

Chairman Jirik called the March 5, 2002 meeting of the Plan Commission to order at 7:35 p.m.

***ROLL CALL***

**PRESENT:** Mr. Kahlke, Mr. Matejczyk, Mrs. Reynolds, Mr. Stark, Mr. Wlodek, Chairman Jirik

**ABSENT:** Mr. Griesbaum, Mr. McCormick, Mr. Waechtler

***STAFF***

**PRESENT** Kenneth J. Rathje, Director Planning Services  
Amanda Browne, Planner  
Alice Dornan, Recording Secretary

Chairman Jirik stated the draft minutes of the Plan Commission's January 8, 2002 meeting needed to be reviewed. He asked if there were any additions, deletions or corrections to those minutes. There were none. **Mr. Wlodek moved, and Mr. Matejczyk seconded that the minutes be approved as prepared. The motion passed unanimously.**

Chairman Jirik outlined the protocol for this evening's agenda item. First, the petitioner, who is the individual proposing to do something with a particular piece of land, will explain what he is seeking to do and how the proposal conforms to what the Village allows or does not allow.

Second, Chairman Jirik advised the Village Staff would present a detailed technical assessment of the nature of the application. Chairman Jirik suggested members of the audience pay close attention because both presentations form the technical basis of what is being discussed tonight and the issues on which the Commission is seeking comment and input from those present this evening.

Chairman Jirik noted the third step, the public participation portion of the hearing, is the time for those present who desire to speak to be heard. Chairman Jirik explained the proceedings are being recorded and will be transcribed into minutes. Chairman Jirik stated that those wishing to testify should state their name and address first and speak clearly and slowly so accurate minutes can be transcribed. Chairman Jirik advised those wishing to speak that the Commission does have the right to limit the speakers' time, and every attempt will be made to reasonably omit redundant testimony.

Chairman Jirik explained the final step is the Plan Commission's deliberation of the petition. The Commission members can and may ask questions of anyone who participates this evening; Staff, the petitioner or anyone in the audience. When deliberation is complete, the Chairman stated he would entertain a motion to either recommend approval or recommend denial.

Chairman Jirik stated upon completion of the minutes, all the support materials are forwarded to the Village Council for its final consideration.

**FILE NO. 1074**      **LOT SPLIT** (Petition includes a request for a flag lot) – Property located on the east side of Roslyn Road, approximately 160 feet South of Traube, commonly known as 4517 Roslyn Road, Downers Grove, IL (PIN 09-04-313-026); Michael Johnson, Petitioner; Michael and Peggy Johnson, Owners/Petitioners

Chairman Jirik asked if there was a representative of the petitioner present.

James F. Russ, Jr., Attorney whose offices are at 4915 Main Street, Downers Grove, advised that he represents the owners/petitioners, Mr. & Mrs. Michael Johnson. Mr. Russ explained this evening's petition is for a flag lot division of the property located at 4517 Roslyn Road. The property is currently improved with the petitioner's single family residence with a detached garage, and the petitioner currently operates an electrical contracting home occupation as well. Mr. Russ advised that the Village standards regarding the number of employees, parking and the use of the property as a home occupation have been reviewed by the Code Services staff, and all such standards are satisfied.

Mr. Russ noted the property is zoned R-4, single family residential. It has a width of 100 feet, a depth of 406.54 feet and a lot area of 40,654 square feet. Mr. Russ indicated the R-4, single family residential zoning requires a minimum of 75 feet in width, 140 feet in depth and 10,500 square feet in area.

Mr. Russ commented that the existing property vastly exceeds the requirements of the R-4 zoning district. The depth is almost three times that required under the R-4 zoning and the Subdivision Control Ordinance, and the lot area is four times that required under the R-4 zoning.

Mr. Russ noted flag lots are allowed under Section 20-301 of the Village's Subdivision Control Ordinance. The lots must meet the requirements of the underlying zoning which in this case is R-4, single family residential. The only exception to that is that the pole of the flag lot which provides street frontage has to maintain a minimum of 20 feet as opposed to the minimum requirement of 75 feet. However, all other requirements of the underlying zoning district have to be met.

Mr. Russ stated the current home is to remain on the property. In the event this petition is granted, the garage which is currently on the south side of the property will be relocated to the north side of the property to accommodate the access drive of the flag lot.

Mr. Russ explained under Section 20-302 of the Subdivision Control Ordinance, flag lots may be created as part of a lot split or subdivision for residential purposes in the following instances and with the following stipulations:

- (a)      **THE USE OF A FLAG LOT WOULD MAKE IT POSSIBLE TO BETTER UTILIZE IRREGULARLY SHAPED PROPERTIES.**

Mr. Russ reiterated that the property has a depth approximately three times that required under the R-4 zoning district and has approximately four times the minimum required lot area. The flag lot will allow the development of two homes on lots that would each exceed the minimum requirements of the R-4 zoning district. The petitioner believes this is a better utilization of this extra-large lot.

**(1) THE POLE OF THE FLAG LOT SHALL BE NO LESS THAN 20 FEET WIDE.**

Mr. Russ stated the proposed plan shows a 20 foot wide pole.

**(2) AN ACCESS CORRIDOR, INCLUDING A PAVED SURFACE NOT LESS THAN 10 FEET IN WIDTH, SHALL BE MAINTAINED ALONG THE LENGTH OF THE POLE. NO ENCROACHMENTS SHALL BE PERMITTED WITHIN THIS ACCESS CORRIDOR WHICH WOULD INTERFACE WITH EMERGENCY VEHICLE ACCESS.**

Mr. Russ stated if the flag lot is approved, the garage on the south side of the property would be relocated to the north side of the property so that there will be a ten foot wide unobstructed access driveway as required under the Subdivision Control Ordinance.

