

**NOTICE OF MEETING
VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING**

SCHWEMER HALL - MUNICIPAL BLDG.
7200 N. SANTA MONICA BLVD.
FOX POINT, WISCONSIN

WEDNESDAY
MAY 28, 2025
5:00 P.M.

AGENDA

- 1. Roll Call**
- 2. Approval of Minutes and Determinations – September 25, 2024 Meeting**
- 3. Approval of Minutes and Determinations – January 22, 2025 Meeting**
- 4. Case 2025-02: 7160 N Barnett Lane.** The applicant is requesting a special exception to install decorative 3.5ft tall fencing within the street yard setback. The special exception request is made pursuant to 745-7 B.(3)(h)[2] and 745-7 B.(3)(j) of the Fox Point Code.
- 5. Case 2025-03: 1562 E Goodrich Lane.** The applicant is requesting a special exception to install fencing within the street yard setback. The special exception request is made pursuant to 745-7 B.(3)(h)[2] and 745-7 B.(3)(j) of the Fox Point Code.
- 6. Adjourn**

Published and Posted: May 19, 2025

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Village of Fox Point, Wisconsin
Board of Appeals - September 25, 2024

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: Yeah, now it's recording.

3 VILLAGE MANAGER SCOTT BOTCHER: Oh,
4 right there. It's over there now?

5 DIRECTOR OF PUBLIC WORKS SCOTT

6 BRANDMEIER: Yeah.

7 CHAIR NANCY FILSINGER: Ready? Meeting
8 is called to order of the Board of Appeals, into
9 roll call please.

10 VILLAGE CLERK TREASURER SARA BRUCKMAN:
11 Nancy Filsinger?

12 CHAIR NANCY FILSINGER: Here.

13 VILLAGE CLERK TREASURER SARA BRUCKMAN:
14 Thomas Dunst?

15 BOARD MEMBER THOMAS DUNST: Here.

16 VILLAGE CLERK TREASURER SARA BRUCKMAN:
17 Mark Grady?

18 BOARD MEMBER MARK GRADY: Here.

19 VILLAGE CLERK TREASURER SARA BRUCKMAN:
20 Scott Ratke?

21 BOARD MEMBER SCOTT RATKE: Here.

22 VILLAGE CLERK TREASURER SARA BRUCKMAN:
23 Adam Bazelon?

24 BOARD MEMBER ADAM BAZELON: Here.

25 CHAIR NANCY FILSINGER: Agenda Item

1 Number 2 is (indiscernible) and determinations.

2 Any comments from the Board? Adam?

3 BOARD MEMBER ADAM BAZELON: No comment.

4 BOARD MEMBER MARK GRADY:

5 (indiscernible) May 22, 2024 minutes and
6 determinations.

7 BOARD MEMBER THOMAS DUNST: Second.

8 CHAIR NANCY FILSINGER: (indiscernible)

9 VILLAGE CLERK TREASURER SARA BRUCKMAN:
10 Nancy Filsinger?

11 CHAIR NANCY FILSINGER: Aye.

12 VILLAGE CLERK TREASURER SARA BRUCKMAN:
13 Thomas Dunst?

14 BOARD MEMBER THOMAS DUNST: Aye.

15 VILLAGE CLERK TREASURER SARA BRUCKMAN:
16 Mark Grady?

17 BOARD MEMBER MARK GRADY: Aye.

18 VILLAGE CLERK TREASURER SARA BRUCKMAN:
19 Scott Ratke?

20 BOARD MEMBER SCOTT RATKE: Aye.

21 VILLAGE CLERK TREASURER SARA BRUCKMAN:
22 Adam Bazelon?

23 BOARD MEMBER ADAM BAZELON: Aye.

24 VILLAGE CLERK TREASURER SARA BRUCKMAN:
25 Motion carries.

1 VILLAGE ATTORNEY ERIC LARSON: Madam
2 Chair, I have a few procedural comments before we
3 get going. We have one case on our agenda today
4 and we have a preliminary matter once we get to
5 that. This is an appeal of an administrative
6 decision. It's got some statutes.

7 They empower the Board of Appeals to
8 hear and decide appeals where it is alleged there
9 was an error in any order, requirement, decision
10 or determination made by an administrative
11 official in the enforcement of this section or of
12 any ordinance adopted pursuant thereto. So,
13 that's why we're here.

14 This is different than any appeal I can
15 remember in a few years anyway. Typically, we're
16 hearing requests for variances or special
17 exceptions. That's not what we're here to do
18 today. What we're here to do today is make a
19 determination of whether a determination made by
20 staff was accurate or not and that determination
21 is being challenged.

22 I just want you to be aware of that
23 context and we will consider the limitations of
24 that further as we go. Next, your rules say the
25 following, this is Item 3 of your agenda. Your

1 rules say, "Every appeal to the Board shall be
2 taken and filed with the Secretary of the Board
3 within 30 days from the date of refusal to issue
4 a permit from the date of the making of any
5 order, ruling, decision or determination on which
6 an appeal is taken."

7 Your rules also say, Section 5, that,
8 "These rules are for the benefit of the Board and
9 are enforceable by the Board. The Board reserves
10 the right to conduct its proceedings differently
11 than as described herein as it deems appropriate
12 in the circumstances. Failure of the Board to
13 follow or enforce the requirements of these rules
14 shall not be actionable."

15 If you look at the materials that have
16 been provided, I think it shows that what is
17 being appealed was determined many months ago by
18 staff. Much longer than the 30-day time limit
19 required by your votes. When staff has made its
20 determinations, I think it is, inform the
21 applicant that they have the right to appeal to
22 the Board of Appeals.

23 So, because of that, I think -- and
24 we'll hear from staff, but I think it's their
25 position that they do not object to that 30-day

1 time limit being waived and the applicant also is
2 requesting that you waive them a few days. But
3 it is for your determination to decide.

4 So, maybe we should hear from them
5 directly. I don't want to put words in their
6 mouths. Maybe starting with the Village's
7 position on that.

8 VILLAGE MANAGER SCOTT BOTCHER: We are
9 willing to waive the 30-day requirement.

10 CHAIR NANCY FILSINGER: We don't need
11 to swear them in, for this piece?

12 VILLAGE ATTORNEY ERIC LARSON: No, not
13 for this.

14 CHAIR NANCY FILSINGER: Okay. And the
15 Applicant?

16 RALPH BENCRISCUTTO: Yes, I'm waiving
17 the -- I didn't even know it was 30 days.

18 VILLAGE ATTORNEY ERIC LARSON: So, with
19 that, it's the Board decision whether you waive
20 that.

21 BOARD MEMBER ADAM BAZELON: Where is
22 the 30 days in the statute? I'm just trying to
23 follow along.

24 VILLAGE ATTORNEY ERIC LARSON: It's not
25 in the statutes. It's in the Board rules.

1 BOARD MEMBER ADAM BAZELON: Oh, okay.

2 VILLAGE ATTORNEY ERIC LARSON: So, if

3 you have the training packet there --

4 BOARD MEMBER ADAM BAZELON: Yeah, I do.

5 VILLAGE ATTORNEY ERIC LARSON: -- it's

6 on Page --

7 BOARD MEMBER ADAM BAZELON: My packet

8 might be old. It's dated December 5, 2017.

9 CHAIR NANCY FILSINGER: December --

10 BOARD MEMBER THOMAS DUNST: Do you have

11 the same packet?

12 BOARD MEMBER ADAM BAZELON: Yeah, we

13 trained on the same day. But I think it was

14 outdated when we trained.

15 BOARD MEMBER THOMAS DUNST: I think it

16 was outdated.

17 VILLAGE ATTORNEY ERIC LARSON: It's at

18 the bottom of Page 10, Section 3 - Appeals, Time.

19 See that?

20 BOARD MEMBER ADAM BAZELON: I don't

21 think I have that, but that's okay. If it's just

22 the Board rules -- I was just more curious. I

23 don't have any objection to waiving it. It seems

24 like it was probably done for our convenience, so

25 we didn't have to convene a special meeting on

1 the spot, so I am in favor of waiving, if we're
2 discussing right now.

3 CHAIR NANCY FILSINGER: Tom?

4 BOARD MEMBER THOMAS DUNST:
5 (indiscernible)

6 BOARD MEMBER MARK GRADY: Yeah, I --
7 given the sort of way this is developed to ensure
8 we have a packet with conversations and emails
9 going on back and forth over many months, I think
10 waiving the 30-day requirement is appropriate.
11 And if necessary, I would make a motion to waive
12 that requirement.

13 CHAIR NANCY FILSINGER: Second the
14 motion?

15 BOARD MEMBER SCOTT RATKE: I second.

16 CHAIR NANCY FILSINGER: All right.

17 VILLAGE CLERK TREASURER SARA BRUCKMAN:
18 Nancy Filsinger?

19 CHAIR NANCY FILSINGER: Aye.

20 VILLAGE CLERK TREASURER SARA BRUCKMAN:
21 Thomas Dunst?

22 BOARD MEMBER THOMAS DUNST: Aye.

23 VILLAGE CLERK TREASURER SARA BRUCKMAN:
24 Mark Grady?

25 BOARD MEMBER MARK GRADY: Aye.

1 VILLAGE CLERK TREASURER SARA BRUCKMAN:
2 Scott Ratke?

3 BOARD MEMBER SCOTT RATKE: Aye.

4 VILLAGE CLERK TREASURER SARA BRUCKMAN:
5 Adam Bazelon?

6 BOARD MEMBER ADAM BAZELON: Aye.

7 VILLAGE CLERK TREASURER SARA BRUCKMAN:
8 Motion carries to waive.

9 CHAIR NANCY FILSINGER: (indiscernible)
10 anything. Anything else?

11 VILLAGE ATTORNEY ERIC LARSON: No, I
12 was ready to call the case. This is again, not
13 really evidence-based, it's more argument-based.
14 So, you can decide whether you think it's
15 appropriate to swear the witnesses in.

16 BOARD MEMBER ADAM BAZELON: Can I ask a
17 preliminary question?

18 VILLAGE ATTORNEY ERIC LARSON: Yeah.

19 BOARD MEMBER ADAM BAZELON: Is there a
20 standard of review that's applicable to the
21 Village's decision in this case? Like, are we
22 reviewing it de novo? Is it deference to their
23 decision? Is it --

24 VILLAGE ATTORNEY ERIC LARSON: There
25 really is not a standard of review. I think it's

1 the applicant's burden, as they are challenging
2 it. But beyond that, there is really no standard
3 of review.

4 CHAIR NANCY FILSINGER: All right.
5 Agenda Item 4, Case 2024-078339, Lake Drive,
6 appeal of administrative decision. The applicant
7 is requesting an appeal of the decision of Fox
8 Point Village Manager, Scott Botcher, regarding
9 the requirement for grading and day drainage
10 permit pursuant to Section 756-7E(1) of the Fox
11 Point municipals. Why don't we have them swear
12 in?

13 VILLAGE CLERK TREASURER SARA BRUCKMAN:
14 Should I start with the applicant first or do you
15 want to start with staff?

16 CHAIR NANCY FILSINGER: Staff.

17 VILLAGE CLERK TREASURER SARA BRUCKMAN:
18 All right. Raise your right hand and state your
19 name and address for the record, please?

20 VILLAGE MANAGER SCOTT BOTCHER: Scott
21 Botcher, 714 (indiscernible), Wisconsin.

22 DIRECTOR OF PUBLIC WORKS SCOTT
23 BRANDMEIER: Scott Brandmeier, 8525 North
24 (indiscernible) Street, (indiscernible)
25 Wisconsin.

1 VILLAGE CLERK TREASURER SARA BRUCKMAN:
2 Do you solemnly swear that the testimony you
3 shall give in this matter shall be the truth, the
4 whole truth and nothing but the truth, so help
5 you God?

6 VILLAGE MANAGER SCOTT BOTCHER: I do.

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: I do.

