where it is on the property but that 25.8 and the 26.3 is probably longer if you total both of them up. That is where I came up with on the one you highlighted in red 18 foot and seven, which we actually physically taped it going from the shore into the water and then take that dimension. Porps stated okay. This survey here is dated the 8<sup>th</sup> of June, 2005. Laurin stated right that was a preliminary survey to get the project started. They had to have the 25 foot setback from the lake to even get this project off the ground. At that time we needed 25 foot setbacks. Porps stated right. Laurin stated okay so that is when that was done. Porps stated so other than your measurements indicating at 17 or 18 feet, do you have any documentation that facts that up. Laurin stated well we could go out there and measure it again. Porps stated he measured it today when he was there very briefly and on the far left end of your property – if both of these dimensions off the building are roughly three feet off – the one to the far left you show as 15 would be around 12. He measured it today around 10, maybe 11. So I did not grant it two foot and make it an even 12. Laurin stated but if you noticed the shoreline – Porps stated it certainly is pushed to the extent that it is buckled up. Laurin stated it has been pushed up and buckled up and that has been since they have been there since they have had the property for 30 years. They have always had an erosion problem with the ice coming in. It always sets up on the shoreline.

Porps stated as long as you touched on that your letter here from Mr. Livingston says the buffer zone was established. You did that work, correct? Laurin stated right. Porps stated okay that was after June 2005. Laurin stated that was right. Porps asked when this work was done. Gloria Laurin stated September of 2008. Porps stated very good. Laurin stated again with their handicap and their ADA accommodations that we need, we had Society Assets come out – a lady named Linda Vogelmann came out and I think you have a letter in the file. Porps stated he does. Laurin stated she came out and looked at the property and estimated it and saw what we did and what we planned and she put her stamp of approval on it. She stated for ADA accommodations this would be an acceptable requirement because you need the flat space that is down below where he shows the accessible parking and the driveway coming down has a slope that is actually too extreme for a wheelchair. He has some code here. The code calls for 30 inches and that is actually three feet of a drop. And in fact even walking it he can feel his artificial hips start to buckle because of the slope. So that is why he has to drive down all the way to the flat part so he is not on an extreme angle getting out of the car.

Laurin stated they also had a lady with Disability Rights Wisconsin to check out the situation. I think you have a letter in your file from a Monica Murphy from the Disability Rights of Wisconsin. She also put the recommendation on there considering the slope of that driveway being so extreme which is over the recommended drop. Then we have letters from Paul Webber. He is my regular doctor about my disability. In fact he recommended the wheelchair for me, which he does have a wheelchair. Michael Dussault wrote a letter to the fact that I did have two hip replacements done, one about 10 years ago and one about 11 years ago. The left one is starting to give me some trouble where it is starting to dislocate so the walking part is an extreme problem for him especially going down any kind of grade or slope. My sister has her Dr. Goodman from Glenview, which she has a letter in which she has her placard too. We both have disability placards for our vehicles. That is the reason we are requesting this ADA accommodations because we are both going to need the facility.

Laurin also contacted a company named Integrity Chairlifts to put a chairlift in the house going up the steps now and that is one of deals that hook up on the railing here and took measurements on that. So that is what we are anticipating. We are anticipating the chairlift for inside the house and he also recommended when we get to the point – we don't even want to think about it – he had the van that came out there with the rear tailgate and he actually took a wheelchair off and put it back on the

vehicle and he said this would work with that lower patio pavement we have. People call it a patio but it is not. It was laid in as a patio for traction so the 180 is space right in front of the door is considered accessible for parking and the wheelchair and the other one is considered van accessible so you could have the van come in with the side exit or the rear exit and that is why that is a bigger space to the north.

Laurin stated he also had the requirements for the level surface and the size of the area and those sizes are in there are what they recommended from the – and this is the ADA from the Federal Government actually. It is the Justice Department that puts out the information and that is where I obtained the information to set the pavement in as such. Other than that I don't know what direction you want to go into now. Are we still debating anything on these measurements on that – okay, that's it. Because you said you wanted to verify that shoreline buffer and I'm sure we could do it. Porps stated he believed they could. Is there anything else you would like to say at this time? Laurin stated not at this time. He thinks he laid the specifications that are necessary and why they have to be able to use it.

Porps stated Board Members, I'm sure you all have questions. Who would like to start? Boone stated it seemed to him that what you are asking for the impervious surface that you installed that the Design Review Commission did not want you to install, you want it to be left there? Gloria Laurin stated correct. Boone stated before you installed that, did you look into any pervious surface to go in there? Larry Laurin stated yes, they did. They had gravel there and we actually pulled a vehicle or a van vehicle in there and it couldn't make the grade going up the slope and it also had a tendency to sink on the side of the lake so that is where the concrete had to come in. I believe it's a five inch pad that they put in for a vehicle the size of a van. Boone stated he meant did they look at any other pervious kinds of surfaces other than gravel. Gloria Laurin stated just in that was on the Design Review when we first initially came to the Design Review for the plans. That was 2005 I guess. He suggested some kind of paving blocks or whatever it was but when the contractor came out he said that would not work because of the slope. That was the only other one. It would be a pervious surface but impervious because water or rain could drain through these here bricks but the contractor when he came out to give us an estimate he said that wasn't going to be something that was going to work for that. Boone stated from his understanding there are many other kinds of surfaces that are pervious now or the water will go through. You don't have to have a concrete surface where the water runs off. Larry Laurin stated the only problem Ross is when you have a system like that, it only takes a pebble or a little stone or whatever that pops up out of that surface that could cause a wheelchair to tilt over and then you've got a catastrophe waiting to happen. Boone stated that is the same thing you are going to have with concrete when you have something that is not supposed to be there. Larry Laurin stated well the concrete you can see and you can sweep it but if it pops up out of the dirt – I mean that's just nature pushing things to the surface. It was impractical to put anything but the concrete surface in there. Boone stated he is on the stormwater committee for the Village and he knows there are all kinds of engineered surfaces now that are pervious and you don't have to have concrete. That is all I'm asking is if you explore any of these. Larry Laurin stated yes, they did. Boone stated other than the gravel. Larry Laurin stated other than the gravel there was blocks and different components. There's also another one like a limestone. You could stamp it down. You see there is extreme runoff off the slope and that's another thing we had. We had problems with the washouts. Before this period is concrete -- this didn't happen overnight now. We started pouring this concrete in the spring of '07 and we first put the sidewalk along Lake Street to establish the grade and that's when we found the grade was going to be off going down the slope and so anyway so this was poured in four difference phases and the driveway on the north side was the last one and every time we had a heavy rain, we had washouts. Boone stated that was his main question.