**(3) THE MINIMUM DEPTH OF THE FLAG LOT, EXCLUSIVE OF THE POLE, SHALL BE AT LEAST 165 FEET DEEP, AND THE LOT SIZE SHALL COMPLY WITH THE PROVISIONS OF SECTION 20-301.**

Mr. Russ advised the flag lot was proposed to be 185 feet deep. The lot area of the property will be 18,500 square feet without the pole and 22,930 square feet with the pole. This greatly exceeds the 10,500 square feet area requirement of the zoning district.

**(4) THE FRONT YARD SETBACK SHALL BE MEASURED FROM A LINE PARALLEL TO THE STREET, WHERE THE LOT MEETS THE MINIMUM WIDTH OF THE UNDERLYING ZONING DISTRICT.**

Mr. Russ pointed out the R-4 minimum front yard setback is 25 feet plus one foot of setback for every foot of building height over 20 feet. He noted with a depth of 185 feet there is no problem meeting the 25 foot setback on the proposed flag lot.

**(5) THE ADDRESS OF THE FLAG LOT MUST BE CLEARLY DISPLAYED WITHIN THREE FEET OF THE PROPERTY LINE ADJACENT TO THE PUBLIC STREET, AND SHALL BE DESIGNED AND MAINTAINED TO CLEARLY DIFFERENTIATE THE FLAG LOT FROM THE ADJACENT PROPERTY.**

Mr. Russ confirmed that the owner of the property upon development of the property and assignment of a street address, such address would be displayed to differentiate the flag lot from the adjacent property.

**(6) THE FRONT LOT SHALL COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER INCLUDING MINIMUM AREA, DEPTH AND WIDTH.**

Mr. Russ recalled that the R-4, single family residential zoning district has a minimum width of 75 feet, a depth of 140 feet and an area of 10,500 square feet. The front lot will have a width of 80 feet, a depth of 221.45 feet and an area of 17,723 square feet, all exceeding the minimum requirements.

Mr. Russ explained Section 20-602(c) states that an exception shall be recommended by the Plan Commission only if it finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this Chapter. In its consideration of the standards of practical difficulties or particular hardships, the Commission may consider, but is not limited to, the following:

**(1) THE EXTENT TO WHICH THE PROPOSED EXCEPTION IMPACTS ON THE VALUE OR REASONABLE USE OF THE SURROUNDING PROPERTIES;**

Mr. Russ stated he and his client do not believe the lot split with a flag lot will have a negative impact on the use of or the value of the surrounding properties. The lots being created far exceed the minimum requirements of the R-4 zoning district. The lots will be larger than several of the lots that have already been split in this area. Mr. Russ noted a number of lots along Roslyn Road have already been split into 50 and 60 foot widths. Six lots in the area have changed hands between 1997 and 2000 according to the sales book in the Township Assessor's office. The prices ranged from \$171,000 on the low end to \$412,000 on the high end. Mr. Russ provided a chart indicating the prices and parcel identification numbers of the homes that have been sold along Roslyn Road. He pointed out the six lots on the lower portion of the table are not flag lots. The properties listed in the upper portion of the table are flag lots or flag-like lots that currently exist along Roslyn Road between Ogden Avenue and Chicago Avenue. The prices on these lots ranged from \$148,000 on the low end to \$265,000 on the high end. Mr. Russ pointed out two of those lots were vacant lots one of which sold for \$180,000 in 1997 and the other which sold for \$195,000 in 1999. Mr. Russ stated it does not appear that the value of the properties have been affected by the four current flag lots along Roslyn Road.

**(2) WHETHER THE EXCEPTION IS CONSISTENT WITH THE TREND OF DEVELOPMENT IN THE AREA AND THE SURROUNDING USES;**

Mr. Russ explained the area was originally divided into extremely large lots ranging from 100 to 120 feet in width and depths between 300 to 400 feet. The majority of the lots have either been divided down the middle creating 50 to 60 foot wide lots or have been divided into flag lot configurations. Mr. Russ stated there are six flag-shaped lots along Roslyn Road between Ogden and Chicago Avenues, four of which are true flag lots per the Village Ordinance requirements. Mr. Russ pointed out the trend along this section of

Roslyn Road is definitely to divide these larger lots along this section of Roslyn Road either into two lots side by side or into flag lots.

**(3) THE CHARACTERISTICS OF THE PROPERTY WHICH SUPPORT OR MITIGATE AGAINST THE GRANTING OF THE EXCEPTION;**

The subject lot is currently almost four times the required area of the R-4, single family zoning district and is three times the required depth. Even if divided into two relatively equal size lots, the proposed lots will far exceed the minimum R-4 zoning district requirements and will still maintain large lots that can very easily support residences on them.

**(4) WHETHER THE EXCEPTION IS IN CONFORMANCE WITH THE GENERAL PLAN AND SPIRIT OF THIS CHAPTER;**

Mr. Russ indicated all the requirements for a flag lot under the Subdivision Control Ordinance would be met or exceeded. Mr. Russ stated the requested flag lot is in conformance with the plan and spirit of the Ordinance.

**(5) WHETHER THE EXCEPTION WILL ALTER, OR BE CONSISTENT WITH, THE ESSENTIAL CHARACTER OF THE LOCALITY;**

Mr. Russ advised the property would remain single family residential. The area has been developed with single family residences by splitting lots into side by side lots or flag lots. Mr. Russ expressed the opinion that flag lots have not had a detrimental affect on the central character of the area.