9 VILLAGE CLERK TREASURER SARA BRUCKMAN:
10 Thank you.

11 CHAIR NANCY FILSINGER: Okay. Scott or
12 Scott, do you want to discuss why you brought
13 this to us? Or why it was brought to us?

14 BOARD MEMBER MARK GRADY: Can I ask,
15 we've got a very thick (indiscernible). I don't
16 know how many pages. I don't personally, maybe
17 others disagree, I don't want you to go through
18 it, page by page.

19 DIRECTOR OF PUBLIC WORKS SCOTT

20 BRANDMEIER: No, no, no, no, no.

21 BOARD MEMBER MARK GRADY: I would
22 rather you just tell me what permits you've
23 requested the applicant obtain and why.

24 DIRECTOR OF PUBLIC WORKS SCOTT

25 BRANDMEIER: I would encourage you, then, to go

1 to the memo that I prepared for you. And on the
2 page that it starts on, it's dated September 19th
3 (indiscernible) from your packet, probably
4 around, I would say Page 45, 46, somewhere in
5 there.

6 CHAIR NANCY FILSINGER: Oh, okay.

7 DIRECTOR OF PUBLIC WORKS SCOTT
8 BRANDMEIER: In your packet of information. I've
9 prepared a five-page memorandum (indiscernible)
10 permits that are required.

11 (Cross talk)

12 BOARD MEMBER SCOTT RATKE: Is it within
13 your emails, or is it a --

14 DIRECTOR OF PUBLIC WORKS SCOTT
15 BRANDMEIER: (indiscernible)

16 BOARD MEMBER SCOTT RATKE: Okay. I got
17 you, letterhead.

18 BOARD MEMBER ADAM BAZELON: It looks
19 like this.

20 BOARD MEMBER SCOTT RATKE: Okay. That
21 helps.

22 DIRECTOR OF PUBLIC WORKS SCOTT
23 BRANDMEIER: Thank you, Adam. Yeah.

24 BOARD MEMBER SCOTT RATKE: Was it near
25 the beginning or the end?

1 VILLAGE MANAGER SCOTT BOTCHER: You're
2 very close. It's, I think, after the pictures.

3 BOARD MEMBER SCOTT RATKE: Okay.

4 DIRECTOR OF PUBLIC WORKS SCOTT
5 BRANDMEIER: I thought you maybe went too far.
6 Yeah, it's right --

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: I'm at Attachment 12.

9 VILLAGE MANAGER SCOTT BOTCHER: Here at
10 Attachment 12 (indiscernible)

11 BOARD MEMBER SCOTT RATKE: Okay.

12 VILLAGE MANAGER SCOTT BOTCHER: Near
13 the front. The applicant has (indiscernible)
14 after that.

15 BOARD MEMBER THOMAS DUNST: Yeah, I
16 found it.

17 CHAIR NANCY FILSINGER: I found it,
18 yeah.

19 VILLAGE CLERK TREASURER SARA BRUCKMAN:
20 We had (indiscernible)

21 BOARD MEMBER SCOTT RATKE: Right there?

22 DIRECTOR OF PUBLIC WORKS SCOTT

23 BRANDMEIER: (indiscernible)

24 BOARD MEMBER SCOTT RATKE: Ah, thank
25 you.

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: (indiscernible), correct, correct,
3 correct, correct, correct. (indiscernible) All
4 right, so depending on what an applicant does on
5 their property. We'll help construct the
6 petition, planning certain activities, et cetera.
7 where a number of permits that may be required by
8 the Village Code and there's certain triggers
9 within each section of the Village Code.

10 And I go through that in this memo, and
11 I included copies of the Code for your reference
12 and for your benefit. Looking at the first one,
13 Article 4 of Chapter 285, which is at the bottom
14 of Page one of your memo, requires
15 (indiscernible) control permit to an individual
16 performing land surveying activities, et cetera.

17 Affecting a service area of 8,000
18 square feet or more. Now, of course, there's
19 other triggers within the Code Section of Chapter
20 285 that would trigger (indiscernible) cases.
21 Then on the top of Page two, Chapter 272 is our
22 Fill Ordinance. That requires applicants to
23 obtain a fill permit if they place more than 25
24 cubic yards of fill on their project.

25 The impetus to having the field

1 ordinance was a project that was undertaken by a
2 property owner here in the Village, before I
3 started, eighteen and a half years ago, where he
4 wanted 7,000 cubic yards of fill, roughly, and
5 there was no permitting process in place at the
6 time.

7 So, it affected service water drainage
8 and ran off of private parcels. So, the Village
9 got embroiled in lawsuits and that property owner
10 got involved in other lawsuits with other
11 neighbors on that particular situation. So, that
12 ordinance was adopted to address where applicants
13 are placing more than 25 cubic yards of fill and
14 may adversely impact neighboring property owners
15 from a drainage perspective.

16 And then 756-7E is within your building
17 code and that requires individuals to form a
18 grading and drainage analysis where applications
19 for land disturbing activities requiring a permit
20 that affects the surface area for those square
21 feet or more. And so, as you read through the
22 memo, there's ample attachments of the history
23 behind all of this, 27, if memory serves me
24 correctly.

25 And if you go to the bottom of Page

1 four, the determination being what we found in
2 all of this is that the applicant initially sent
3 in an application showing roughly 4,500 square
4 feet of disturbed area when he first applied for
5 a permit. We explained permitting requirements
6 to the applicant and his engineer.

7 We subsequently received a revised
8 application saying, "Well, we're only going to
9 affect 2,100 square feet." All that information
10 is contained within the attachments. A permit
11 was issued with the understanding that if those
12 quantities were ever exceeded, if more than 25
13 yards of fill was placed on the property, if you
14 disturb more than the 4,000 or 8,000 square feet
15 of surface area, you would then have to comply
16 with -- it would be retroactive to the date
17 (indiscernible) application and comply with the
18 permit requirements.

19 And so, what we found in the pictures
20 to show, and the documentation that has been
21 presented, is that the land disturbing activity
22 affected more than 8,000 square feet. So, that
23 kicked them into a number of Code requirements.
24 (indiscernible), grading and drainage and also
25 that, from the naked eye, it appears as though

1 more than 25 cubic yards of fill has been placed
2 on the property.

3 But we have not been able to determine
4 that definitively because we don't have the post
5 grades compared against what were the existing
6 grades before the project started. When you get
7 those, that's a requirement of the fill ordinance
8 that applicants have to provide that information.
9 And that'll tell us whether 25 cubic yards of
10 fill is placed or less.

11 And if we don't have that information,
12 then we can't say definitively whether it applies
13 or not. So, when we obtain that, we do require,
14 especially when somebody is placing fill, you
15 have to prepare that drawing by an engineer that
16 will show that comparative analysis so we can
17 say, definitively, "Yes, it applies" or "No, it
18 does not." So, those are the requirements and
19 the steps that we go through with all of this.

20 There is a disagreement between the
21 applicant and staff on whether it applies. And
22 then you fast forward through the months of
23 November and December and as attachments show,
24 and the agreement was, we would go to Mr.
25 Botcher, and he would serve as almost a quasi-

1 judicial arbitrator in the matter.

2 And before Mr. Botcher, the three of us
3 sat in his office and the issue was, what is a
4 land disturbing activity? Mr. Botcher researched
5 it, consulted with the Village Attorney and
6 rendered a decision on December 23, 2023, that it
7 was a land disturbing activity. Subsequent to
8 that, the thought was, (indiscernible) rendered
9 his decision.

10 You now are required to comply with the
11 various components of the Village Code because
12 all parties agreed at the time that we would
13 abide by the decision. If the definition of
14 "land disturbing activity" kept them out of the
15 Village Code of Requirements, there would be no
16 need for him to apply for the various permit
17 requirements.

18 But based on the definition of "land
19 disturbing activities" and the opinion that we
20 received from the Village Attorney, it triggered
21 all the requirements to comply with Chapter 285,
22 Chapter 756-7E and then, quite likely, Chapters
23 272 for the fill ordinance. We're here today
24 because there's the continual disagreement, for
25 lack of a better term, on the part of the

1 applicant, that what he has done constitutes a
2 land disturbing activity.

3 But based on our ordinance and the
4 opinion that we received from the Village
5 Attorney, (indiscernible) by Mr. Botcher, it
6 would appear that he does fall within the
7 requirements of (indiscernible)

8 VILLAGE ATTORNEY ERIC LARSON: I -- are
9 you done?

10 DIRECTOR OF PUBLIC WORKS SCOTT
11 BRANDMEIER: I (indiscernible) for the moment.

12 VILLAGE ATTORNEY ERIC LARSON: So,
13 there were several references to me. And I just
14 want to be clear, I have had nothing to do with
15 this, other than I was asked to question, "What
16 does the term 'land disturbing activity' mean?"
17 That was the question. It was out of the context
18 of nothing.

19 What does that definition mean? And I
20 provided, I believe, two statutory definitions
21 and the Code definition and said, "Here's a
22 definition. Here's a definition. Here's a
23 definition." I don't believe I had any other
24 involvement and correct me if I'm wrong.

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: That is correct.

2 VILLAGE ATTORNEY ERIC LARSON: So, I
3 don't believe I have a conflict, but I think it's
4 important that this be a fair process. I'd be
5 happy to step down and get you special counsel if
6 you believe that's a concern.

7 BOARD MEMBER MARK GRADY: Just for
8 reference, I believe the three definitions that
9 Attorney Larson referenced are contained in Mr.
10 Botcher's -- it's an email or a letter.

11 VILLAGE MANAGER SCOTT BOTCHER:
12 (indiscernible)

13 BOARD MEMBER MARK GRADY: I don't
14 remember the date of it. Do you have it in front
15 of you?

16 VILLAGE MANAGER SCOTT BOTCHER:
17 Correct. Mr. Larson (indiscernible) the
18 statutory citation.

19 BOARD MEMBER MARK GRADY: Right. But
20 you incorporated it into something you sent to
21 the applicant?

22 VILLAGE MANAGER SCOTT BOTCHER: What's
23 that?

24 BOARD MEMBER MARK GRADY: You
25 incorporated those definitions into something you

1 sent to the applicant?

2 VILLAGE MANAGER SCOTT BOTCHER: Yeah.
3 I went and looked at the statutes myself.
4 (indiscernible)

5 BOARD MEMBER MARK GRADY: And what was
6 the -- I don't have it in front of me. What was
7 the date of that communication?

8 VILLAGE MANAGER SCOTT BOTCHER:
9 December 21, 2023.

10 BOARD MEMBER MARK GRADY: Email or
11 letter?

12 VILLAGE MANAGER SCOTT BOTCHER: It was
13 an email.

14 BOARD MEMBER MARK GRADY: Okay.

15 DIRECTOR OF PUBLIC WORKS SCOTT
16 BRANDMEIER: And I apologize I misspoke. I
17 thought it was the 23rd. I was just going off of
18 memory. It was the 21st of December.

19 BOARD MEMBER MARK GRADY: All I'm
20 trying to do is confirm the information Attorney
21 Larson passed to you is contained in that
22 communication, correct?

23 VILLAGE MANAGER SCOTT BOTCHER: That's
24 correct.

25 BOARD MEMBER SCOTT RATKE: Where is

1 that email? Do you know, in relation to the
2 memo?

3 DIRECTOR OF PUBLIC WORKS SCOTT
4 BRANDMEIER: The applicant has it in his and it
5 is also contained within my (indiscernible)

6 VILLAGE CLERK TREASURER SARA BRUCKMAN:
7 It's right after the pictures. So, there's the
8 pictures, and then the email.

9 BOARD MEMBER SCOTT RATKE: I see it.
10 Yeah, okay.

11 BOARD MEMBER MARK GRADY:
12 (indiscernible) Attachment 21.

13 VILLAGE CLERK TREASURER SARA BRUCKMAN:
14 (indiscernible)

15 BOARD MEMBER MARK GRADY: Yeah
16 (indiscernible) Brandmeier, you said that it
17 appears there's over 8,000 square feet of land
18 disturbing activities.