Porps asked Myers if he had anything at this time. Myers stated originally it was only suppose to be paved on the south side there. Are there any plans to remove that? Larry Laurin stated no but I mean if you don't feel it is necessary I mean I guess we could do it. That was the original ADA spot that was suppose to be in. Myers stated correct. Larry Laurin stated as you can see the grade changed as we – we'd have to come around the building and come down that driveway with that steep slope. That's why it was impractical and it wouldn't work. There are steps in the front toward the lake side. Are you talking about the square footage you're wondering about – Myers stated that was what he was looking at. Larry Laurin stated he worked up some numbers for you guys and we could go over it with the measurements that are on the sheet and those measurements are all verifiable. First of all there was a stipulation about square footage. We never made a pour over 600 square feet. There was a 480, 280, 288 and all the concrete that was poured when you total it up with the lot size, it comes about to be 1,248 square feet so it's maybe 48 square feet over what their recommendation is. That was a number that was never even mentioned in any of our design reviews of any of our meetings about any kind of square footage for concrete. I mean that was not even a factor at the time. Like I said, it's 48 square feet over that 1,200 square foot number and that's a six by eight square so if you want me to take a chunk out six by eight – I could probably – I'll do it. Myers stated he was just looking at here it looks like you have enough room other than parking stuff on the north side to part two vehicles over there. Larry Laurin stated the north side won't make it. My son tried to park there parallel to the road and he got a ticket for being too close to the road because you only can pull straight in. If you look at the steps you can't open the door when you are trying to get out of the vehicle. There are steps right adjacent to it.

Porps asked if Kuhlmeier had anything. Kuhlmeier stated the question he had is what is the term to the shore yard is it the distance from the water to the building. Laurin stated he did not know the shore yard. The Shoreline Zoning requests a 15 foot setback

and the 25 foot setback was set by the building setback. Kuhlmeier stated it says not to exceed 20 percent of the shoreline setback but the term is the shoreline setback. He did not think it carries all the way around the building. Laurin stated he thinks what they mean by that it is the lot – how much concrete you have on the lot itself total – the total capacity of the lot. Kuhlmeier stated you do not have a very big lot. The bigger question is what are we talking about – what is in violation? Laurin stated technically the only thing in violation is the impervious surface. Kuhlmeier stated what he gets out of it is some of it is in violation and nobody has put a number on it yet. Laurin stated if you look at the drawing there was a partial impervious surface. Do you have that drawing? Porps stated this one, Tom. Laurin stated if you look at the drawing they show you actually with those slashes – that's the slashes they were talking about taking out. Kuhlmeier stated they are asking for most of what is in front of your building except for four feet and the apron for your turnaround. Laurin stated there's a little clearance for where the deck supports are at. Again with the vehicle coming into that point that is where you have to come into that area and you need every bit of that to get the vehicle in there and you can't really give on that. It is only 12 foot from the building. You need a 12 x 20 when you open your car door you are trying to unload a wheelchair and put a ramp out the room is not there. Kuhlmeier stated the shore yard to him would be up to the front edge of the building.

Cox asked if he could clarify for him. Porps stated please do. Cox stated according to the code the shore yard is from the ordinary high water mark to the building line so whoever said that is accurate. Accessory structures in the shore yard -- no individual accessory structure can be larger than 600 square feet that's number two. Kuhlmeier asked what the accessory structure was. Cox stated an accessory structure in the Shoreland zone and it is different than any other zone in the Village. In the Shoreland zone an accessory structure is anything attached to the ground with the exception of a deck that is attached to the primary structure. So anything that attaches to the ground or has a permanent placement on the ground is an accessory structure in the Shoreland zone. Again as I said that is different from any other zone where the concrete we are talking about would not be considered an accessory structure. So that is an important distinction here in the Shoreland zone and by the way for the record David Cox Village Administrator. There are three things we identified in the letter notwithstanding the Design Review Commission piece. Three things that we identified in the letter to the Laurins that was dated in December of last year – accessory structure in excess of the size in the shore yard – an accessory structure greater than 20 percent or rather accessory structures covering greater than 20 percent of the shore yard and the third item was an accessory structure closer than 15 feet to the side lot line. Those are the three zoning issues that we identified again as I said notwithstanding the issue of not having been approved by the Design Review Commission coming from that. So those are the three items that the letter talked about and then as a clarification it is from the ordinary high to the building. Porps stated thank you.