With regard to drainage, Mr. Russ explained to the Plan Commission members that the area along Roslyn Road is governed by the Westmont Surface Water Protection District No. 1. Mr. Russ noted he was informed that there is no Westmont Surface Water District No. 2. The Village of Downers Grove has no control over drainage plans in this area. However, the Village of Downers Grove will not issue any building permits without the approval of the Westmont Water Surface Protection District. Mr. Russ stated he spoke with Tom Faust of Wight Consulting Engineers, the engineering firm that works for the Westmont Water Surface Protection District. Wight is not aware of any reason why this property cannot be engineered to maintain a second house on the property. The review process would be for the petitioner to provide Wight Consulting Engineers with elevation drawings and drawings of the proposed house if the flag lot petition is approved. The drawings will be reviewed, and any objections or modifications that need to be made would be done and resubmitted to the engineers at Wight for their final approval. Once that approval is received, the Village could issue a construction permit.

In conclusion, Mr. Russ asked that the Plan Commission forward a positive recommendation to the Village Council. He expressed the belief that this is a good proposal that meets the requirements of the applicable Ordinances. Mr. Russ indicated he would be pleased to answer any questions from the Plan Commission members.

Chairman Jirik asked Staff to make its review and analysis.

Ms. Browne explained the petitioners are seeking approval of a flag lot involving their property at 4517 Roslyn Road, which is located on the east side of Roslyn Road, approximately 160 feet south of Traube Avenue. The subject property has a width of 100 feet as measured north to south along Roslyn Road and a depth of 406.54 feet as measured east to west. The total lot area of the property is approximately 40,654 square feet, or .933 acres.

Ms. Browne stated the subject property is zoned R-4, Single Family Residence and is improved with a one-story, single family residence with a detached garage. The residence has a westerly front yard setback as measured at its closest point of just over 62 feet, a northerly side yard just over 24 feet and a southerly side yard with setbacks right around the 27 foot range. The detached garage is currently located to the southeast of the residence and has a southerly side yard just under 4.5 feet.

Ms. Browne explained Section 20-301 of the Subdivision Control Ordinance requires newly created lots in the R-4 zoning district to be no less than 75 feet in width, no less than 140 feet in depth, and at least 10,500 square feet in area. However, a flag lot may have a frontage along the public street as narrow as 20 feet according to the provisions of Section 20-302(c) of the Subdivision Control Ordinance, provided that such request for a flag lot can satisfy all other applicable requirements, and provided that the creation of a flag lot is granted as an exception. In addition to the minimum land area and width requirements for newly created lots, the lot depth of a flag lot must also meet a standard of at least 165 feet deep exclusive of the access drive which provides its frontage to the public street.

Ms. Browne noted the proposed westerly parcel, which is the front lot with the existing residence, is proposed to have a lot width of 80 feet along Roslyn Road, a depth as measured east to west of 221.5 feet and a lot area of 17,723 square feet or .41 acres. With regard to the flag lot which is proposed for the easterly portion of the site, it is proposed to have a width of 100 feet as measured from north to south and a depth of 185 feet as measured from east to west. The "pole" portion of the flag lot is comprised of a 20 foot wide by 221.5 foot long access drive located immediately to the south of the westerly (front) parcel and immediately south of the existing residential structure. The lot area of the flag lot, excluding the area of the access drive, is proposed to be 18,500 square feet, and including the access drive, would be just under 22,931 square feet which is just over half an acre.

Ms. Browne confirmed that as the subject property is currently improved with a single family residential structure and a detached garage, the proposed lot split must not only meet the requirements of the Subdivision Control Ordinance, it must also meet the setback requirements of the underlying Zoning Ordinance. With respect to the attached garage, Ms. Browne explained it is located within the area that is proposed to serve as the 20 foot wide access drive of the flag lot. The petitioners have indicated that should the lot split be approved as requested, the detached garage will be relocated so that there

would be no setback or encroachment issues present within the access drive for the flag lot.

With regard to the side yard setback requirements for the existing structure, Ms. Browne stated the minimum side yard as measured from the residential structure to the common property line between the front lot and the access drive of the flag lot is required to meet a minimum standard of five feet plus one foot of additional setback for every one foot in structure height over 20 feet. Additionally, as the residence does not now have nor will it have an attached garage if the flag lot is approved, one of the side yards in this case as measured to the northerly property line is required to be no less than 10 feet.

Ms. Browne advised that Section 20-302 of the Subdivision Control Ordinance established the standards for flag lots, and the petitioner's attorney has thoroughly reviewed these standards and that she agrees with his assessment of those standards. Ms. Browne indicated she would move on to Section 20-602(c) which establishes the criteria for the creation of a flag lot.

**(1) THE EXTENT TO WHICH THE PROPOSED EXCEPTION IMPACTS ON THE VALUE OR REASONABLE USE OF THE SURROUNDING PROPERTIES;**

Ms. Browne stated Staff concurs with the petitioner's opinion that the proposed lot split will not have a negative impact on either the value or the reasonable use of the surrounding properties in the neighborhood.

Ms. Browne displayed the map of the area within which the subject property is located and noted many of the 100 and 120 foot wide lots in the area along Roslyn Road have previously been divided into two 50 foot wide side by side lots with depths of approximately 400 feet. Ms. Browne noted a number of the lots have been divided into flag lots or flag lot like configurations where one home or one lot is located in front of the another, and she pointed out an example on the displayed map. Ms. Browne noted with a flag lot configuration, the existing character or the street appearance/pattern between homes would not be broken up because there would not be two structures side by side within a width of 100 feet.