19 DIRECTOR OF PUBLIC WORKS SCOTT
20 BRANDMEIER: Yes.

21 BOARD MEMBER MARK GRADY: Just
22 factually, what is your basis for that? What are
23 you saying has been disturbed?

24 DIRECTOR OF PUBLIC WORKS SCOTT
25 BRANDMEIER: For that, I provided images. Let me

1 find the attachment for you. I'll have to look
2 back at my memo again.

3 BOARD MEMBER MARK GRADY: I saw several
4 different things and I just want you to point me
5 to one.

6 DIRECTOR OF PUBLIC WORKS SCOTT
7 BRANDMEIER: Well, I prepared a number of emails
8 for the applicant, which I included in the packet
9 that I sent out.

10 BOARD MEMBER MARK GRADY: If it's --

11 DIRECTOR OF PUBLIC WORKS SCOTT
12 BRANDMEIER: It's in there, but I would like
13 (indiscernible) so, what I did was, I looked at -
14 - there were personal observation of a site,
15 erosion control, (indiscernible) provided to the
16 applicant. That's one of them, where you see the
17 pictures of disturbing area, that's early
18 disturbing area on the site.

19 And then what I ended up doing for the
20 benefit of the applicant, as well as for
21 (indiscernible) was, digitizing, through GIS,
22 what the disturbance area was based on
23 observations on-site and the pictures that we
24 have. Yes, thank you. You found them.

25 BOARD MEMBER MARK GRADY: So, what I'm

1 looking at is a photograph or computer drawing,
2 whichever you call it, attached to an email from
3 you to the applicant dated December 6, 2023.
4 There's more than one copy in our packets.

5 DIRECTOR OF PUBLIC WORKS SCOTT

6 BRANDMEIER: Yes, yes.

7 BOARD MEMBER MARK GRADY: And that area
8 --

9 DIRECTOR OF PUBLIC WORKS SCOTT

10 BRANDMEIER: Attachment 15, for everybody's
11 benefit.

12 BOARD MEMBER MARK GRADY: The area
13 you're --

14 BOARD MEMBER THOMAS DUNST:
15 (indiscernible)

16 BOARD MEMBER MARK GRADY: The area that
17 you're including within that 12,000 square feet
18 is the greyish-blue area, correct?

19 DIRECTOR OF PUBLIC WORKS SCOTT

20 BRANDMEIER: That is correct.

21 BOARD MEMBER MARK GRADY: That's the
22 area you're considering to be land disturbing --
23 where land disturbing activities took place?

24 DIRECTOR OF PUBLIC WORKS SCOTT

25 BRANDMEIER: That is correct.

1 BOARD MEMBER MARK GRADY: And then you
2 also reference the photographs of the
3 construction.

4 DIRECTOR OF PUBLIC WORKS SCOTT
5 BRANDMEIER: That is correct.

6 BOARD MEMBER ADAM BAZELON: You said
7 December 6, 2023?

8 BOARD MEMBER MARK GRADY: Yes. There's
9 more than one in the packet, so --

10 DIRECTOR OF PUBLIC WORKS SCOTT
11 BRANDMEIER: You are -- that is correct, yes.

12 VILLAGE ATTORNEY ERIC LARSON: Madame
13 Chair?

14 CHAIR NANCY FILSINGER: Oh, I'm sorry.

15 VILLAGE ATTORNEY ERIC LARSON: I have a
16 couple of questions. Is the work done?

17 DIRECTOR OF PUBLIC WORKS SCOTT
18 BRANDMEIER: Yes.

19 VILLAGE ATTORNEY ERIC LARSON: The work
20 is done?

21 DIRECTOR OF PUBLIC WORKS SCOTT
22 BRANDMEIER: The exterior work appears to be
23 done, though the applicant has requested an
24 additional -- has made an additional request to
25 remove the (indiscernible) tree in order to

1 expand the driveway to the west.

2 So, it depends on the applicant's
3 actions and whether that proceeds or not. That
4 request has not been considered at this time.

5 VILLAGE ATTORNEY ERIC LARSON: Okay.
6 So, if the conclusion is that these permits are
7 required, mostly what we're talking about is the
8 money for a permit fee? Is that correct?

9 BOARD MEMBER MARK GRADY:
10 (indiscernible)

11 DIRECTOR OF PUBLIC WORKS SCOTT
12 BRANDMEIER: Well, you're looking at an analysis
13 to ensure that they're not adversely impacting
14 (indiscernible) property owners. The rationale
15 behind the grading and drainage analysis is to
16 perform a (indiscernible) and 100-year storm
17 analysis of pre-development conditions and post-
18 development conditions.

19 And the reason for that is, when I
20 started here eighteen and a half years ago, there
21 was no such process in place. And we had some
22 developments going up, we've got residential
23 inflow, and I would get complaints from so many
24 property owners that this was adversely affecting
25 their property, the developer.

1 So, after consultation with other
2 staff, my experience in the private sector, we
3 adopted that portion of the Code to include if
4 you needed a permit, if you needed a fill permit,
5 if you needed a building permit, you'd have to go
6 through that analysis so that you could show you
7 were not adversely impacting a neighbor.

8 So, it's not just the permit fee that
9 is being discussed here, it's the analysis that's
10 the critical component of, does the action of the
11 applicant, by raising the grade, by disturbing
12 this area, adversely impact the neighbors with
13 additional flow off this property onto an
14 adjacent property. And that's what we look at in
15 this analysis.

16 BOARD MEMBER MARK GRADY: Just to
17 follow that up, then, assuming the permit was
18 applied for, the information was submitted, the
19 analysis was done and you found that there was an
20 effect on neighboring properties, then some
21 remedial work would have to be done as well.

22 DIRECTOR OF PUBLIC WORKS SCOTT
23 BRANDMEIER: That is correct.

24 BOARD MEMBER MARK GRADY: So, I mean,
25 it's --

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: And what we've required in the past,
3 for example, if you're wondering, some sort of
4 rain garden to slow down the flow of water to a
5 neighboring property or a storage basin on the
6 property because you do have that component of
7 residential infill.

8 It's tough, but we use an approach of,
9 let's look at what the impacts are to the
10 neighbors, make sure that it's not a significant
11 impact, for lack of a better term.

12 BOARD MEMBER ADAM BAZELON: And so,
13 this is holding up the occupancy permit being
14 issued? Everything else is done other than this
15 issue?

16 DIRECTOR OF PUBLIC WORKS SCOTT

17 BRANDMEIER: I cannot speak for Mr. Rocco. I
18 don't believe that everything is done from his
19 perspective on that.

20 BOARD MEMBER ADAM BAZELON: Okay.

21 DIRECTOR OF PUBLIC WORKS SCOTT

22 BRANDMEIER: There are still other issues, if I'm
23 not mistaken, that need to be addressed from a
24 building perspective, and I don't know where
25 those stand at the moment. But from our -- from

1 a Village perspective, on the engineering side of
2 things, these have not been --

3 CHAIR NANCY FILSINGER: Thank you. Any
4 other questions? Tom?

5 BOARD MEMBER THOMAS DUNST: No
6 questions.

7 CHAIR NANCY FILSINGER: Scott? Adam?

8 BOARD MEMBER SCOTT RATKE: Not for now.

9 BOARD MEMBER ADAM BAZELON: No.

10 CHAIR NANCY FILSINGER: Nothing for Mr.
11 Botcher? (indiscernible) Any closing testimony
12 for these (indiscernible)

13 BOARD MEMBER MARK GRADY:
14 (indiscernible)

15 VILLAGE ATTORNEY MARK LARSON: We'll
16 just move on to the next one.

17 CHAIR NANCY FILSINGER: All right.

18 VILLAGE ATTORNEY MARK LARSON: You
19 don't need to close the testimony.

20 VILLAGE CLERK TREASURER SARA BRUCKMAN:
21 All right. Very good. If you could raise your
22 right hand and state your name and address for
23 the record, please?

24 RALPH BENCRISCUTTO: Ralph
25 Bencriscutto, (indiscernible).

1 VILLAGE CLERK TREASURER SARA BRUCKMAN:

2 All right. Do you solemnly swear that the
3 testimony you give in this matter shall be the
4 truth, the whole truth and nothing but the truth,
5 so help you God?

6 RALPH BENCRISCUTTO: Yes.

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: May I ask a question? The applicant
9 (indiscernible)

10 CHAIR NANCY FILSINGER: Address
11 (indiscernible)

12 DIRECTOR OF PUBLIC WORKS SCOTT

13 BRANDMEIER: -- the property that's being under
14 development, is that his home address or --

15 RALPH BENCRISCUTTO: It's not my home
16 address. It's (indiscernible) but that's
17 (indiscernible)

18 VILLAGE CLERK TREASURER SARA BRUCKMAN:
19 (indiscernible)

20 VILLAGE ATTORNEY MARK LARSON: Well, we
21 need to know your address, where you're living
22 because there may be --

23 RALPH BENCRISCUTTO: (indiscernible)

24 VILLAGE CLERK TREASURER SARA BRUCKMAN:
25 Thank you.

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: Can I ask another question?

3 CHAIR NANCY FILSINGER: Yes.

4 DIRECTOR OF PUBLIC WORKS SCOTT

5 BRANDMEIER: Is that your business address?

6 CHAIR NANCY FILSINGER: Well, I
7 wouldn't mind as to what Scott just did for us,
8 if Ralph could -- may I call you Ralph? Could,
9 sort of, summarize -- I know you gave us
10 something. This is from you, right? As you see
11 the issue evolving?

12 RALPH BENCRISCUTTO: Well, I don't
13 disagree with most of what staff said on the
14 permits and the reasons for permits and why
15 they're important for everybody. (indiscernible)
16 We want to make sure the buyers' going to sell
17 this. The first (indiscernible) or history, I
18 guess (indiscernible) is, (indiscernible). ES is
19 a good firm for the neighbors. (indiscernible).

20 So, we did get Permit 285. We
21 submitted a plan. I mean (indiscernible) at some
22 point, by an engineer, to say that this is how
23 it's going to end up. So, after doing that, the
24 requirement was to (indiscernible) and if you
25 look at the property, you can't grade the

1 property because, not only (indiscernible) feet
2 from the (indiscernible) to the west and we're
3 the low spot in the yard.

4 So, (indiscernible). We couldn't add
5 any dirt, or we could push the water into his
6 yard. And while we were doing construction, we
7 saw this because the (indiscernible) piled up
8 there. And we tried to get rid of most of it and
9 see -- we not only did -- we had to get ducts in
10 the process. So, we scraped all the dirt off
11 (indiscernible) bricks.

12 And I don't know if you guys drove by
13 the project when it was going on, but it rained
14 for the entire summer and it was a mud pit, and
15 we couldn't get the stuff out of there. And then
16 I have three contractors with five trucks and all
17 this equipment to get this mud out of there
18 because it just -- it was that clay that you've
19 got around here. It's terrible.

20 And we finally got it all out of there
21 by fall and then we started putting the grass
22 back together because we were driving on the
23 grass, messed up the yard.

24 BOARD MEMBER MARK GRADY: May I just
25 interrupt you just for a second. But the mud

1 you're referring to is from the excavation of the
2 basement or something else?

3 RALPH BENCRISCUTTO: We had a small
4 addition, 680 feet and we had 262 yards of clay
5 that we took out and had to get rid of. That's
6 the only requirement for (indiscernible). So, we
7 were doing what we thought we were supposed to
8 do. We got rid of all this mud and then messed
9 up the yard. So, we started to replant the yard
10 (indiscernible). We had to re-seed it.

11 So, we spread (indiscernible) and then
12 re-seeded it. We tried to get it to grow back
13 before winter. The dispute comes when the
14 definition of "land disturbing activity", which
15 has been reiterated here two times. It's a broad
16 term. In the permit for (indiscernible) grades,
17 land surveying activity is relating to what
18 you're grading. It has to be 4,000 feet. Land
19 disturbing activity still describes grading and
20 filling of a minimum of 4,000 feet.