Laurin stated again if he could make a statement on that. We received a ticket and the reason we are here is because the Court wanted us to come before the Board of Appeals. On the ticket is non-compliant surface and a non-compliant surface is that area that is highlighted by the Design Review. Porps stated okay. Laurin stated the accessory structure that terminology you know an accessory structure is a structure, okay, a physical structure. These are patios. These are whatever you want to call them the structure the definition is misleading and that is why I think a lot of confusion comes in because this was never brought up in any of our meetings, any of our Design Reviews or any forethought before this was done. And again this was all done in stages. If anything was going wrong in any of this it could have been stopped. The Building Inspector had a placard out there and he came by to check – if he wasn't there every day it was every other day – and I know people from the Board and even Design Review came by there. This place was a hot spot because first of all it was a controversial project. A lot of people didn't like it or didn't understand how it could be put in as such. Well it was put in as such because we jumped all the hurdles you know from the start and the concrete was poured one, two, three, four – Gloria Laurin stated over a nine month period. Larry Laurin stated over a nine month period and there was no stoppage ever given saying hey Laurins you are getting out of whack here. You know Tim was good to the point where if he seen something wrong he would come there and he even recommended that he took the stairway out it was suppose to be a deck on the front with a stairway and he said it would interfere with the ADA parking. He said you are right so we removed the stairway that was coming off that front deck and it shows on my original plans. So like I said this was not done overnight like we tried to sneak something in and said oh, now we got it in it's there. That was not the case. This was done in four different pours over a nine month period.

Porps asked Nathan if he had anything. Nathan stated he was just trying to figure out it says mixed commercial and residence. He asked what part of it is commercial. Larry Laurin stated the commercial is he has his repair shop downstairs for his piers his lifts and that is the reason this was allowed to be built. Nathan stated he did not think you consider that commercial. Commercial would be like if you are selling – Larry Laurin stated it was a done deal. Gloria Laurin stated yeah it's irrelevant. Nathan stated no it does because if it is not a commercial building then you are not required to have ADA parking. Larry Laurin asked if Nathan was going to find him ADA parking. Nathan stated he forgot to take the thing out but I don't think handicapped parking is – Larry Laurin stated the Ordinance states any building and I believe there was a footnote there and that was put in during the Tom Calkins regime that you have to have two parking spaces and ADA parking and that was added in. In fact he fought that in my original Design Review and it states it right in the first paragraph. He questioned it and he was told he needed it and that is why it is there. That is why it was put in. Now it comes like I said now it comes to be a factor well at that time it was a necessity we had to have it in plus the fact we need it for our use. Our combination for our residence and egress and ingress you know to get into the building.

Porps stated he would like to back up a little bit. He has read the minutes from various meetings. He actually was at some of the meetings. Your original plan was approved by the Design Review allowed the parking spot from the lake side to the right correct and no concrete whatsoever to the left correct. Larry Laurin stated well they wanted it impervious. Porps stated right. Laurin stated or pervious. Porps stated pervious so no concrete whatsoever. Laurin stated originally that's what they said. They said there would be a way to fill it in with gravel and all that but – go ahead. Boone asked if Laurin could talk about east and west instead of left and right. Porps stated it was really north and south. From the lake the one to the right would be the south and the one to the left is the north. So your original permit did not allow for any concrete whatsoever on the north side. Larry stated it was suppose to be pervious. Porps asked so how did you start pouring concrete? Did the permit change or something? Larry stated the permit changed once the grade was established at the road and the Village actually put in the apron for that first ADA parking and we shot the grades. Porps stated the first ADA parking the south parking. Laurin stated first ADA parking the south parking and we shot the grade from the sidewalk. The sidewalk was along Lake Street already so once we shot the grade from the sidewalk down to where that gravel would be whatever impervious or pervious they wanted it was that distance of that 30 inches was going to be over it was going to be three feet okay. So at that time he talked to Tim and he says "What do we do?". He said that well the Design Review was reasonable and they will accept recommendations and Tim was going to follow up with it because he knew we had a problem at that time. And like I said we didn't pour – the sidewalk we poured at fall of '06. We didn't do any more concrete – we had everything laid out – in fact we had it all formed up – we had that south driveway all formed up and it sat all winter long – we didn't pour anything. As far as Tim was concerned this was the only feasible way to go and the pervious and the impervious the reason that came in it was I think about the runoff and then we said we had the buffer zone. We had the buffer zone because the ice was a factor pushing it up. We have a 15 foot buffer zone and that would be the only reason for the impervious or pervious. That was strictly a runoff situation. They wanted something where the water was going to run off and I guess wherever it was going to go.

Porps stated he wanted to get back to the basic question. The north side did you or did you not ever have a permit to pour concrete on the north side? Laurin stated an actual permit. Porps stated yes. Laurin stated they never needed a permit to do it. When we put the other driveway in we never needed a permit to put the other driveway in we were just putting it in and that was all part of the total package. Porps stated the total package called the south driveway to be paved and the north driveway not to be. I guess what I'm getting at is how did that change? Who changed that? You just did it yourself. Laurin stated he touched base with Tim. And Tim was the guy – he was there. Everything I read you go to the Building Inspector first. That's why changes were made. That's why that stairway was pulled because that's how it was going to work to get the ADA in at the right spot. The ADA would not work where it was located. The ADA would not work down with the gravel going down that slope so. In fact like I said Tom if we go back to where we even started from September 14 '05 the parking area is required to be paved. Popanda originally stated parking for this project requires two off street parking one for residents and one for handicap and that was the followup we went on. Parking is required to be paved that was the original condition to be paved. Okay. Somewhere down the line I think it was Destree or somebody said I'd like to see gravel there. Well he'd like to see gravel there and we tried to put gravel there. Gravel would not work with the runoff and with the washout. And most of all anything that we have that holds up is a paved surface. We see washouts on some of the roads when you are going on Lake Shore Drive and all that and where there isn't concrete you get a washout and that's another problem we have at that venture right there. And again that was the last part to be poured. That was done in I think probably August of '07, the end of August. There was no stop work order any place along this whole project.