**(2) WHETHER THE EXCEPTION IS CONSISTENT WITH THE TREND OF DEVELOPMENT IN THE AREA AND THE SURROUNDING USES;**

Ms. Browne pointed out as illustrated on the map, the general trend in the area surrounding the subject property has been that many of the 100 to 120 foot wide by 300 to 400 foot deep lots have been divided into smaller sized parcels. This has been done either by dividing them down the center into two 50 or 60 foot wide lots or by dividing them into flag lot configurations.

Ms. Browne advised since the adoption of the current regulations regarding flag lots in 1989, 11 flag lot petitions have been approved by the Village Council, four of which are located in the 4300 to 4700 blocks of Roslyn Road. She said that the displayed map also illustrates that there are additional flag lot-like divisions that have taken place in the area surrounding the subject property which were technically not approve as flag lots but have the same configuration of one lot in front of the other.

**(3) THE CHARACTERISTICS OF THE PROPERTY WHICH SUPPORT OR MITIGATE AGAINST THE GRANTING OF THE EXCEPTION;**

Ms. Browne recalled the primary characteristic, which supports the granting of the exception for the proposed flag lot, is the relationship of the parcel's width to its depth and area. As a single parcel of 40,654 square feet in area, the subject property is approximately 3.87 times as large as a lot meeting the minimum 10,500 square foot requirement of the Subdivision Control Ordinance as it applies in the R-4 District. Further, if the lot is divided as proposed, the two resulting parcels will have lot areas which far exceed the minimum area, width and depth requirements of the both the Subdivision Control Ordinance and the Zoning Ordinance.

**(4) WHETHER THE EXCEPTION IS IN CONFORMANCE WITH THE GENERAL PLAN AND SPIRIT OF THIS CHAPTER;**

Ms. Browne advised Staff was of the opinion that both of the resulting parcels have width, depth and area characteristics which will readily accommodate very reasonable sized residences, subject to the existing detached garage being razed or relocated. The setback and yard requirements can very easily be accommodated on lots of this size. Staff is of the opinion that the proposed flag lot would be in conformance with the plan and spirit of the Subdivision Control Ordinance.

**(5) WHETHER THE EXCEPTION WILL ALTER, OR BE CONSISTENT WITH, THE ESSENTIAL CHARACTER OF THE LOCALITY;**

Ms. Browne noted Staff has established that the proposed lot configuration would be consistent with lot splits that have taken place in the area given the concentration of divisions that we have that have either been divided into two side by side lots or into flag lot or flag lot like configurations.

With respect to stormwater management, Ms. Browne explained if the flag lot were approved, all permits related to construction would have to be approved by the appropriate jurisdiction. In this instance, stormwater engineering would be under the jurisdiction of the Westmont Surface Water Protection District No. 1. Therefore, review of the stormwater management design and grading of any proposed construction will be subject to their review and approval. The petitioner will be required to coordinate

permitting and inspections for any new construction through the Westmont Surface Water Protection District.

In conclusion, Ms. Browne stated the Planning Staff recommends that the Plan Commission forward a positive recommendation to the Village Council for approval of a flag lot with the condition that the detached garage be removed or relocated prior to the issuance of any building permits.

Ms. Browne stated she would be pleased to answer any questions from the Plan Commission members.

Chairman Jirik asked if there was anyone present in the audience who wished to speak with regard to this flag lot petition.

Michael Sloan, 4509 Roslyn Road, Westmont, stated he lives directly to the north of the subject property. Mr. Sloan advised that he had never before attended any Village meeting and was very nervous about public speaking. Mr. Sloan stated Mr. Johnson had mentioned to him several months ago that he was considering dividing his lot. Mr. Sloan said he did not know until last week that the flag lot petition was in process when the sign advising of the Plan Commission meeting regarding the flag lot was posted. Mr. Sloan stated both he and his wife have some concerns. The first concern had not even entered his mind prior to this evening. Mr. Drover who is also in attendance this evening mentioned the drainage issue to him before the meeting started. Mr. Drover told him he lives next door to a flag lot that is being developed on the east side of Roslyn Road south of Chicago Avenue, and Mr. Drover said he has a nightmare regarding drainage issues.

Mr. Sloan said Mr. Johnson told him that when the corner lot behind his property to the north was developed the construction was not closely watched, and the foundation was built two feet too high. Mr. Johnson told him that ever since that home was built, his property has flooded.

Mr. Sloan referred to page four of the Staff Findings where it states "Staff is of the opinion that the proposed lot split will not have a negative impact on either the value or the reasonable use of the surrounding properties". Mr. Sloan asked who comprises the Staff and how do they determine that this will not have a negative impact. Mr. Sloan said his lot will be the most adversely affected by the proposed flag lot. Mr. Matejczyk asked Mr. Sloan to point out the location of his lot, and Mr. Sloan noted his lot is immediately to the north of the subject property. Mr. Matejczyk asked if Mr. Sloan's lot was in the Village of Westmont, and Mr. Sloan agreed that it is in Westmont.