21 The second section (indiscernible) has
22 a minimum of 8,000 square feet, as Scott
23 (indiscernible). We were well below. So, when
24 we went over 8,000 feet, we already had
25 (indiscernible) and it didn't really matter the

1 argument of, "Well, you're riding on the grass,
2 so you disturbed the land." Now, I understand
3 the broad definition of "land disturbing
4 activity" because, let's say, you're on a bluff,
5 that's Section 3.

6 Well, now we can't just go and take off
7 the grass or the plants because now, all the
8 water is going to -- you're going to lose
9 (indiscernible). It's going to run to the
10 (indiscernible) of somebody's yard or what have
11 you. So, there's stricter definitions of "land
12 disturbing activity". If you follow the strict
13 definition of "land disturbing activity", we
14 couldn't even cut the grass because we're
15 disturbing the vegetation.

16 So, this interpretation of "land
17 disturbing activity", all of a sudden gets
18 flipped. Well, wait a minute, you disturbed more
19 than 4,000 feet, so now you need a grading here.
20 But we're not grading it. So, I asked, even the
21 Code itself has the exceptions (indiscernible)
22 plants and (indiscernible) grass, landscaping,
23 sidewalks. It's all spelled out. It's in the
24 (indiscernible). It's clear.

25 There's no disputing it. These are the

1 exemptions for (indiscernible) a permit. So, if
2 you take those exemptions off, we didn't grade
3 anything or fill anything. All we filled was the
4 driveway and the patio and we put some dirt
5 around the house for the landscaping. You could
6 see the pictures. If you go to the house and
7 look at it, we had the same walkway that was
8 there before we got the house, in the yard, right
9 where it was.

10 So, the definition all of a sudden
11 becomes, "Wait a minute. We already had the
12 (indiscernible) permit, but now we need a fill
13 and grading permit too." Now, this isn't just a
14 matter of paying bucks. This is a \$5,000 cash
15 bond, engineered plots, 45-day plan
16 (indiscernible). And how am I supposed to make
17 this permit? I'm not grading anything.

18 So, and then you come back to me and
19 say, "Well, you added fill underneath the
20 driveway." I said, "Well, sure did." You come
21 back and say, "Wait a minute. It's exempt but
22 you can't just add a foot of fill there because
23 your garage is higher than it was and now you had
24 to add a foot of fill underneath your driveway."

25 There's no (indiscernible) in this fill

1 and grading permit where the drive is exempt, but
2 if you add your fill there, well then there's
3 another implied permit for that portion. And
4 that includes the patio and the planters. We
5 stated that we added fill. That's the only place
6 that's agreed to that we added fill.

7 We had to add gravel underneath the
8 driveway. I mean, we had to. We had to put it
9 there so -- where everybody could sit. So, this
10 is where the argument comes in and then, there's
11 no discussing it because it just came to the
12 conclusion that, well, we disturbed the land,
13 over 4,000. Now, you need a grading and fill
14 permit. This is the whole premise. I said,
15 "Well, I already have an erosion control permit,
16 which makes sense."

17 But if you look at the drawing, he
18 included the garage, the driveway, the patio and
19 sidewalks, the planters, everything. Boulders.
20 The boulders, they said, required a fill and
21 grading permit. It said that's fill. Boulders.
22 This, to me, was total nonsense. But not only
23 that, it's impossible to get this permit. What
24 am I supposed to do, give a plan where I'm not
25 going to do anything?

1 So, then, I gave them the before and
2 after elevations. It's in the package. This was
3 done by the engineer (indiscernible). He says he
4 didn't get it. He says he didn't get it because
5 he refused to open it. It's in his emails. He
6 refused to open the final elevations that I
7 supplied from (indiscernible). Why?

8 Because it showed I didn't include
9 them. So, I don't know if he ever did look at
10 it, but here they are. You have a copy, and the
11 elevations show there's no difference. So, how
12 would I get a permit for grading unless it's
13 related to the exemptions? And even if you took
14 the exemptions of the driveway, patio, sidewalks,
15 and add them all up, it's still (indiscernible)
16 square feet.

17 So, how did that get to 4,000 square
18 feet, filling and grading? You don't. The only
19 way you get to that number, 4,000 square feet, is
20 land disturbing activities. Now, that was the
21 case, the land disturbing activity
22 (indiscernible) requirements of the grading
23 permit, then you would have to get a grading
24 permit (indiscernible) because it's nonsense.

25 BOARD MEMBER ADAM BAZELON: I have a

1 couple of questions. What is the exemptions
2 listed in 756-7? I'm just trying to like -- I
3 see where it talks about -- I have it right in
4 front of me. You just have the citation?

5 RALPH BENCRISCUTTO: It's 72-20, Page
6 4.

7 BOARD MEMBER ADAM BAZELON: So
8 (indiscernible)

9 BOARD MEMBER SCOTT RATKE: Do you want
10 to look at that?

11 BOARD MEMBER ADAM BAZELON: Okay, so --
12 well, the requirement for the permit comes from
13 756-7, correct?

14 BOARD MEMBER MARK GRADY: We're talking
15 about three permits. Fill permit?

16 BOARD MEMBER ADAM BAZELON: Yeah.

17 BOARD MEMBER MARK GRADY: Grading and
18 drainage permit and erosion control permit.

19 BOARD MEMBER ADAM BAZELON: Okay. So,
20 the exceptions apply to all --

21 BOARD MEMBER MARK GRADY: I'm just -- I
22 just -- I'm not saying that. I'm just saying 272
23 is the fill ordinance, fill permit, with the
24 exceptions he's talking about for the driveway
25 and patio. 756 is the grading section, which has

1 the 4,000-foot land disturbance requirement.

2 BOARD MEMBER ADAM BAZELON: Right, and
3 I don't see any exceptions in 756-7.

4 BOARD MEMBER MARK GRADY: Yes.

5 RALPH BENCRISCUTTO: (indiscernible)
6 getting the (indiscernible) permit says -- the
7 first line, it's "grading activity exceeded --
8 grading and filling exceed 4,000 feet." When we
9 get further down, explaining (indiscernible).
10 Then they go back to the generic term, "land
11 disturbing activity" and it's already defined in
12 this.

13 And it's in that (indiscernible), it's
14 directly related to the above subheading of,
15 Grading. The land disturbing activity
16 (indiscernible) in that (indiscernible). It's
17 not relating to not grading.

18 BOARD MEMBER ADAM BAZELON: And this
19 was a tear down of a home, correct?

20 RALPH BENCRISCUTTO: No. It was an
21 addition.

22 BOARD MEMBER ADAM BAZELON: Okay.

23 RALPH BENCRISCUTTO: A small addition.
24 So, it's not a new (indiscernible). No,
25 (indiscernible)

1 BOARD MEMBER ADAM BAZELON: When was
2 the house -- the main house constructed? I swear
3 this is a brand new house.

4 RALPH BENCRISCUTTO: It looks like it
5 now because (indiscernible)

6 CHAIR NANCY FILSINGER: He just added
7 to it.

8 BOARD MEMBER MARK GRADY: I think --
9 well, the old house that was there was
10 essentially gutted.

11 BOARD MEMBER ADAM BAZELON: Okay, so
12 the structure --

13 BOARD MEMBER MARK GRADY: The frame --
14 the structural framing was left behind
15 (indiscernible) and then a new addition was added
16 onto it with garages. An addition and garages.

17 RALPH BENCRISCUTTO: I have a picture
18 (indiscernible)?

19 BOARD MEMBER ADAM BAZELON: Sure.

20 RALPH BENCRISCUTTO: The before and
21 after grades and this (indiscernible).

22 BOARD MEMBER MARK GRADY: It looks like
23 a new house.

24 BOARD MEMBER ADAM BAZELON: Yeah. So,
25 do you have an alternate definition of "land

1 disturbing activity" or do you just believe that
2 the Village is interpreting it too broadly?

3 RALPH BENCRISCUTTO: No, they're not --
4 not interpreting that broadly. I mean, it is a
5 broad description (indiscernible) all three
6 parts. Because if you're grading, your land
7 disturbing activity is related to the grading.
8 If you're erosion control, and that's all you're
9 doing is messing up and you don't want the dirt
10 to run off, then that's 8,000 feet, but that's
11 land disturbing activity.

12 If you're on a bluff, there's different
13 parameters because you can't do things on a
14 bluff. You have to have a 10 percent grading and
15 then some. Now that's where you'd say you
16 wouldn't want to take the grass off without doing
17 something. So, your definition is related to the
18 subsection (indiscernible). The definition of
19 land disturbing activities is not
20 (indiscernible).

21 BOARD MEMBER ADAM BAZELON: And did you
22 already move all the grass, the top level of the
23 soil?

24 RALPH BENCRISCUTTO: No, but it got
25 wrecked, kind of. We went over it and

1 (indiscernible). We had to re-plant it.

2 BOARD MEMBER MARK GRADY: I just want
3 to clarify a comment you made when you said the
4 permit just references grading. You're talking
5 about, I think it's your Attachment 4. The
6 permit from the Village of Fox Point that says,
7 "A grading and drainage plan must be submitted
8 pursuant to 756.

9 If, among other things, a new principal
10 building is to be constructed, or a grading
11 activity affects more than 4,000 square feet."
12 So, that's the basis of your argument, that you
13 didn't grade 4,000 feet?

14 RALPH BENCRISCUTTO: Exactly, and
15 there's exemptions because it's relating to the
16 building grade code 272 and exemptions are 272-
17 10. So, those things are not in the permit
18 requirement for grading and fill, but there's no
19 (indiscernible). So, if I put gravel in my
20 driveway, you can't (indiscernible)

21 BOARD MEMBER MARK GRADY: Let's -- for
22 a second, let's leave the driveway and patio
23 alone. Let's just talk about the rest of the
24 area because I think I see them as two different
25 things, two different questions. So, if we just

1 look at the areas, apart from the driveway and
2 the patio, Mr. Brandmeier had that diagram, or
3 whatever you want to call it, that we looked at
4 earlier, that showed all the blue and grey
5 surrounding pretty much the entire lot.

6 It's included within what he considered
7 a land disturbing activity. And you're saying
8 that, forgetting about the driveway and patio,
9 the rest of that that he has as land disturbing
10 activity, you don't think it's land disturbing
11 activity.

12 RALPH BENCRISCUTTO: It doesn't matter
13 to me at all if it's land disturbing activity.
14 (indiscernible) That's not relative. I had an
15 erosion control permit 285, which I paid for and
16 submitted erosion control plans. It was accepted
17 and I was well under the 8,000 feet. Now, he
18 says I'm over the 8,000 feet. It doesn't matter.
19 That was the minimum. The 8,000 feet was the
20 minimum. I got (indiscernible) for his
21 (indiscernible)

22 BOARD MEMBER MARK GRADY: Got it. But
23 if we exclude the patio and driveway, the rest of
24 the surface area of your property is more than
25 8,000 square feet. You would agree with that,

1 wouldn't you?

2 RALPH BENCRISCUTTO: It's --

3 BOARD MEMBER MARK GRADY: I mean, all
4 the yard around the sides, the front and back.

5 RALPH BENCRISCUTTO: Well, the backyard
6 is only 25 feet long, so it's not 8,000 -- it's
7 still not 8,000 feet of grass, (indiscernible)
8 grass.

9 BOARD MEMBER MARK GRADY: So, we have a
10 fundamental dispute about whether there's 8,000
11 square feet of property.

12 RALPH BENCRISCUTTO: I think the
13 problem -- it's a third of an acre, so that's
14 15,000 with the house and everything.