Porps continued on the January 9, 2008 minutes here Laurin stated that he was unaware that he needed to come back with any changes okay but then in the conditions of your permit line number two – submit details for approval of any changes made to conditionally approved plans. So your original permit made it clear that if you wanted to make any changes you would have to submit these changes and I'm sure you read your permit but here you stated that you were not aware that you had to submit changes. Laurin stated he was told to see the Building Inspector and the Building Inspector could make the changes on the site depending on the condition that exists. The Design Review guys to be frank about it they didn't know how this thing was going to lay just be looking at the paper. They had no idea what the slope was going to be what the other factors were going to be. Tim was the guy who was on the job every day. If you want to point fingers. I don't want to point fingers either. Porps stated he was not pointing fingers. He's trying to figure out how this all came about. Laurin stated they did not do it willy nilly because like he said that was the last thing to be poured. Porps stated so now we have the entire in four pours starting in spring of '07 you have your entire on the north side a double wide parking area there and it comes down in front of your building and – Laurin stated right. Porps stated so you have the whole project. And you received a citation to remove part of it. Laurin stated right. Porps stated then at some point you went back to the Design Review Committee and they actually granted – originally you were going to remove all of it, correct. Laurin stated yeah that was one of the requirements originally. Porps stated then you went back and saw them and in a letter here August 29, 2008 David Cox has written you a letter explaining that they'd have given you additional consideration by allowing you to keep the north side parking area and a four foot long walkway across the front of the building with access to the lake. Laurin stated he had bad hips. Jeff, can you show this to Tom? (Tape change.) Laurin stated the writing there the scratching there, that is not his handwriting. That's what was allowed and what was permitted but as you notice we had to take out part of that deck on the one side because we did not have a wrap around deck. Can you see where it says impervious? Can you read the writing on that? That's the north side. Porps stated correct. So the Design Review Commission has actually granted you some additional leeway from what they originally – Laurin stated because

of the slope of the driveway they knew it wouldn't work and as we talked it out and hashed it out they realized that was a bad idea probably to begin with. Porps stated they have allowed a portion of it. Laurin stated and they wanted us to try to make adjustments by cutting out the other section. We couldn't get another van in there to not sink in to any kind of soft spot that's right on the lake. It's not actually a bog but it's pretty soft. So a van or a vehicle for handicap accessibility will not hold up in that area. And a narrow four foot walk wouldn't work – you'd have someone slip on a walk and then you would have an injury there and then what's the liability factor involved in that. So it was a safety issue to a point. Porps stated okay.

Porps asked if there was anyone wishing to speak in favor of granting the appeal. There were none.

Porps asked if there were any letters to be read into the record in support of the variance. There were none.

Porps asked if there was anyone in the audience wishing to express an opposing view to this appeal. (Audience commenting were sworn in.) Marcia King, 420 S. Lake Avenue, has a house next door. First off I am not quite sure why we are actually here. The project had been before the Design Review Board, Planning Commission etc. The Laurins were advised what they could do and could not do. They chose to do it their way. A year ago they were brought back here and questioned about why they did not follow the plans approved by the Village. Larry's response was that as they were doing the project he decided that his way was better so they went with that. Then they were told they needed to remove the concrete. Here it is a year later and it still has not been done instead numerous delays. Gloria had been a Village trustee. She knows the rules and regulations of the Village. Larry Laurin at one time was the Building Inspector of this town. He knows the rules and regulations of this town. Gloria was also on the Shoreland Protection Committee. They managed to have the plans for this house to be submitted just prior to the new regulations being passed from the Shoreland. The new regulations would not have even allowed for this structure to be built. They knew about the problems with the parking and the driveway and having to back up and knew of the slope of the building for all of the parking. She has beach property along side theirs as well. She would never come before the Board asking for herself in her years as she is coming up to retirement saying she had needs to have concrete poured down so she can get down to her beach. She will make her way down to the beach. If this family is allowed to keep the concrete and whatever else the Board has told them to be removed it will be a slap in the face to every taxpayer in this Village. Why should any of us have to abide by rules set up? If you grant this variance it will open up a whole keg of rooms and set a precedent for the future. When taxpayers are told that they cannot do something they'll redact by saying why not I like my plans better than yours. After all you allowed the Laurins to do it. She can see the lawsuits already. She had a garage that was in disrepair. It was not basically without variance you know too close to lot lines and everything else. Porps stated non conforming. King stated it was non conforming. The easiest and most cost effective way for me to repair my garage would have been to level it and replace it. She spoke with the Building Inspector Tim Popanda and was told I could not do that not without going through the variance for it and possibly being denied being able to do it. She asked him what she could do. He indicated that all I would need to do is I would have to keep all four walls in place, raze the garage, tear out the concrete, replace an entire whole slab, put the garage back done all in place without taking any of the walls out. It was much more expensive than tearing it down. What did I do? She followed the rules of the Village why can't they. And hearing some of the other items originally the only reason that this plan was done was allowed to be done was because it was commercial mixed use residential. Now all of a sudden it's coming before here saying well I can't get my van here. I can't get out. I can't park here. What part of commercial? I also notice in one of these letters in here it says that Larry needs to ride his scooter to be able to get in and out. I live next door and I've yet to see him on a scooter. I've seen him on a four wheeler going from his other property down to the beach never in a scooter. As regards to the – I've got no notes now after I had prewritten not knowing what else was in here. Like I say it's suppose to be commercial and the parking they should have thought about it. It was brought up at the Plan Review Board meeting that the property is so close to the street. It's on South Lake Avenue – you've gotta back out – you've gotta pull in – there's a big slope – that was all prior to it. Why even take on a project like that and then come back a couple of years later. Larry made a comment about I poured the concrete in stages. I saw him pouring the concrete in stages. I saw all of a sudden okay here's a little slab of concrete – hmmm okay – here's another little slab of concrete – okay. I just assumed evidently I should not have that he had to have gotten a building permit because it's in the middle of the area where everybody drives by. How many other people that were driving by thought well nobody could be that stupid to be doing something in the middle of the town when everybody is driving by. I assumed I must have missed a meeting. They must have come back and gotten another permit and was allowed to put the concrete down there. I mean it just isn't right. I mean you can't just – like I say he was a Building Inspector in this town. He knows that you need to take out permits. He was a Building Inspector. He knows that once you have a building permit if you make any changes to it you need to go back and get it in writing not a slip of paper that says oh here you can take this out, you can take that out with nobody's signature on it, anybody can do that. If you grant this variance I mean hardship they should have thought of that prior to even putting it on there. The slope has always been there. It's not something like they've been in that house and have lived there in this house for 30 years and now all of a sudden because of their age they need to get more accessibility to it. They can no longer park across the street and walk over to their residence. They built this thing just a couple of years ago. It just does not seem right. Thank you. Porps stated thank you.