Mr. Sloan next questioned page three of the Staff Findings, Item No. 7 which states "Section 20-602(a) states that the Plan Commission may consider and recommend, and the Council may grant, exceptions from the requirements of this Chapter... Jirik advised that the Plan Commission can make a recommendation to the Village Council, but the Commission is not the final authority regarding flag lot proposals. A flag lot is allowed as an exception, and the Plan Commission can make a

recommendation for a flag lot if they find that it meets the necessary criteria as outlined in the Subdivision Control Ordinance. Mr. Sloan asked if this flag lot is being asked as a variance, and he was not sure if he was using the proper terminology. Chairman Jirik responded that a flag lot petition is not a variance.

Mr. Sloan asked if the Plan Commission could make recommendations other than under the strict requirements of this Chapter. Chairman Jirik asked Ms. Browne if the Commission could grant an exceptional use. Ms. Browne explained that flag lots are not an “exceptional use”, rather they are called an “exception” and can somewhat be equated to a variation. If a lot split of a 200 foot wide by 400 feet deep parcel was proposed to be divided down the middle, each lot being 100 feet wide, those lots would meet the underlying zoning district requirements and the Subdivision Control Ordinance requirements, and the Plan Commission would have the authority to approve that type of division. Once there is any type of a deviation such as for instance a 65 foot wide lot is proposed instead of a 75 foot wide lot, that would be an “exception”. The Plan Commission does not have the authority to grant that type of deviation from the underlying requirement and can recommend approval, denial or approval with changes for petitions with exceptions, but the ultimate decision regarding an exception lies with the Village Council. A flag lot configuration in itself is an exception much as a lot width exception would be.

David Drover, 4713 Roslyn Road, Downers Grove stated he did not think a flag lot should be approved because it takes away from the integrity of the neighborhood. Mr. Drover noted he bought his home ten years ago, and three years ago the Village Council granted a flag lot on the lot directly to the south of his property. PCH Development built a house on the front lot and is currently building a house on the flag lot. Mr. Drover stated he has a real drainage problem because the developer built the house three feet higher than the grade of the original lot. Mr. Drover explained he has gone to the Village of Westmont, the Westmont Surface Water Protection District, the Downers Grove Building Department and has also called the County. Mr. Drover stated everybody has told him drainage is not their jurisdiction; Westmont says call Downers Grove; the Westmont Surface Water Protection District says call Downers Grove; Downers Grove says call the Westmont Surface Water Protection District; and the County says it is not their jurisdiction. Chairman Jirik asked Mr. Drover to point out his lot on the map displayed on the overhead screen. Mr. Drover explained that it is not on the map because his lot is south of Chicago Avenue. Ms. Browne displayed a map of the area which included lots south of Chicago Avenue which also highlighted the flag lot on the property to the south of Mr. Drover’s property that was approved in 1998.

Mr. Drover emphasized he is unable to get anyone to enforce the approved drainage drawings. Mr. Drover stated right now, the beginning of March, his back yard is flooded, and his sump pump pumps constantly. Mr. Drover asked who he has to go see to get the problem rectified. Mr. Drover advised the flag lot is supposed to have swales on both sides of the lot going to the street, but there are no swales. Swales cannot be put on his side because the house on the front lot has been sold and now there is no possible way to put in a swale.

Mr. Drover noted that the Plan Commission recommended approval of the flag lot at 4719 Roslyn Road, the Village Council approved the flag lot and the Downers Grove Code Services Department issued the building permit. Mr. Drover stated, in his opinion, Downers Grove should take responsibility over all building issues on this flag lot.

Chairman Jirik asked Ms. Browne to provide Mr. Drover with the names of some people he can contact on the Staff that can assist him with this problem. This can be done after tonight's meeting. Mr. Drover stated he has talked to Mr. Sandmann in the Code Services Department, but Mr. Sandmann has not been able to help him. Mr. Drover pointed out that the people to the south of 4719 Roslyn Road will also have flooding problems because their yard is even lower than his yard.

Mr. Russ explained he has spoken with Mr. Drover regarding his issue with the flag lot next door to his property. Mr. Russ stated the research he has done with regard to this indicates that the Westmont Surface Water Protection District No. 1 is the jurisdictional group that needs to deal with this. The District needs to enforce what was shown on the approved topographical drawings. Mr. Russ acknowledged that Mr. Drover has been to a meeting of the Westmont Surface Water Protection District but did not get any satisfaction or resolution of the problem. Mr. Russ suggested that Mr. Drover might very well have to keep appearing at the Westmont Surface Water Protection District's meetings to insist that they do their job. Mr. Russ stated he is not sure when the Surface Water Protection District came into being, but they have a very small area over which they have control.

Chairman Jirik next allowed Mr. Sloan to continue his questions. Mr. Sloan asked if variances are sometimes given to various pieces of property for something that does not quite meet the requirements of the Code. Chairman Jirik responded that petitioners are allowed to request variances. Mr. Sloan asked if there had ever been any variances on flag lots. Chairman Jirik stated the Plan Commission has recommended many flag lot petitions in the past. Ms. Browne clarified that a flag lot in itself is an exception and no additional exceptions can be requested as part of a flag lot petition.

Mr. Sloan next addressed the issue of Mr. Johnson running a home occupation out of his home. Mr. Russ indicated earlier that Mr. Johnson's electrical contracting business meets the Village requirements for a home occupation with regard to number of employees and parking. Mr. Sloan asked for an explanation of the Ordinance. Mr. Russ stated the Village of Downers Grove has a home occupation ordinance that allows for businesses to be run out of a home if they meet certain requirements. Mr. Russ stated he was confident that the Village could provide him with a copy of that ordinance. Mr. Russ explained that Mr. Scheidler, Chief Building Inspector in the Code Services Department, reviewed this ordinance with the property owner and determined that all the requirements were met.