15 BOARD MEMBER ADAM BAZELON: Can I ask a
16 very fundamental question? I don't know what
17 we're supposed to be deciding. This, to me, is a
18 garbled mess. But maybe you guys know what's
19 going on here, but I don't. There's factual
20 issues, there's legal issues, there's three
21 codes, there's one code, there's exceptions that
22 I can't find.

23 I have no idea what we're even debating
24 or talking about. Am I the only one who is that
25 confused?

1 RALPH BENCRISCUTTO: You didn't see the
2 (indiscernible)?

3 BOARD MEMBER ADAM BAZELON: I --

4 BOARD MEMBER MARK GRADY: I --

5 RALPH BENCRISCUTTO: When I looked at
6 this packet --

7 BOARD MEMBER MARK GRADY: I don't know
8 if this is appropriate at this point of the
9 proceeding.

10 BOARD MEMBER ADAM BAZELON: If a judge
11 got this in court, he'd throw it in the garbage
12 and say, "I don't know what's going on here."

13 BOARD MEMBER MARK GRADY: Well, I think
14 --

15 BOARD MEMBER ADAM BAZELON: I'm not a
16 judge, but that's about where I am.

17 BOARD MEMBER MARK GRADY: They've made
18 a decision that -- setting erosion control aside
19 for a moment, because they got that permit. But
20 he needs to obtain a grading and drainage permit
21 because he's for sure more than 4,000 square
22 feet. And he needs a fill permit because he's
23 filled more than 25 cubic yards of fill.

24 VILLAGE ATTORNEY ERIC LARSON: And just
25 a caveat to that, what I heard was that they need

1 to submit plans so that a determination can be
2 made on whether they need a fill permit.

3 BOARD MEMBER ADAM BAZELON: So, can you
4 --

5 BOARD MEMBER MARK GRADY: But to the
6 naked eye, you're right. I agree with that.

7 BOARD MEMBER ADAM BAZELON: So, what
8 code section are we or what code or statutory
9 sections are we looking at? I would like to get
10 an understanding of which sections I can pick up
11 and look at and say, "We need your interpretation
12 on this." And then I'd like to know if it's a
13 purely legal issue or what we decide a legal
14 issue then relates to a factual issue as to how
15 many feet were actually disturbed.

16 So, if we agree with the land
17 disturbing definition, it sounds like then
18 there's a factual issue because under one
19 interpretation put forth by Ralph, he says, "Even
20 if you include the patio in this, I'm still under
21 4,000 feet", so --

22 VILLAGE ATTORNEY ERIC LARSON: Here's
23 my suggestion. This is the petitioner's petition
24 to you saying, "I've been asked to do something
25 that I don't think I should be asked to do." So,

1 I think we should have the petitioner begin this
2 saying -- to tell us, what is he being asked to
3 do that he thinks he should not be asked to do?
4 What exactly?

5 RALPH BENCRISCUTTO: That's where we
6 are?

7 VILLAGE ATTORNEY ERIC LARSON: Yes.

8 BOARD MEMBER ADAM BAZELON: Okay. So,
9 what code sections do you believe were improperly
10 interpreted? Can you give me the code, section
11 and the statutory section, by number, to start?

12 RALPH BENCRISCUTTO: Well --

13 BOARD MEMBER ADAM BAZELON: Are you
14 able to do that?

15 RALPH BENCRISCUTTO: Yes.

16 BOARD MEMBER ADAM BAZELON: Okay.

17 RALPH BENCRISCUTTO: It's 272.

18 BOARD MEMBER ADAM BAZELON: 272.

19 RALPH BENCRISCUTTO: (indiscernible)

20 BOARD MEMBER ADAM BAZELON: 272 point -
21 - 272-10, I see is the exceptions.

22 RALPH BENCRISCUTTO: 272-1 is
23 (indiscernible) determined for solid fill
24 (indiscernible)

25 BOARD MEMBER ADAM BAZELON: All right.

1 BOARD MEMBER MARK GRADY: If it helps,
2 the code and ordinance sections --

3 BOARD MEMBER ADAM BAZELON: Yeah.

4 BOARD MEMBER MARK GRADY: -- are in Mr.
5 Brandmeier's packet or attachments. All three of
6 them came in the main section.

7 BOARD MEMBER SCOTT RATKE:
8 (indiscernible)

9 BOARD MEMBER MARK GRADY: Attachment 2.

10 CHAIR NANCY FILSINGER: (indiscernible)

11 BOARD MEMBER SCOTT RATKE: Okay.

12 RALPH BENCRISCUTTO: (indiscernible)
13 the Village (indiscernible)

14 BOARD MEMBER MARK GRADY: They're in
15 the packet.

16 CHAIR NANCY FILSINGER: They're in the
17 packet.

18 RALPH BENCRISCUTTO: They're in that.
19 But that's what I was required to do for the
20 (indiscernible), to make sure I didn't change the
21 grading. That's what I did.

22 BOARD MEMBER ADAM BAZELON: Okay. So,
23 we have 272-1 and now we have code 756-7, right?
24 And then there's section 285 or Chapter 285. Are
25 we (indiscernible) too?

1 CHAIR NANCY FILSINGER: 285-43, is that
2 right? No, that's the permit application.

3 RALPH BENCRISCUTTO: To clarify, it's
4 (indiscernible) 256 is the permit, which
5 (indiscernible)

6 BOARD MEMBER MARK GRADY:
7 (indiscernible)

8 RALPH BENCRISCUTTO: So, the idea is,
9 there you get (indiscernible). So, the code is
10 272 (indiscernible), 285.

11 BOARD MEMBER ADAM BAZELON: Okay.

12 BOARD MEMBER MARK GRADY: I'm
13 concerned, and I think the (indiscernible) code
14 sections apply there. I'm concerned about any
15 factual disputes. That's what we need
16 information from. We've heard the argument, I
17 think, from the applicant that he believes these
18 exceptions that are in 272 apply to the grading
19 and drainage permit under whatever section it is,
20 756.

21 But I thought we had a general
22 agreement that if you ignore the driveway and
23 patio for the moment, that's there's more than
24 4,000 square feet of yardage -- more than 8,000
25 square feet of yardage around this property,

1 around the building. And now I'm hearing the
2 applicant say no, so I don't even know how we
3 resolve that factual dispute.

4 RALPH BENCRISCUTTO: Well, that's not a
5 dispute. The 8,000 feet is the minimum for the
6 erosion --

7 BOARD MEMBER MARK GRADY: I understand.
8 But the question --

9 RALPH BENCRISCUTTO: It doesn't matter,
10 the total. That's the minimum, that's the lowest
11 number that you (indiscernible)

12 BOARD MEMBER MARK GRADY: Right.

13 RALPH BENCRISCUTTO: Also, in that same
14 permit, 285, the exemption is on landscaping
15 activity (indiscernible). So, everything I did
16 on grass is exempt from that also.

17 BOARD MEMBER MARK GRADY: I understand
18 you disagree with Mr. Brandmeier's inclusion, or
19 you believe there's inclusion of the landscaping
20 activity. My fundamental point is, whether or
21 not there's 8,000 square feet, more than 8,000
22 square feet of yard around that building that you
23 drove over or you evened out or you top-dressed
24 or you did whatever you want to call it, around
25 that building.

1 RALPH BENCRISCUTTO: (indiscernible)

2 BOARD MEMBER ADAM BAZELON: The entire
3 property was a mud pit at one point. Was it not?

4 RALPH BENCRISCUTTO: Yeah, because we
5 had to -- we took out the (indiscernible) mud,
6 never getting (indiscernible) and we had to do it
7 again. So, the next (indiscernible). And have
8 you ever tried to move wet clay?

9 BOARD MEMBER MARK GRADY: But your
10 argument is, that's not land disturbing activity,
11 when you did that. Right?

12 RALPH BENCRISCUTTO: It's land
13 disturbing activity, but I had an erosion control
14 permit. It's just not fill and grading.

15 BOARD MEMBER MARK GRADY: Okay. I
16 understand that too. But I'm still trying to get
17 the point, you agree that it's land disturbing
18 activity. Was it more than 8,000 square feet?
19 Whether it was an exception or not, I mean,
20 decide that later.

21 RALPH BENCRISCUTTO: Without the
22 exemptions, it's probably about 4,000 or 5,000 of
23 grass.

24 BOARD MEMBER MARK GRADY: Let's take
25 (indiscernible). Mr. Brandmeier, do you agree

1 with that? That it's about 4,000 square feet,
2 excluding the driveway and patio?

3 DIRECTOR OF PUBLIC WORKS SCOTT

4 BRANDMEIER: No, because you can't exclude the
5 driveway or patio.

6 BOARD MEMBER MARK GRADY: I know, but I
7 just -- just help me.

8 DIRECTOR OF PUBLIC WORKS SCOTT

9 BRANDMEIER: I understand (indiscernible) so --

10 BOARD MEMBER MARK GRADY: I want to try
11 to eliminate a factual dispute here if I can.
12 That's what I'm trying to do.

13 DIRECTOR OF PUBLIC WORKS SCOTT

14 BRANDMEIER: Correct, and that's why I provided
15 that drawing that was in that exhibit --

16 BOARD MEMBER MARK GRADY: Right.

17 DIRECTOR OF PUBLIC WORKS SCOTT

18 BRANDMEIER: -- that showed the roughly 12,000
19 square feet.

20 BOARD MEMBER MARK GRADY: Right, and
21 so, but --

22 DIRECTOR OF PUBLIC WORKS SCOTT

23 BRANDMEIER: Because --

24 BOARD MEMBER MARK GRADY: -- your
25 12,000 square feet includes the driveway and

1 patio?

2 DIRECTOR OF PUBLIC WORKS SCOTT

3 BRANDMEIER: And let me explain why.

4 BOARD MEMBER MARK GRADY: I understand
5 why.

6 DIRECTOR OF PUBLIC WORKS SCOTT

7 BRANDMEIER: (indiscernible) because -- well,
8 yes. It does include the driveway and patio
9 because under 756-7D, there are no exceptions.

10 BOARD MEMBER ADAM BAZELON: Yeah, I
11 didn't see any.

12 BOARD MEMBER MARK GRADY: It is over
13 4,000 square feet of disturbed area.

14 DIRECTOR OF PUBLIC WORKS SCOTT

15 BRANDMEIER: The applicant is taking exceptions
16 in one part of the code and hoping to apply them
17 to a different part of the code, which one cannot
18 do. Now, if you ask me to look at what is the
19 disturbed area outside of the patio and the
20 driveway, I could bring up GIM right now and
21 digitize that for you for the benefit of this
22 work right now.

23 Because that's how I developed that
24 drawing and I could exclude the driveway and the
25 patio just for, as they say, shits and giggles,

1 so you could see what the disturbed area was on
2 the other parts of the "land". And what it would
3 have to reasonably include the addition that he
4 was doing, because that addition was a disturbed
5 area. He disturbed the land in order to build an
6 addition.

7 RALPH BENCRISCUTTO: (indiscernible)

8 DIRECTOR OF PUBLIC WORKS SCOTT

9 BRANDMEIER: And I'm happy to bring that up
10 because you can see, you've got aerial images
11 that will go back to 1937, and I can bring up a
12 2022 aerial and a 2024 aerial and you can show
13 the difference between the two. This
14 construction of the property began in 2023.

15 So you'll easily be able to see what
16 was existing in 2024 versus what is there now in
17 -- I'm sorry, in 2022 and what is there in 2024.

18 BOARD MEMBER MARK GRADY: I --

19 DIRECTOR OF PUBLIC WORKS SCOTT

20 BRANDMEIER: And that will provide you, Mr.
21 Grady, with an opportunity to see what that
22 disturbed area is.

23 BOARD MEMBER MARK GRADY: And I -- this
24 is my fault. What I really wanted to focus on
25 was not the 8,000, it was the 4,000. So, in 756-

1 7(1), it says, "Grading of Lots". It says, "A
2 drainage plan is required for applications for
3 land disturbing activity barring a permit that
4 affects the surface area of 4,000 square feet or
5 more." It says other things too, but it says
6 that.