Howard Skinner, 1309 Lance Drive, chair of the Design Review Committee stated he would like to draw attention to the original minutes and the motion that was carried unanimously other than Chuck Saul says clearly two unpaved pervious parking spaces not grass, balcony to be the width of the doors beneath the jump landing fire code, trash toter to be screened or stored

underneath the stairs. Kenosha County will be held harmless for any snow removal damage and route water runoff into a French drain or similar device. Now you flip to the next page landscape plan and drainage drawn by L. Laurin scale one inch = 10 feet. If you look to the left of the building as you are looking at it – Porps stated he was sorry to interrupt you. I know the motion. I’ve read that. Which drawing are you looking at? Porps has the drawing. Skinner stated so what this issue is about is drainage and that’s what the Design Review Committee recommended and approved. Now I have to do some paper fishing here. Porps stated he knew there was a lot of it. Skinner stated the Design Review January 9<sup>th</sup> – Beyers stated that he would feel more comfortable if they could get an updated site plan that shows everything including the landscaping. This plan should then go to Tim Popanda to make sure that it meets all the requirements before it comes back to the Design Review Board. Skinner stated that Laurins need to submit a new site plan showing landscaping and pervious calculations to the Building Inspector. The Building Inspector will then review the plans before it comes back to the Design Review Board. Laurin asked if he submits the new plans to Popanda for approval – Skinner answered that Popanda will need to review it and then submit it to the Design Review Board for approval – never got anything – zero. The date I don’t remember but I want to say it was last early December 08 meeting with myself, Dave Cox, Village Attorney, Laurins, Kevin Fitzgerald sat in at the meeting. We explained to them in that Design Review meeting of January 9<sup>th</sup> of 08 we would allow them to keep that drive lane and the four feet of walkway along side the lake side of the building. The meeting that we had in the office up here explained again that this had to be corrected that the public was watching this issue. We have received no updated plans. All we have gotten is the thumb of the nose. Thank you very much.

Linda Smith, 1319 Lance Drive, stated just briefly I know Marcia touched on a couple of things that I was thinking of but I’m sorry for Gloria and Larry’s different health conditions and issues but when they came before the Design Review Board when I was in that meeting and most of the meetings I believe the Design Review Board brought up if not most every single one of these issues that the Laurins are bringing before this Board tonight that this is going to be nearly impossible – you are not going to be able to open a door on that side – all these things that they have brought up that is going to be nearly impossible to get completed so they tried to dissuade them with bringing up all these things and tell them that there were going to be problems. Also she believes if she remembers correctly they were doing this all for their elderly mother who was in a wheelchair and that they said this was all going to be to make sure it was compatible for a person that was in a wheelchair. I think that’s about it that they just did bring up all these things that they said were going to be a problem down the road and that the Design Review Board was trying to say that would not be a good plan to even go forward with. Larry Laurin asked if he could interject. Porps stated not yet.

Mike Moran, 327 Martin Avenue, stated he was also at some of these Design Review meetings and we offered some latitude as far as the concrete slab and that. It was only suppose to be four feet on the back side to accommodate any kind of a walkway area and that’s to the extent that they were given. They were not given any more latitude to extend that further to the shore yard and he also has October 30<sup>th</sup> ’07 an order to fix the violation from Mr. Popanda and it goes back that far. That’s since it has not been addressed at all to his knowledge nor was it brought up that they were going to have any kind of permit to extend that slab brought to their attention. It was all done after the fact. I think there is enough drive on the side to park plus their ADA parking on the south end there and that’s all they were given nothing about extending the slab to the back side for turning vans around. Porps stated thank you.

Sharon Bower, 1608 Sunset Drive, stated she was at the some of the Design Review Committee meetings and her feelings are if they give you a design and approve it the way it is that’s the way it should be followed and she does not think they should make any more concessions to those designs that they approved. And I think they are all very capable people on the Design Review Committee. Thank you. Porps stated thank you.

Porps asked if there was anyone else wishing to express an opposing view to this appeal? There were none. Larry you had something to say? Laurin stated yes. First of all Linda Smith made a statement about my mother in a wheelchair. His mother passed away the day they broke ground on that place and that was actually going to be intended for her. So there was no statement made that wasn’t true. Another thing this project from day one was a controversial project. People didn’t like it. People wanted to know how it could be done. People wanted to know why it was done. They had to jump hurdles to measure this project. They had it surveyed three times to make sure that foundation didn’t move -- after it was set in – after it was built because people kept on calling up. We got a good idea where all that is coming from and there’s a lot of static because I hate to say it jealousy is a sickness and that’s what this amounts to to a certain extent. What we did here – like I said we didn’t do anything overnight – everything was done in stages – everything was to accommodate an ADA handicap which we have and I’m sorry that’s the way it had progressed but we do need this facility for this. First of all there was something I seen on TV the other day and there was a comment made if I’ve got everything right that says reasonable people accept who changes to accommodate disabled senior citizens in their time of need and this was a similar car where you’ve got commercial buildings – you’ve got industrial buildings – public buildings that people can’t get into. And we have a condition in this town where we’re far behind the eight ball in the accessibility for the handicap. The baby boomers are coming to the point right now where they need all these accommodations. We fell into that thing. There’s going to be more and more coming. Unless people are more open minded and accept these things instead of saying “We told you to do it this way and you can never change anything we did”. You know that was not the intent. We had people come up from Society’s Assets. We had Disability of Wisconsin come