Mr. Sloan said he was aware of the flag lot to the south of Mr. Drover's property, and he was also aware of a flag lot to the north of his property. Mr. Sloan stated the comment has been made that a number of flag lots have been done on Roslyn Road. He asked just because something has been done in the past, does that make it all right? .

Chairman Jirik advised Mr. Sloan that all his questions would be answered together. Chairman Jirik next asked if there were any additional comments or questions from anyone else in the audience.

Mr. Drover stated before the meeting Mr. Sloan was commenting about the view he will have from the rear of his home if the flag lot is granted. Mr. Drover pointed out one of the reasons people purchased property in this neighborhood was because the area was so wide open with really nice views from the rear of the homes. Mr. Johnson is proposing to put his garage basically next to Mr. Sloan's back window. Personal vehicles and business trucks will be parked there. Mr. Drover asked if the garage could be moved 30 feet further away to where the patio is now and then move the patio. Mr. Sloan's view then would not be obstructed.

Mr. Drover suggested these are the kinds of issues that should be worked out now prior to the Plan Commission making its recommendation. Chairman Jirik asked Mr. Russ if the proposed location of the relocated garage was for informational purposes only. Mr. Russ stated it was strictly informational. He clarified that the pole for the flag lot could not be placed on the north side of the property because 20 feet is needed for the pole and an additional five feet is needed to satisfy for the side yard setback adjacent to the house. This could not be met; therefore, the only place the pole could go is on the south side of the property

Mr. Drover suggested a variance could be recommended for the 25 feet. Chairman Jirik stated no variances are allowed on the creation of a flag lot. He emphasized that the location of the garage on the diagram was for informational purposes. Chairman Jirik stated the Commission did not have the authority to specifically prescribe where structures are to be located. There is a calculation for buildable area based on front, side and rear yard setbacks, building height, etc. A developer has to come forth with building plans that meet all of these zoning requirements. There cannot be any intrusion into the side yard because that would require a variance, and there cannot be any variances on a flag lot.

Mr. Drover stated, based on the last meeting of the Plan Commission that he attended with regard to the flag lot next to his home, he believed that the residents' opinions are irrelevant. Mr. Drover asked if a flag-shaped lot had ever been denied. Several Plan Commission members indicated that the Council has denied flag lots.

Chairman Jirik acknowledged the concerns that have been brought forth this evening, but he noted the Commission has not heard anything regarding a negative impact on the area created by the flag lot itself.

Mrs. Karen Sloan, 4509 Roslyn Road, stated she would rather look at a driveway than the garage with its associated business parking which would be right next to her patio. Mr. Sloan stated when Mr. Johnson told him about his proposed plans several months ago, he wanted to put the access pole on the north side of his property. Mr. Johnson later told him that he had been informed that he was six inches short of the necessary side yard

setback to do so. Chairman Jirik pointed out that the Plan Commission cannot recommend a variation on a flag lot, nor can the Village Council accept a flag lot with a variation.

To clarify the issue, Ms Browne stated the setback regulations for structures are regulated by the Zoning Ordinance. The only body that has the authority to grant a variation from the requirements of the Zoning Ordinance is the Zoning Board of Appeals. The Plan Commission considers lot divisions, lot splits, flag lot proposals, etc. under the terms of the Subdivision Control Ordinance which does not regulate setbacks. These are two different Ordinances, and there are two different bodies that have different responsibilities and different authority. The Plan Commission cannot vary the 20 foot width requirement for the access pole. However, the Zoning Board of Appeals could consider a variation for the setback, but a setback variation is not the purview of the Plan Commission. The petitioner would have to go through a similar type of process as this but before the Zoning Board of Appeals who would conduct a public hearing on the proposed setback variation. The Zoning Board of Appeals would evaluate the proposed setback variation under the criteria outlined in the Zoning Ordinance.

Mr. Sloan asked if the Zoning Board of Appeals is the Board that grants variances, and Ms. Browne concurred for setback variances which are considered under the Zoning Ordinance.

Mrs. Reynolds asked if it was likely that the Zoning Board of Appeals would grant such a variation. Ms. Browne responded that she could not speak for what the Zoning Board of Appeals might do but noted the magnitude of such a variation would be a small percentage. The Zoning Board of Appeals would, however, have to evaluate the request according to very specific criteria. For instance, they must determine if there is a unique or unusual circumstance that warrants the variation. Ms. Browne stated a personal hardship is not necessarily something that can be considered as a unique or an unusual circumstance especially when there is an alternative approach to granting the variation, such as locating the driveway to the south side of the property.

Mr. Sloan said he would like to have a discussion regarding a variance on putting the access pole on the north side of the property. He realized that each step has to be taken one at a time. Mr. Sloan emphasized that the flag lot as proposed will impact the value of his home. Mr. Sloan advised that he brought photographs of what he will be faced with if the flag lot is approved.

Mr. Sloan indicated he is not trying to deny Mr. Johnson the ability to split his lot, but the way it is configured right now he is the person that will be most adversely affected. If the flag lot could be reconfigured, the adverse impact on his property would be lessened, and Mr. Johnson will still get his flag lot.

Mrs. Reynolds reiterated that the Plan Commission could not recommend any setback variation as part of its recommendation to the Village Council. Mr. Sloan asked if this process continues on from this point; does it now go before the Village Council?

Chairman Jirik attempted to summarize Mr. Sloan's questions: water issues, drainage, property values, what is an exception and who prepares the Staff analysis. He asked Mr. Sloan if he had any other questions. Mr. Sloan asked for answers to each of his questions.