7 And I think I just heard you say that
8 you agree that what you did with the rest of the
9 yard was land disturbing activity, you agree that
10 it was more than 4,000 square feet, but you
11 believe an exception applies. Correct? The
12 exception being that you didn't fill any of that.
13 Correct or not? Is that not correct?

14 RALPH BENCRISCUTTO: Close, but what he
15 just said is that permit application 756-7, I
16 believe it is, is not relating to the code
17 exemptions in 272 --

18 BOARD MEMBER MARK GRADY: Right.

19 RALPH BENCRISCUTTO: -- which is the
20 code that that permit is applied to. So, how
21 could you say that if the permit and application
22 is not related to the exemptions in that code
23 itself?

24 BOARD MEMBER MARK GRADY: But even if
25 we exempt -- we accept your argument that the

1 driveway and patio shouldn't be included in that
2 4,000 square feet. I think you agreed with me
3 that the rest of yard is still over 4,000 square
4 feet. Your argument is that you didn't grade,
5 you didn't fill and so therefore, it doesn't
6 require a permit. That's what I thought I heard
7 you say.

8 RALPH BENCRISCUTTO: And that's my
9 whole argument is that I have a permit
10 (indiscernible) 8,000 square feet minimum. So,
11 I'm not arguing (indiscernible) 8,000 feet, I
12 just --

13 BOARD MEMBER MARK GRADY: Right. But
14 that was my mistake. Sorry.

15 RALPH BENCRISCUTTO: So, if I drove on
16 the grass. We did, we drove on the grass.

17 BOARD MEMBER MARK GRADY: Right.

18 RALPH BENCRISCUTTO: But that's not a
19 requirement for a fill and grading permit.
20 That's relating to the erosion control permit,
21 and it makes sense. It better make sense that
22 (indiscernible) dirt all on the street into
23 (indiscernible) and that's what we didn't do.
24 So, that makes sense. That's the problem we had.

25 BOARD MEMBER MARK GRADY: So, I want to

1 switch gears now and talk about fill for a
2 minute. It talks about a fill permit being
3 required. You used more than 25 cubic yards of
4 fill. Right? Correct? And your argument is,
5 you get to exclude the driveway and the patio,
6 under your argument, and if you exclude them, you
7 didn't put 25 yards of fill on the rest of the
8 property.

9 RALPH BENCRISCUTTO: I put 13 yards of
10 black dirt (indiscernible). But that, you know,
11 it's sort of a -- it's an ambiguous part of the
12 code (indiscernible). 25 yards of fill, but does
13 that include --

14 BOARD MEMBER MARK GRADY: Let's assume
15 the top dressing is not included, just for the
16 sake of argument. You didn't put any other fill
17 anywhere else, along the house or anywhere else?
18 Because I thought it looked like the --

19 RALPH BENCRISCUTTO: We probably put --
20 we pushed it around the house because we took out
21 all the bushes and pushed it back.

22 BOARD MEMBER MARK GRADY: And you
23 created slope grading away from the house, right?

24 RALPH BENCRISCUTTO: But if you look at
25 the house, it's (indiscernible). It's

1 (indiscernible) and we didn't (indiscernible).
2 We couldn't because the basement windows, we only
3 had this much room for it the way it was. But
4 the house was already (indiscernible). You can
5 build a house, you can't make it lower.

6 BOARD MEMBER MARK GRADY: If you didn't
7 raise the building, why did you need to raise --
8 put dirt underneath the driveway to raise it? I
9 don't understand that.

10 RALPH BENCRISCUTTO: Well, if you look
11 at the elevations, there's a pretty steep grade
12 from the driveway to the fence line of the west
13 (indiscernible), almost two feet.

14 BOARD MEMBER MARK GRADY: Okay.

15 RALPH BENCRISCUTTO: But previously, in
16 the picture, you can see that the front of the
17 driveway (indiscernible), it was higher. It was
18 680 and then when you go down the fence line,
19 it's 678. So, there was a real good grade
20 (indiscernible). When we put our new driveway
21 and the garage in, it just pushed it over another
22 15, 10 feet or so.

23 But we had to add dirt underneath the
24 new driveway anyway. (indiscernible) dirt and
25 gravel to fill it.

1 BOARD MEMBER MARK GRADY: There was a
2 reference in one of the communications from
3 Brandmeier that there was 12-18 inches of
4 foundation above grade for the -- I think it's
5 the addition and the garages. Is that not
6 correct?

7 RALPH BENCRISCUTTO: It's correct. So,
8 we put planters in.

9 BOARD MEMBER MARK GRADY: My point is,
10 so, this is higher than the preexisting grade?

11 RALPH BENCRISCUTTO: The garage is
12 higher because it's level.

13 BOARD MEMBER MARK GRADY: With the
14 house?

15 RALPH BENCRISCUTTO: Yeah, and the yard
16 is -- correct. And you got (indiscernible).

17 BOARD MEMBER MARK GRADY: So, you took
18 the elevation of the house, extended it west and
19 that resulted in 12-18 inches above grade, pre-
20 existing grade that was there?

21 RALPH BENCRISCUTTO: You see the
22 pictures. That's why we put planters and rocks
23 (indiscernible) to make that transition.

24 BOARD MEMBER MARK GRADY: And again,
25 your argument is that there's exemption for that,

1 is your argument?

2 RALPH BENCRISCUTTO: Yes.

3 BOARD MEMBER ADAM BAZELON: And so, if
4 he had applied for a permit, these as-built
5 elevation drawings would not be sufficient for
6 the plan he would need?

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: The (indiscernible) that he
9 submitted?

10 BOARD MEMBER ADAM BAZELON: Yeah.

11 DIRECTOR OF PUBLIC WORKS SCOTT

12 BRANDMEIER: We would compare them. The
13 requirement is that they submit as-built against
14 (indiscernible) existing as-built with the
15 proposed. Because if it followed the normal
16 process, I have a topographic map of the existing
17 conditions. And then I have a map showing the
18 proposed conditions, so it'll show the footprint
19 of what's going to be added on or new
20 construction, plus what the grades are going to
21 be after construction is complete.

22 So, as you referenced, the 12-18 inches
23 and he acknowledged it raised up 12-18 inches
24 because there's two feet of drop from the
25 existing house down to the west property line.

1 So, then, that would show what the new grades
2 would be around the addition, and we'd be able to
3 say, "Okay. That gives us our fill in that
4 area", and then we'd be able to take that
5 proposed grade, proposed and approved, once that
6 permit is issued and then compare it against the
7 as-built.

8 And then we'd say, "Okay, your as-built
9 grades are showing that you are closer to the
10 approved grades", and we allow a reasonable
11 (indiscernible) because we know that contractors
12 aren't using GPS coordinates on their equipment.
13 They're roughly grading the overall and they
14 assume some elevations and they usually get
15 within a half a foot.

16 BOARD MEMBER ADAM BAZELON: All right,
17 so we have the before and after. We don't have
18 the proposed. Let's say he paid to get the
19 permit, and we have the after, could he review
20 this? Could he pay --

21 RALPH BENCRISCUTTO: That's the
22 proposal. It's done.

23 BOARD MEMBER ADAM BAZELON: Why don't
24 you just have him pay the permit fee and review
25 this?

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: Because he hasn't done the analysis
3 of the 210 and under (indiscernible), which is
4 the crux of the matter.

5 BOARD MEMBER ADAM BAZELON: Okay, so
6 that's what I'm trying to get at. So, he would
7 need an engineer to take this after and do a 210
8 and 100-year analysis?

9 DIRECTOR OF PUBLIC WORKS SCOTT

10 BRANDMEIER: That is correct, for both the pre-
11 development condition, before he even put a
12 shovel in the ground and put the addition on,
13 look at what the flows are coming off the
14 property in that pre-existing or pre-development
15 condition and then show what it is after
16 development.

17 RALPH BENCRISCUTTO: You can see in the
18 before and after, it was the same. So, are you
19 saying I need a permit to do nothing? Because I
20 can't grade the driveway or the patio. I still
21 have the elevation showing on the foundation.

22 BOARD MEMBER ADAM BAZELON: Have you
23 reviewed this? I know you, on procedural
24 grounds, you didn't review it, but at least when
25 you initially got it, have you reviewed it since

1 then?

2 RALPH BENCRISCUTTO: I have not.

3 BOARD MEMBER MARK GRADY: You made the
4 comment that to the naked eye, it looks like
5 there's 25 cubic yards of fill. What -- is that
6 based on the driveway or is that based on other
7 things?

8 DIRECTOR OF PUBLIC WORKS SCOTT
9 BRANDMEIER: That's based on not just the
10 driveway, but the other additions around the
11 property. And when I went through the process
12 with the applicant last May of '23, just looking
13 at it logically, if you're raising that first
14 floor elevation of the garage and the small
15 addition, both 18 inches above the existing
16 property and you do a quick calculation, you can
17 come up with, easily 25 cubic yards.

18 You will arrive at in excess of 25
19 yards. The whole point of these permit
20 applications are not only to protect the
21 applicant from potential lawsuits from
22 neighboring property owners saying, "Hey, you've
23 added all this fill and now you're adversely
24 impacting me", it's to protect the neighboring
25 property owners from potential adverse impact.

1 To say, "Look, you're flowing more off
2 the property in the post-development condition
3 and you're not allowed to do that." And that's
4 the whole point behind these ordinances. And
5 there are three separate and distinct ordinances,
6 each with their own, perhaps, exceptions. The
7 fill permit has exceptions, 756-7 does not.

8 BOARD MEMBER MARK GRADY: There's --

9 RALPH BENCRISCUTTO: Can I make a
10 comment?

11 BOARD MEMBER MARK GRADY: Sure.

12 RALPH BENCRISCUTTO: (indiscernible)

13 CHAIR NANCY FILSINGER: Yes.

14 RALPH BENCRISCUTTO: My interpretation
15 of the (indiscernible) when they say that you
16 can't have 25 cubic yards of the fill. That's
17 talking about outside the planters, outside of
18 the top dressing. It's not related to
19 (indiscernible) because that wouldn't make any
20 sense. (indiscernible)

21 CHAIR NANCY FILSINGER: Why wouldn't it
22 make any sense? Why wouldn't it make any -- why
23 are you saying it doesn't make any sense?

24 RALPH BENCRISCUTTO: Because when
25 you're talking about fill and grading, then that

1 would be like (indiscernible) 25 yards. That's
2 all (indiscernible) because the purpose of the
3 cover page, as he keeps saying is, to not change
4 topography, the flow to our neighbor. So, the
5 topography is the same, which is (indiscernible)
6 ended up. 25 yards of fill -- I couldn't have
7 put 25 yards in there.

8 Say I wanted to put a little hill in
9 front so that the, for some reason, a berm.
10 Like, where they had a berm, it's going to be two
11 feet high. It doesn't say the berm can only be
12 so much yards. The planters, it doesn't say,
13 "Well, the planters can be added all up can only
14 be 5 yards or 10 yards." So, it says 25 cubic
15 yards of fill, which, to me, is talking about
16 grading and topography of the yard itself so that
17 you don't change the slope and the direction of
18 flow, which is the purpose of the
19 (indiscernible).

20 So, you have to ask yourself, "Why do I
21 need a permit if I didn't do anything? When it's
22 done. The grass has all grown back." You can
23 see (indiscernible) and we gave the elevations
24 per request of the village, approved the
25 (indiscernible).

1 So, why would I need an application for
2 a permit? This is not an easy permit, and it
3 would take months and months (indiscernible).
4 And I wonder what (indiscernible) do. You're not
5 grading -- you're not changing the topography.
6 Planters are exempt, so is the driveway. So,
7 what would the planning committee look at?