out and this is what they do for a living. They accommodate people in their structure. We had their guidance to do projects like this. When we poured the slab on that south side it was a no go, you would never make the grade to get down there. That piece of concrete we're talking about is eight feet probably and this is what is going to separate friends from neighbors for eight feet of concrete. What is the problem with allowing it? Why are these people so against it? Because someone found a gavel and said "This is the way you've got to do it". Well we're a more open-minded society than that. Like I said if you think someone is trying to pull a scam on you – well then that's your personal opinion. There was no intent from anybody in my family to do anything – in fact we wish we would have a condition where we wouldn't need anything for accessibility and our doctors will verify this. So the problem is right now what do you want? Do you want water runoff going into the lake? We have got a cesspool 20 feet away from us in between the Fitzwoody's property – that's 1,000 gallons of water pumping into the lakes from the street the oil, the dirt. Marcia's got a pipe coming through her property the same way coming up Wilmot dirt and crap going into the lake. Is this the condition you guys are worried about – pervious and impervious? We tried to make an adjustment when we were at that meeting with the Design Review. We brought in Bob Livingston from Creative Landscape – he wrote you a letter and if you want to have another engineer come back to prove it – that's what it's all about – the water runoff – from our property we've got a gallon compared to thousand of gallons and I've been out there – I put gutters on my house where it runs the opposite way – everything is pitched – there's minimum – minimum water runoff and that's what it boils down to – pervious or impervious to accommodate the handicap. That's the scale you have to weight. That's got to be the scale of justice. Water running into the lake when you've got cesspools on each side of that property that no one cares about – no one has ever done anything about it – you should be out there on a rainy day and see what really goes into the lake. I have been out here for 60 some years and like I said we've got all these cesspools around the whole lake. I'm surprised we still have a lake. And I would try to jeopardize the property in front of my parcel – impervious – pervious -- handicap accommodations. That's the scale and that's what we've got to live with and there's more people lined up in back of us that are going to have the same problem. Thank you.

Porps asked if there were any letters of opposition. There were none.

Lack of opposition is not a reason for granting a variance.

Porps asked the Board members if they had any more questions. Kuhlmeier stated the impervious pervious issue is – runoff is runoff and whether it's on impervious or solid surface it's going to run off. He thinks the little bit of detriment from a car is minor compared to 50 boats sitting on the water with gas and oil. I guess that is my additional comment. Porps stated thank you.

Porps asked Nathan if he had anything. Nathan had nothing. Porps asked Myers if he had anything. Myers stated you mentioned if you were -- would have pulled down the driveway as they had proposed with this January 9<sup>th</sup> drawing that the vehicle would be on an incline and you would be unable to get a wheelchair out of it. Larry Laurin stated that was the problem, yes. It is a three foot drop in 24 feet so it was an extreme angle. The wheelchair would not hold there. First of all you could not keep it there and have someone try and get out into it without going past that walk they would be in the lake. That is why that flat surface was recommended in front of the building. Myers asked how much farther beyond this drawing would you need to go to have a flat surface so that you could exit the van – you would just go straight towards the lake a little farther. Laurin asked from what point are you talking about. Myers stated if you look at this dotted line if you were to be able to pull up a little farther would you be able to exit that van. Laurin stated well it is actually right at the corner of the building that is still the slope. It doesn't level out until you get to the corner of the building to the lake. So that 12 feet that is shown – well you don't have that drawing – the 12 feet that is shown on that is the flat surface. If it extended off that driveway you couldn't get enough flat surface to make it work. Myers stated he guessed where he was going with that if you were to extend it straight ahead 12 feet, would that give you the room to exit the vehicle on flat surface. Laurin stated if you took that whole driveway and went straight – Myers stated you just went straight – Laurin stated without the turnaround – Myers stated that little area right there, would that give you – Laurin stated that is basically what they have now. It is 12 feet from the end of that driveway – that is 12 feet. Myers stated that would be flat where you would be able to exit the vehicle. Laurin stated if they had a full 12 feet from that corner of the building, I would say it's doable. The reason he put that other side in Jeff if you are familiar with South Lake Avenue that is like the Indianapolis 500 you know people won't stop and I was told why don't you just back out. When I tried backing out on that other – when we first had that south driveway put in – you are taking your live in your hand. It is suicide. And the reason it was put in for that turnaround so that when a van gets in there you got a van that is a van with the equipment in there, it's a long vehicle. You have to have every bit of that turning space to get around so you can pull. To try to back that van up that slope and back down to Lake Avenue, no way, especially now in the winter time. He actually had that driveway etched and serrated to get the traction to get up there and backing out, it just wouldn't happen. It is impossible. I see where you are coming at. Myers asked how he used the other driveway now. Laurin stated the other driveway is actually impractical. We don't use it. The only reason it's there is for a requirement but we don't use it. Myers stated he has driven by there numerous times and seen your vehicle parked there. Laurin stated if he parks in there it is either for my son sometimes uses my car or his car and he get a load of stuff to bring into the basement for the piers and the stuff we got the mechanics and for fixing lifts and the piers. So you might see that. Technically he uses the bottom part for his egress and ingress of the building. Myers stated thank you.

Howard Skinner stated he has been fed it all the way up to my chin. The etched and scratched concrete that Mr. Laurin is in reference to was put in two days after the meeting between I and Mr. Cox and Mr. Laurin and Mrs. Laurin and the attorney. I happened to be going by. I walked over and watched a man with a concrete truck, van, excuse me – he has cones out there so he wouldn't get hit by traffic that's like an Indianapolis 500. And I thought maybe the Laurins are doing something that we requested and they are going to maybe bore holes in the concrete so that the water drains or adjust it somehow to accommodate what we have asked for. No, there was a man with a concrete etching machine putting a pretty design in the ramp that goes down to the wheelchair accessible van parking access. Oh and by the way on Mr. Laurin's original plan – his original plan he submitted to the Design Review where he parks his vehicle was the place where snow storage was suppose to be. Thanks.