Mr. Russ advised that in talking to his client just now, the drainage was an issue at the time his home was built, but the drainage issue on his property has been resolved. With regard to the garage issue, Mr. Russ stated the flag lot is not going to affect whether the garage could or could not be moved to the north side of his property. Mr. Russ noted his client could decide at any time not to split his property, and he could still move his garage to the north side as long as the required side and rear yard setbacks were met.

At the request of the Chairman, Ms. Browne reviewed Mr. Sloan's questions. She explained that with respect to who issues the Staff Findings she is the Planner for the Village of Downers Grove and her director Kenneth Rathje is the Director of the Planning Services Department and has worked with the Plan Commission and the Zoning Board of Appeals as Staff liaison for over 28 years. Ms. Browne stated she and Mr. Rathje prepare the Staff Findings.

With the respect to whether the proposal negatively impacts the value or the reasonable use of the surrounding properties, Ms. Browne stated Staff looks at the particulars of the neighborhood in which the subject property is located which she has previously explained. She noted there is the larger issue of flag lots in general as a planning practice. Ms. Browne advised Downers Grove is not the only municipality that allows flag lots or flag lot like divisions. They are a generally accepted type of development opportunity for property owners to utilize, especially in instances where the existing structure is intended to remain and not be torn down and replaced with two side by side structures. The Village Council established the current regulations regarding flag lots in 1989 and determined that they would consider flag lot configurations, but only in relatively unique circumstances. For instance, flag lots can be considered where there are lots of exceptional width, depth and/or area. Criteria were established and minimum standards were instituted that are above and beyond what would normally be required in the underlying zoning district. The lot has to be at least 305 feet in depth for a flag lot to even be considered, and the depth requirement cannot be varied. Subsequently, there are very limited areas within the Village where this type of proposal can be presented to the Plan Commission for consideration.

Ms. Browne pointed out that those limited areas tie into Mr. Sloan's next question regarding the trend of development in the neighborhood. There is a trend in this particular area where the properties that were originally platted in a configuration that is conducive to the creation of flag lots in that the area is comprised of very large and very deep lots some of which have already been divided into flag lot configurations. Ms. Browne emphasized that is a condition that must be considered in recommending that a flag lot be approved by the Village Council.

Ms. Browne suggested that Mr. Sloan might feel that the trend is not necessarily a good thing, although she told Mr. Sloan that she did not want to put words into his mouth. Mr. Sloan responded he did not know if it was a good thing or not. He reiterated his statement that just because something is allowed does not always mean that it is right or wrong. His concern is that the way this is proposed here, he is the property owner that will be most adversely affected. He emphasized that he does not want to prevent Mr. Johnson from selling the back portion of his lot.

Mr. Stark pointed out the Plan Commission cannot tell Mr. Johnson where to put his garage. Where the garage is located, the length of the driveway, etc. are zoning issues and are outside the purview of the Plan Commission. If Mr. Sloan is not against the creation of a flag lot, then the Plan Commission has to decide to either recommend or not recommend a flag lot, not where Mr. Johnson relocates his garage.

Mr. Stark stated he understands why Mr. Sloan does not like where the driveway will be located, but it cannot affect what the Plan Commission does here tonight. Mr. Stark asked Mr. Sloan if he was for or against the creation of a flag lot, and Mr. Sloan responded he is against the flag lot as proposed. Mr. Sloan commented that the Plan Commission's recommendation to the Village Council would be based on the configuration presented here this evening. Mr. Stark pointed out the configuration of where the garage is to be relocated is for information purposes only. As shown, the proposal meets the criteria of the Ordinance.

Mr. Sloan again stated he is not trying to prevent Mr. Johnson from obtaining approval for a flag lot. Mr. Stark responded, in effect, Mr. Sloan is telling the Commission he is against the proposed flag lot. Mr. Sloan explained he would like to see Mr. Johnson get his flag lot approved the way he wanted it originally, with the access pole on the north side of his property. That would have the least affect on him, and Mr. Johnson would still have his flag lot.

Chairman Jirik advised what the petitioner and his attorney have heard and what the minutes to the Village Council will reflect is that there is a six to nine inch variation that would be necessary to do that. The petitioner has the right to proceed with the flag lot as presented, or if he chooses to pursue some other course of action, he can do so. The Mayor and Council will consider all the information that has been gathered this evening.

Mr. Sloan suggested if a six or nine inch variance is a hindrance to putting the access pole on the north side of Mr. Johnson's property, he would freely and gladly quit claim a foot of his property to Mr. Johnson. Chairman Jirik advised Mr. Sloan that offer would be duly noted, but Mr. Sloan would have to discuss such a transaction with the petitioner and his attorney.

With regard to Mr. Drover's drainage difficulties with the Westmont Surface Water Protection District No. 1, Chairman Jirik stated he knows that engineering is done very carefully in the Village of Downers Grove, and Staff works very hard to make sure things are done correctly, and they are always responsive to questions. The conflicting

jurisdictions in this case make it more complicated, but as a government agency, the Westmont Surface Water Protection District should be doing the right thing.

Ms. Browne added approval of a lot division does not automatically yield a buildable lot in that the development of the lot has to go through the necessary reviews, and all building code issues have to be satisfied before a permit can be issued.

Chairman Jirik commented the petitioner is asking the Plan Commission to recommend that a L-shaped line be drawn so that there will be two lots instead of one.