8 An engineer is going to look at it and
9 say, "Well, we can't give you a plan to do
10 nothing." It just doesn't make any -- it's just
11 not logical. It's almost like they're trying to
12 get into the semantics of (indiscernible). What
13 is the purpose of the permit? He explained that
14 accurately. That we want to change the fill of
15 the water to (indiscernible) neighbors. The
16 neighbors (indiscernible).

17 We've got two neighbors
18 (indiscernible). We can't change the water
19 (indiscernible). You can probably
20 (indiscernible) and everyone's fine. Their yard
21 is not and (indiscernible) is the same to us.
22 And we did that on purpose. We had to. We
23 couldn't add slope (indiscernible) we thought we
24 needed to add slope for the house because it
25 would be this much higher. We would have had to

1 add a foot and a half of slope and how far could
2 they go, 5 feet, 10 feet? (indiscernible) But
3 now all that water runs (indiscernible). It just
4 couldn't be done.

5 So, that's why we put a little planting
6 in (indiscernible) change the topography of the
7 yard. That doesn't change the drainage. It
8 doesn't affect the drainage at all because it's
9 the same amount of square footage. So, it's
10 higher than (indiscernible). It's the same
11 amount of water.

12 CHAIR NANCY FILSINGER: Mark
13 (indiscernible)

14 BOARD MEMBER MARK GRADY: But actually,
15 you touched on what I was just going to -- here's
16 the photographs. And one of them, for example,
17 shows the west side of the house with the HVAC
18 equipment. And it's sitting on what looks to me,
19 an elevated section of I don't know if it's dirt
20 or gravel or whatever. It was stones along it
21 and some bushes along it, correct?

22 RALPH BENCRISCUTTO: Yes.

23 BOARD MEMBER MARK GRADY: So, assuming
24 for the sake of argument, the rest of what's
25 shown in that photograph is the same grade, same

1 elevation as what was there before construction.
2 There's no question that you've added a 3-4-foot-
3 wide section of -- and a footer 18-inch-tall
4 section of dirt and gravel to put your HVAC
5 equipment on, right?

6 RALPH BENCRISCUTTO: Right. That
7 planter goes along the whole (indiscernible)
8 driveway, and it goes (indiscernible)

9 BOARD MEMBER MARK GRADY: Right.

10 RALPH BENCRISCUTTO: It's for looks.
11 But I needed it to make the transition. So, I
12 couldn't grade them. If I didn't have the
13 boulders there in the plan, I would have had to
14 create some kind of slope from the driveway
15 toward the neighbor's yard. That would not have
16 passed the plan approval.

17 It could not be done. Because if we
18 pushed the water into the neighbor's yard, that's
19 exactly the reason we got the permit
20 (indiscernible).

21 BOARD MEMBER MARK GRADY: But by that
22 logic, you could have raised your entire yard 18
23 inches.

24 RALPH BENCRISCUTTO: No, I couldn't.
25 That would be 18 inches higher than

1 (indiscernible)

2 BOARD MEMBER MARK GRADY: Well, but you
3 are, for three feet outside your house. Correct?

4 RALPH BENCRISCUTTO: That's not logical
5 because the front yard is three feet higher than
6 the backyard. The elevation -- the existing
7 driveway is two feet -- almost two feet higher
8 (indiscernible) the west yard. It adds slope on
9 it. But the slope started right there on the
10 driveway (indiscernible), it sloped down
11 (indiscernible).

12 BOARD MEMBER MARK GRADY: You made --

13 RALPH BENCRISCUTTO: The rest of the
14 yard, the front yard is exactly (indiscernible)

15 BOARD MEMBER MARK GRADY: I don't know
16 whether you're right about whether you could
17 grade that or not, I have no idea, to prevent
18 water -- to successfully grade it to prevent
19 water from going to your neighbors. But you have
20 definitely added fill around your house, say 18
21 inches or whatever it is.

22 And created planters, created a
23 substrate for the HVAC equipment, added fill to
24 put your driveway on top of so that it would come
25 up even with the garage. And your argument is,

1 "Well, but everything else in the yard is at the
2 original grade. So, it's fine." Right?

3 RALPH BENCRISCUTTO: Well, the code
4 says in 272-10 that there's exemptions. Why were
5 they exemptions to the driveway (indiscernible)
6 if there wasn't some logic to it? The exceptions
7 are clear, and you can't say they're not.
8 (indiscernible)

9 BOARD MEMBER ADAM BAZELON: You removed
10 the driveway that was originally there, correct?

11 RALPH BENCRISCUTTO: We just graveled
12 it.

13 BOARD MEMBER ADAM BAZELON: So, when I
14 read it, it says the driveway is exempt. To me,
15 that assumes you're not disturbing the driveway
16 as it existed when you started the project. It
17 doesn't mean you can remove the driveway, put
18 back a driveway and then say, "I didn't disturb
19 the driveway."

20 RALPH BENCRISCUTTO: No, it does say
21 you can take out the driveway and that's not a
22 code requirement to take it out (indiscernible).

23 BOARD MEMBER MARK GRADY: I don't
24 disagree with that, but it doesn't -- what I
25 don't -- what I do disagree with is the argument

1 that I can remove a driveway, put in,
2 hypothetically, six feet of fill and raise the
3 driveway up six feet, put a driveway on top of
4 it, none of that fill counts because it's a
5 driveway.

6 As opposed to what Mr. Brandmeier has
7 said is, "We give you an exemption for a
8 driveway. The gravel substrate, cement and
9 that's not counted as fill because that's the
10 driveway."

11 BOARD MEMBER ADAM BAZELON: Right, but
12 if you expand it --

13 BOARD MEMBER MARK GRADY: But if you
14 raise the driveway a foot, six feet, whatever,
15 whatever reason you want to do it, everything
16 underneath the driveway construction. It wasn't
17 necessary to create a --

18 BOARD MEMBER ADAM BAZELON: Or it can
19 make it wider, right?

20 BOARD MEMBER MARK GRADY: It can make
21 it wider, yeah, (indiscernible)

22 RALPH BENCRISCUTTO: It says
23 specifically that, "-- or and been removed, there
24 is no driveway (indiscernible) concrete patios or
25 driveways permitted under (indiscernible) or fill

1 (indiscernible) various and soil after they had
2 been removed, are exempt from the filling
3 (indiscernible)." Section 217.10B.

4 BOARD MEMBER MARK GRADY: If, for the
5 sake of argument, if we assume Mr. Brandmeier is
6 right, that the fill you had to add underneath
7 the new driveway to get it up to the grade of the
8 garage, not counting the cement, the gravel
9 itself, is not exempted. Let's assume, for the
10 sake of argument, (indiscernible) that's not
11 exempted. Is there 25 yards of fill underneath
12 that driveway?

13 RALPH BENCRISCUTTO: Well, I don't
14 know. I can --

15 BOARD MEMBER MARK GRADY: You don't
16 know?

17 RALPH BENCRISCUTTO: I didn't add it
18 up.

19 BOARD MEMBER MARK GRADY: Okay.

20 RALPH BENCRISCUTTO: But the thing is,
21 the original permit at 2,100 feet land disturbing
22 activity, which was under the 4,000 --

23 BOARD MEMBER MARK GRADY: I'm just
24 talking about fill now. I'm not talking about
25 land disturbing.

1 RALPH BENCRISCUTTO: Okay, but you're
2 really just talking about 4,000 feet, not cubic
3 yards. Because if you look at 217-10E, Minor
4 Grading, this only applies to the yard. It
5 doesn't apply to the planters or even a house.
6 Because otherwise, none of the other requirements
7 or exemptions would make any sense.

8 BOARD MEMBER MARK GRADY: Do you have
9 an opinion, Mr. Brandmeier, on whether or not the
10 fill under the driveway constitutes 25 square
11 yards, by itself?

12 DIRECTOR OF PUBLIC WORKS SCOTT
13 BRANDMEIER: I'm doing the calculation in my head
14 right now. About 40 feet long and 20 feet wide
15 is 800 square feet. You probably had to add a
16 foot of fill before you got to stone and
17 concrete. So, that's 800 cubic feet divided by
18 27, we'll just call it 30, you're at about 30
19 yards, 35 yards, just under the driveway.

20 BOARD MEMBER MARK GRADY: And that
21 doesn't count anything around the house?

22 DIRECTOR OF PUBLIC WORKS SCOTT
23 BRANDMEIER: Correct. And that's just a quick
24 and dirty calculation of going 40 by 20 by one
25 foot worth of fill because you've got -- the

1 applicant has acknowledged both the 18 inches in
2 difference between the first-floor elevation at
3 the existing house and what was adjacent to it.

4 So, if it's 18 inches, you're going to
5 want to put a foot of fill to get to that garage
6 to get to roughly eight inches beneath the garage
7 slab and then add four inches of stone and four
8 inches of concrete. That puts you within where
9 you need to be, so I could rough and dirty calc
10 of 40 by 20 by 1 divided by 27, roughly 35
11 (indiscernible)

12 RALPH BENCRISCUTTO: You're looking at
13 the 25 cubic yards underneath the driveway, but
14 that -- those exceptions to the driveway got
15 cleared and the permit for the fill is 4,000
16 square feet. It has nothing to do with yardage.
17 4,000 square feet of disturbed area when you're
18 changing the topography. You can't change the
19 topography of the driveway.

20 It's going toward the street and his
21 calculations are way off anyway because it is
22 (indiscernible) where it was (indiscernible).
23 The elevations at the house, where it started
24 before are 680. If you look at it right now,
25 it's probably 685 or something. It's like 681

1 (indiscernible). It's just not -- you know, it
2 slopes.

3 But the grading per 272-10E is not
4 related to any of the other exemptions. It's
5 grading that changes. It says it had to change
6 the flow of water and not to change the flow from
7 one place to the next. I can't add 25 yards and
8 then, all of a sudden, push the water to the
9 neighbor's yard. But I can add 25 yards if I've
10 got a low spot in my yard, and I keep the
11 topography the same.

12 So, that's what that exemption is for.
13 It's trying to make it easy to landscape property
14 at a new house. I mean, that's what it's trying
15 to do. (indiscernible) I offered to pay the
16 permit fee if that was the end of it. No, I need
17 a \$5,000 (indiscernible) bond. 5, 10 and 100-
18 year drainage plans, engineered drawings, plan
19 review, permits, all this stuff. And to do what?
20 It's done and I haven't changed the topography of
21 the yard, which is affecting the drainage
22 (indiscernible)

23 DIRECTOR OF PUBLIC WORKS SCOTT
24 BRANDMEIER: Might I add a few things?

25 CHAIR NANCY FILSINGER: Yeah.

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: As I noted in my memo,
3 (indiscernible) what are the legal issues here?
4 What are the facts (indiscernible)? And I think
5 this board has done a nice job of trying to get
6 at the facts (indiscernible). I believe the
7 issues rolled out to which of the three permits
8 apply, erosion control, grading and drainage and
9 then fill.

10 Now when we look at the ones that have
11 been submitted and we look at the evidence that
12 has been presented here this evening, you have to
13 acknowledge that there's at least 4,000-5,000
14 square feet of disturbed area under the
15 definition. So, under Chapter 756-7E, it clearly
16 states that if you disturb more than 4,000 square
17 feet, you are required to do the 210 and 100-year
18 (indiscernible) and post-development flow
19 analysis. It's that simple. He's acknowledged
20 4,000-5,000 square feet, whether it's 12,000,
21 8,000, 4,000 or 5,000, he's over 4,000, it
22 applies.

23 RALPH BENCRISCUTTO: (indiscernible)

24 DIRECTOR OF PUBLIC WORKS SCOTT

25 BRANDMEIER: And you -- just -- the exceptions

1 within Chapter 272 do not apply to 756. If they
2 were intended to apply, they'd either be
3 incorporated by reference, or they would be
4 written in there intentionally. They have not
5 been for a very good reason. Because in the
6 particular case of this applicant, the driveway,
7 if I'm not mistaken, was moved.

8 So, that's a disturbed area. You're
9 removing the driveway from one location and
10 putting it in a different location. So, if we
11 get at the heart of the matter, 756-7E does apply
12 to this applicant and the project that was
13 undertaken.