Larry Laurin stated he would have to interject again. Porps stated okay, you will get your turn.

Boone asked David Cox a question. Mr. Cox, as I understand it the more I read it the last thing that the Village was asking was in a letter December 2<sup>nd</sup> of 2008 – as we have indicated in previous conversations you are required to remove the non-compliant concrete as shown in the drawing submitted to you previously. Is this what the Village is asking for now? Cox stated that was the determination of the Design Review Board was to allow the 20 foot paved parking on the north side of the building to remain and that a four foot walkway be allowed from that location past the now existing structure to its western terminus at the lakeshore to allow access not only to the building but to what I think would be some access to the piers to allowed continued access out onto the water for an individual who was physically challenged. That is what the Design Review Commission requested of them after they met with them in early January I guess it would have been in 2008. I believe that drawing is in your packet. If it's not, I'm sure we can provide it to you. It's a drawing that would have my handwritten note. I believed I signed it. Myers asked if this was the one. Cox stated yes, I believe it's that one. On the bottom right there indicating it was my drawing based on the Design Review Commission's desires. Boone stated this shows what the Village wants removed here. Cox stated that was what the Design Review Commission requested at the end of its meeting. Boone stated thanks. Cox stated okay.

Porps stated okay, Larry, you stated you had another rebuttal. Laurin stated yeah, okay. Could I ask Dave why did they just want that section removed. Cox stated why did they want those areas – well because you have to take the totality of the discussion. Remember that the initial project was specifically exempted by the Village Board from the Shoreland Ordinance that was under consideration at the time. So this project along with two others were specifically exempted from that requirement. At the end of the initial discussion with the Design Review Commission, the Laurins were granted the original project that we talked about impervious parking that is seep through parking on the north side. Boone stated pervious. Cox stated right pervious parking, I apologize, impervious parking or hard surface on the south side and a variety of other things related to decks and walkways around the rest of the building. Ultimately the Laurins as we have discussed have put more concrete in. They were asked to go back to the Design Review Commission. They did and based on their comments at that time related to handicap accessibility and difficulty getting their customers to the water and accessibility to the building, the Commission agreed to amend its original decision I suppose one could say to allow the 20 foot area to the north side to remain and to allow a walkway to remain of adequate width to get to the lakefront, to get to their piers etc. for their customers. So that's the why I suppose and I think I even addressed that in a couple of the letters that I wrote. Laurin asked if Cox felt that eight feet would make the big difference for – Cox stated it is not his decision to make. The code is what the code is and the decision of the decision-making bodies of the Village is what it is -- are what they are and to be frank – Laurin stated you've got a feeling. Do you think that eight feet would make a difference? Cox stated it was not his decision to make. Laurin stated it's not the decision – I'm asking your opinion. Cox stated professionally he has no opinion and I'm not going to give you my own personal one. Laurin stated okay. Laurin stated when we poured concrete over at the old Mad Dan's, did we fill that whole lot up with concrete from road to shore? Cox asked if that was a question that was relevant today. Porps stated he didn't know if it was relevant – I think we know the answer to that, yes. Laurin stated so what we're dealing with here is the question of pervious and impervious again as it applies to someone who needs a handicap accommodation. And you know we paid 1.8 million for Mad Dan's, okay. We've got to make it a go. I could see doing what you did. Porps stated he believed that was getting off the track. Laurin stated yes let's get off the subject because my property is also commercial and I have to compete with these guys and I've got handicapped people that need the facility and they count on me of supplying the accessibility for handicap. That's where we are going with this thing. Porps stated thanks, Dave. Laurin stated and the thing about the etching again. That etching was put in and I don't care who feels what way about it – it was suppose to set up traction to get up that slope. The slope is even hard to handle now.

Porps stated well, he had a couple of things here to go over. I gave each one of you board members Chapter 16 of the Board of Appeals Handbook. If you turn to page 104 the second page in. On the bottom there it talks about variances. Granting a variance requires the finding of three conditions – we've talked about these already, unnecessary hardship, unique property limitations and no harm to the public interest. Applicants must satisfy all three requirements in order to be granted a variance, even in the case of person with disabilities. While not illegal, we do not recommend the variance approach for several reasons. First, the physical limitations of a disabled applicant do not substitute for the physical limitations of the property. Second, a hardship cannot be self-created. Since the need for a variance arises from an applicant's physical disability it is often difficult

to justify both the unnecessary hardship and the unique property limitations tests. If the variance technique is considered, applicants should be encouraged to find a suitable site arrangement that does not necessitate the variance (for example, constructing a ramp on a side door rather than a front door). So the State of Wisconsin although says while not illegal they certainly don't recommend granting a variance for handicap reasons.

Laurin stated Tom, that's all after the facts. It's like putting the cart in front of the horse. Porps stated I'm sorry, you are through. Laurin stated he appreciated him bringing up that thing but disability is a big thing with them. Porps stated he understands Larry but now it's our turn. Laurin stated I just asked your permission to interject. Porps stated so that State Statute it's not recommended legal but it certainly is not recommended. One thing you just brought up that the design was for traction and I was there I saw it today myself. It seems very decorative to him but if you were truly interested in traction, I would have thought there would have been long ramps or something along the same type of etching going toward the lake – this is just a round circular things, I'm not sure how much of your tires touch that at all. Something you stated earlier – Mike asked you about the use of your structure and I believe you responded by saying you repair piers down there. Now in one of the letters you sent us you can't walk tremendous distances but you seem to be able to do some repairs in your shop down there. Laurin stated he was not repairing piers inside. I'm preparing the fittings that go onto the piers. He hasn't touched a pier or lifted a pier in probably 10 years. So that's not the reason for it. If you want to come down there, I'll show you what I do. It's a shop for repairing pulleys for the lifts and the mechanics, maybe a side bracket. I don't bring piers in there. Porps stated please do not interrupt me again, Larry. Laurin stated well, I'm sorry, sorry. Porps stated please do not.