Mrs. Reynolds asked if the Plan Commission recommends approval for the configuration that has been presented this evening, could the owner then move the pole to the other side of the lot? Ms. Browne stated no. Mr. Sloan asked for clarification that if the Plan Commission recommends this flag lot as presented, the owner cannot then make any changes to the configuration of the location of the access pole.

Chairman Jirik asked Ms. Browne if the petitioner were to withdraw his flag lot petition before Council approval, is there a one year, cooling-off period before he could present a different petition. Ms. Browne said no and reminded the Plan Commission of the lot split petition on Fairmount last year that was withdrawn and then resubmitted several months later. Chairman Jirik recalled that the one year period is after Council approval. Before closing the public participation, Chairman Jirik asked if there was anyone else who had not spoken who wished to speak.

Mrs. Jean Drover, 4713 Roslyn Road, asked what residents could do to stop any future flag lots. They tried to stop the flag lot next to their home with no success.

Mr. Sloan asked what transpires next and whether the six Plan Commission members present vote yes or no to recommend approval. Chairman Jirik told him that would be the final step this evening. Mr. Sloan again asked if he could present his photographs. Chairman Jirik asked him what his photographs depict. Mr. Sloan responded the photographs show how the proposed flag lot would impact his property. Chairman Jirik explained any photographs that the Plan Commission looks at would then be forwarded on to the Village Council as part of the information gathered at the hearing this evening. Mr. Sloan explained his photographs to the Plan Commission members and recalled that when he and his wife bought their home one of the selling points was Mr. Johnson's nice open back yard.

Hearing no further questions, Chairman Jirik closed the public participation portion of the meeting.

Chairman Jirik noted this is the time of the hearing when the Plan Commission members can ask questions of the petitioner, Staff, or audience participants.

Mr. Stark noted the Village Council mentioned that they were going to consider a moratorium on flag lots. As the Ordinance now stands, the petitioner has presented all

the criteria that would mandate approval of the flag lot as presented. Whether the Council changes its mind and decides to take away the right of a flag lot is something beyond the scope of the Plan Commission. Mr. Stark stated these types of flag lots have been granted in the past, and that the development in the area is consistent. Mr. Stark expressed a personal preference for the type of development on Morning Glory Circle and Lincoln Place where a number of lots were purchased, the existing homes were razed, a cul-de-sac was created and homes were built. Mr. Stark expressed the opinion that this would be a better type of development and would avoid concerns that were raised here today. This could be an alternative to flag lots that the Council may want to consider. Chairman Jirik pointed out such a subdivision could create two garages that Mr. Sloan would have to view from his back yard.

Chairman Jirik stressed until the Ordinance is changed the Plan Commission must act on the existing Ordinance. There has been no communication from the Village Council either way. Chairman Jirik directed the Plan Commission members to act without prejudice as there has been no final indication from the Council.

Mrs. Reynolds stated the Council could change the existing Ordinance tomorrow. Hearing no further comments from the Plan Commission members, Chairman Jirik called for a motion.

**MOTION: MR. STARK MOVED WITH RESPECT TO FILE NO. 1074 THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE PROPOSED LOT SPLIT WHICH INVOLVES THE CREATION OF A FLAG LOT CONSISTENT WITH THE REQUIREMENTS OF SECTIONS 20-301, 20-302 AND 20-602 OF THE SUBDIVISION CONTROL ORDINANCE. THIS RECOMMENDATION IS BEING MADE WITH THE CONDITION THAT PRIOR TO ANY CONSTRUCTION BEING PERMITTED ON THE FLAG LOT, THE DETACHED GARAGE MUST BE RAZED OR RELOCATED SO THAT THERE IS NO ENCROACHMENT INTO THE ACCESS DRIVE OF THE FLAG LOT AND SO THAT THERE ARE NO SUBSTANDARD SETBACKS FROM THE REQUIREMENTS OF THE VILLAGE'S ZONING ORDINANCE. MRS. REYNOLDS SECONDED THE MOTION.**

Chairman Jirik asked if there were any questions or comments on the motion. There were none.

**ROLL CALL:**

**AYES: Mr. Stark, Mrs. Reynolds, Mr. Kahlke, Mr. Matejczyk, Mr. Wlodek, Chairman Jirik**

**NAYS: None**

**The motion passed unanimously.**

Chairman Jirik advised that the recommendation and the accompanying documentation would be reviewed by the Village Council in several weeks. Chairman Jirik stated Staff could be contacted to find out when this recommendation will be placed on a Village Council Workshop agenda. He advised those present that they can express their concerns directly to the Village Council at the Workshop meeting.

Mr. Matejczyk asked if the Plan Commission would be having a joint meeting with the Village Council to discuss flag lots. Ms. Browne replied that when the flag lot recommendation for the property on Highland Avenue was workshopped, the Council held a general discussion. The recording secretary provided the Commission members with a copy of the minutes of the discussion held at that meeting. Ms. Browne stated Staff is waiting for direction from the Village Council as to how to proceed. Mr. Matejczyk pointed out those minutes state that the Mayor asked for the Plan Commission to review and provide feedback, and he wondered if that was going to go forward. Mr. Matejczyk stated flag lots keep coming up again and again and the Plan Commission members have some background and real feelings about them. Ms. Browne stated she would discuss this matter with Mr. Rathje and report back to the Plan Commission.

Mrs. Reynolds advised the Sloans and the Drovers that the Village Council would be receptive to their concerns.

As there was no further business, Chairman Jirik called for a motion to adjourn. **Mr. Matejczyk moved to adjourn the meeting, and Mr. Wlodek seconded the motion. The motion passed unanimously.** The meeting adjourned at 9:05 p.m.