Porps stated it seems like this project like Larry has stated has had problems from the get go. They jumped through hoops. They attempted to meet all the criteria and the Village Board and the Planning Commission and stuff worked with them, came up with a plan and it was a go. But then it didn't come out the way they seemed to like so I'm having some problems understanding how these changes got made and they talked to Tim and Tim didn't bring it back to the Village and stuff. There are a lot of gray areas here – people did this and didn't do that. But it happened and it did happen. The Village asked them to remove everything. They didn't do it. They went back to the Design Review Committee and one of the things that the State – actually it's in a letter from Laurins – from one of the advocates if I can find it here. I can't find it. It basically says the Village should work with the applicant to make it work. Okay, the Village did that. Originally they wanted all the concrete removed. Now they've backed away and let the parking area to the north remain and a four foot wide walkway across the front of the building and down. It seems to me that the Village has tried to accommodate them on these issues. So those are my thoughts on what I've heard so far. Anybody comment, agree with me, disagree with me. Nathan stated he agrees with him in allowing them to leave half of the concrete in. Porps stated they certainly made some considerations for this. Nathan stated he thought the Village met them half way.

Porps continued, the Board's action cannot be based upon its attitude toward the applicant or the proposed use. The decision must be based upon the Zoning Ordinance and the facts presented at this hearing.

Public Interest – Porps stated speaking for himself he did not think public interest would be met. This project seemed to have an approval and then things were done without an approval, things go changed, they put in some concrete that seems questionable if it was permitted, then the Village comes back and kind of met them halfway and said, here's what we can do. So he is not sure their interests are truly in the best for the public. The Board agrees except for Kuhlmeier who didn't know.

Unique Property Limitation – Porps believed there certainly was unique property limitation. It's a very small lot. If a building permit was asked for today on this parcel, he doubted that it would be granted because of the size of the lot and stuff. It was done before some current Ordinances were put in place. Does the property have some unique property limitations? He would say definitely. The Board agreed.

Unnecessary Hardship – Porps stated he did not believe the applicant proved an unnecessary hardship. No he didn't see it. The State has said that ADA is not a hardship related to the property. It's a hardship related to the person and the next owner – see if a variance is granted, that's forever on that parcel. You will obviously not live there forever. So the Village will be stuck with that variance because you are attaching it to the property not to the person. So he does not see the unnecessary hardship from the point of view of your physical limitations. I certainly feel sorry for you. I certainly understand a very good friend of mine is in the hospital this very evening recovering from a hip replacement and I certainly understand the problem but the problem is related to the person not to the property. So he does not see an unnecessary hardship here. Porps asked the Board if they agreed or disagreed. Boone stated he did not know if he agreed with Porps or not. He thinks if they don't grant the variance all they have to do is comply with the request of the Village and remove the concrete that the Village wants removed. There's a difference of opinion as to whether that's a hardship. They feel it's a hardship. (First tape ended. Second tape did not record. The rest of the minutes were transcribed from notes.)

Variances are not precedent setting. Each case is judged on its own merit. Likewise, similar existing cases or past practices are not reasons for granting a variance.

In granting a variance, the Board of Appeals overrules one or more Village Ordinances. If a variance is granted today, any aggrieved party will have 30 days to appeal the decision to the circuit court.

In addition to meeting the statutory requirements, the following conditions are required. The motion to grant or deny the variance is based on the survey presented and the actual statement of the variance requested. The survey is to be marked as Exhibit A. The plans (drawing as "To Be Read") are to be marked as Exhibit B. Gloria J. Laurin: "You are requesting a variance to keep the recently installed non-compliant surface of the driveway and parking area, indicated on the attached drawing as "To Be Removed". The request for permission to maintain the non-compliant surface was considered and was denied in part by the Plan Commission/Design Review Commission. Gloria Laurin circled yes and initialed that the conditions described the relief they were requesting. After the motion to grant or deny the variance has been made, seconded, discussion held, if any, and voted upon, the matter is closed. If you are not satisfied with the results, and you can present substantial new evidence, you may reapply and pay the associated fees. You may also appeal the Boards' decision to the circuit court. The variance is based on the survey as presented. We are dealing with a variance that has already been done. This variance, if granted, is conditional upon the owner having the title amended to include the variance. (Variances "run with the land", this will protect you or any future owner should any question ever arise over the encroachment in the setback area.) Any and all fees, legal, recording etc. are the applicant's responsibility. The Building Inspector or the Board of Appeals will verify the amendment prior to issuing a building permit. The contemplated completion date of the project is already also passed. Gloria Laurin signed the conditions.

MOTION BY BOONE, NATHAN, TO DENY THE VARIANCE. ROLL CALL: BOONE-YES; KUHLMEY-NO; MYERS-YES; NATHAN-YES; PORPS-YES. MOTION CARRIED (4-1). VARIANCE DENIED.

Motion by Boone, Kuhlme, carried, to adjourn @ 8:10 p.m.

*Signed Copy Available at the Village Hall*

Cynthia Skrypt  
Board of Appeals Clerk

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**Exhibit A**

**“Gloria J. Laurin Plat of Survey”  
Dated 06/08/05**

**Exhibit B**

**“Gloria J. Laurin Plans (Attached Drawing as “To Be Removed”)  
Signed by D. Cox Based on  
January 9, 2008 Design Review Commission**