14 BOARD MEMBER ADAM BAZELON: So, if we
15 agree with you on that point, does that make the
16 other points moot because then, he has to get the
17 same plan under the other permits?

18 DIRECTOR OF PUBLIC WORKS SCOTT
19 BRANDMEIER: It would identify how much fill is
20 there and --

21 BOARD MEMBER ADAM BAZELON: Or that it
22 (indiscernible)

23 DIRECTOR OF PUBLIC WORKS SCOTT
24 BRANDMEIER: -- then you address the grading
25 because 272 does say you have to do grading and

1 drainage if you place more than 25 cubic yards of
2 fill. So, yes, it would pretty much address what
3 272 is calling for, but 272 is a separate permit.
4 So, you can get into the meat of, is the
5 driveway, regardless of how much fill is
6 underneath that, exempt under this part of the
7 code?

8 Is the patio completely exempt under
9 the code? Are the planters, regardless of how
10 much fill is there, exempted under the code? But
11 I think the board has to look at the three
12 separate and distinct codes that apply in this
13 particular case, 285, which is the erosion
14 control, 756-7E, which is the grading and
15 drainage under the building code, and then 272,
16 which is the fill permit.

17 And as I note in the memo, 272 is hard
18 to determine at this juncture because frankly,
19 there's this disagreement between the applicant
20 and the Village of, is that exception, the
21 exemptions within 272-10, for patios, driveways,
22 sidewalks, whatever the case might be, planters?
23 You exclude all of it or you exclude what a
24 rational applicant would -- and I'm speaking for
25 the sake of that way.

1 When a rational person would look at in
2 terms of four inches of concrete or asphalt and
3 four inches of substrate or stone to support that
4 surface, okay, and then everything underneath
5 that is fill. And that's for the board to
6 determine. Of whether everything is exempted or
7 not.

8 And if it is, we march along saying,
9 "Okay, then we have this direction from the board
10 of appeals saying that, in your opinion,
11 everything underneath the driveway, regardless of
12 how much fill is there, is exempted", and then we
13 know how to apply these applications moving
14 forward into the future.

15 But that doesn't eliminate the fact
16 that, under 756-7, you've still disturbed the
17 area, which still requires you to evaluate
18 whether that disturbance is going to adversely
19 impact a neighboring property owner by
20 (indiscernible).

21 BOARD MEMBER MARK GRADY: Do you
22 believe the top dressing is any kind of an
23 exception to the land disturbance under 756?

24 DIRECTOR OF PUBLIC WORKS SCOTT
25 BRANDMEIER: Top dressing -- no, you cannot use

1 the exceptions under that to apply to 756, but --

2 BOARD MEMBER MARK GRADY: So, even if
3 we -- let me just finish.

4 DIRECTOR OF PUBLIC WORKS SCOTT
5 BRANDMEIER: Yeah.

6 BOARD MEMBER MARK GRADY: So, even if
7 we assume what I think I heard the applicant
8 saying is that what he did with the rest of the
9 yard was essentially top dressing. It's your
10 position that it doesn't matter whether it's top
11 dressing or not, because that exception doesn't
12 exist at 756, it's still 4,000 square feet of
13 land disturbing activity.

14 DIRECTOR OF PUBLIC WORKS SCOTT
15 BRANDMEIER: That is correct. And that disturbed
16 area, when you look at the pictures and if you
17 drove past the site at any point in time during
18 construction, particularly last October, November
19 or December, you'd see that there was a large
20 area that was disturbed. And the pictures
21 clearly show and the image that I created for the
22 benefit of the applicant and for the benefit of
23 the board, shows what was documented in the
24 pictures, the disturbed area in the pictures.

25 Where the placement and stockpiling of

1 the soils on top of the land surface is a
2 disturbed area, while you were driving around and
3 disturbing the area. And then the question
4 becomes, "Okay, if you (indiscernible) 756-7, do
5 you now trigger Chapter 285 in the erosion
6 control permit by exceeding 8,000 square feet or
7 any one of the other requirements within the
8 ordinance (indiscernible)?"

9 BOARD MEMBER MARK GRADY: Is erosion
10 control moot at this point?

11 DIRECTOR OF PUBLIC WORKS SCOTT
12 BRANDMEIER: It is moot because he did obtain the
13 -- yes, he did file that and he provided the fee.
14 We had an erosion control plan. So, the real
15 issue is now, is this 756-7 applicable to this
16 applicant and is Chapter 272 applicable to this
17 applicant and the project that was undertaken?

18 BOARD MEMBER ADAM BAZELON: And 285
19 defines, "land disturbing construction activity".
20 But that's not applicable, that definition, to
21 756-7E? Is that your position?

22 DIRECTOR OF PUBLIC WORKS SCOTT
23 BRANDMEIER: We did not have that cross-
24 referenced in there and that's why we obtained
25 that definition from the attorney and that's when

1 Mr. Botcher rendered his opinion on December
2 21st.

3 BOARD MEMBER MARK GRADY: Your position
4 is, you're using that definition in 756, in the
5 absence of a different one in 756?

6 DIRECTOR OF PUBLIC WORKS SCOTT
7 BRANDMEIER: Yeah, what was provided to us by the
8 attorney, yes.

9 BOARD MEMBER MARK GRADY: 756 doesn't
10 have a definition for "land disturbing activity",
11 correct?

12 DIRECTOR OF PUBLIC WORKS SCOTT
13 BRANDMEIER: It didn't have --

14 BOARD MEMBER MARK GRADY: In and of
15 itself?

16 DIRECTOR OF PUBLIC WORKS SCOTT
17 BRANDMEIER: I don't believe that it does. I'd
18 have to check the building code itself. 756-7
19 likely does not, but I have not looked at the
20 entirety of the building code.

21 BOARD MEMBER MARK GRADY: So, you've
22 looked elsewhere in the code for that definition,
23 plus the state statutes?

24 DIRECTOR OF PUBLIC WORKS SCOTT
25 BRANDMEIER: State statutes.

1 VILLAGE ATTORNEY ERIC LARSON: So --

2 RALPH BENCRISCUTTO: (indiscernible)

3 CHAIR NANCY FILSINGER: (indiscernible)

4 VILLAGE ATTORNEY ERIC LARSON: Again,
5 you referred to me and I just want to be very
6 clear, I provided three definitions. I didn't
7 apply them to this situation. I wasn't even
8 aware of the situation. So, that was applied by
9 staff. That's my recollection.

10 DIRECTOR OF PUBLIC WORKS SCOTT
11 BRANDMEIER: My apologies.

12 VILLAGE ATTORNEY ERIC LARSON: So, on
13 272 -- so 285 is moot. We don't have to deal
14 with 282.

15 BOARD MEMBER MARK GRADY: 5.

16 VILLAGE ATTORNEY ERIC LARSON: 272, the
17 fill ordinance, it's been described as being
18 about drainage and it tends to address drainage.
19 But I see this as also addressing protection of
20 roads and we want to know the proposed traffic
21 routes for hauling fill, location of the filling
22 operations. I see 285 as addressing drainage.
23 But I guess my question is, if we try to identify
24 the purpose of 272, isn't it broader than simply
25 drainage?

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: Yes.

3 VILLAGE ATTORNEY ERIC LARSON: So, the
4 argument that it is not affecting drainage may be
5 immaterial because if he's hauling 25 yards of
6 fill, this ordinance is about ensuring that it's
7 high-quality fill and that the roads are
8 protected and that they're not going to be
9 hauling this fill in a way that's going to be a
10 nuisance to the neighbors. Isn't that what 272
11 is about?

12 DIRECTOR OF PUBLIC WORKS SCOTT

13 BRANDMEIER: Yes.

14 BOARD MEMBER MARK GRADY: In addition
15 to drainage?

16 DIRECTOR OF PUBLIC WORKS SCOTT

17 BRANDMEIER: Yes.

18 VILLAGE ATTORNEY ERIC LARSON: It does
19 speak to obstructing water courses, and it does
20 address some drainage issues.

21 BOARD MEMBER MARK GRADY: Well, if you
22 look at 272-2G, it talks about the plan. It
23 describes the terrain and the grading, etc., so
24 there's a (indiscernible) --

25 VILLAGE ATTORNEY ERIC LARSON: Sure.

1 BOARD MEMBER MARK GRADY: -- that
2 aspect of it. I agree with you that there are
3 other aspects, as well. It's much broader than
4 just drainage. (indiscernible)

5 RALPH BENCRISCUTTO: Can I make a
6 comment?

7 VILLAGE ATTORNEY ERIC LARSON: I'm
8 done.

9 RALPH BENCRISCUTTO: Can I address the
10 attorney?

11 BOARD MEMBER MARK GRADY: Sure. Well,
12 you can address his arguments.

13 RALPH BENCRISCUTTO: So, your attorney,
14 obviously, quote 256-7, and had certain
15 activities over 4,000 feet, meaning, that permit
16 application of 272. The subheading of "Grading"
17 and then description land disturbing activity
18 over 4,000 feet. That has nothing to do with
19 cubic yards. Nobody's adding up yardage.

20 It's 4,000 square feet for the purpose
21 of drainage control so it doesn't affect the
22 topography of the yard. (indiscernible)
23 activity, that point relates to grading. Nothing
24 else. And the heading in the application says,
25 "Grading activities exceeding 4,000 square feet".

1 It doesn't say 25 cubic yards, it says 4,000
2 square feet. And in the exemptions of 272.10,
3 each exemption, top dressing, patios and
4 driveways (indiscernible), nothing has cubic
5 yards listed.

6 It doesn't say you can only put five
7 cubic yards of top dressing. They think you're
8 going to cover the whole yard. Patios and
9 driveways, they don't know how big the yard is or
10 the driveway and they're not saying so many cubic
11 yards (indiscernible). It's exempt. When it's
12 exempt, it means there's no permit required,
13 period.

14 So, minor grading only applies to the
15 yard itself or it could have kept the drainage,
16 and it says clearly, "So it doesn't pitch toward
17 the residential structure." It spells it out.
18 The intent of this exemption is (indiscernible)
19 minor grading of construction of planting beds,
20 flower gardens, (indiscernible) and similar
21 activities which do not --

22 BOARD MEMBER MARK GRADY: I'm sorry.
23 Where are you reading from? I'm sorry.

24 RALPH BENCRISCUTTO: (indiscernible)

25 BOARD MEMBER MARK GRADY: Okay, I got

1 it. Okay, got it. Got it.

2 BOARD MEMBER ADAM BAZELON: If we find
3 that those exemptions don't apply to the 4,000
4 square feet, would you concede that 4,000 square
5 feet is disturbed? Are you relying on the --

6 RALPH BENCRISCUTTO: It's disturbed,
7 but that's why we got a building permit. It has
8 nothing to do with disturbed. If you -- I asked
9 the attorney the question because --

10 BOARD MEMBER MARK GRADY: He's not here
11 to answer questions for you. I'm sorry.

12 RALPH BENCRISCUTTO: (indiscernible)

13 BOARD MEMBER MARK GRADY: You can make
14 arguments, but --

15 RALPH BENCRISCUTTO: It's a legal
16 opinion.

17 BOARD MEMBER MARK GRADY: You can make
18 your arguments, but --

19 BOARD MEMBER ADAM BAZELON: Well, my
20 understanding is 756-7E is at issue, right? It's
21 not moot.

22 RALPH BENCRISCUTTO: Well, that's
23 really the whole argument.

24 BOARD MEMBER ADAM BAZELON: Right, and
25 so this says, "For applications for land

1 disturbing activities requiring a permit that
2 affects the surface area of 4,000 square feet or
3 more." And my question is, if we determine that
4 we don't think the exemptions are applicable,
5 would you agree that 4,000 square feet are
6 disturbed?

7 RALPH BENCRISCUTTO: Sure.

8 BOARD MEMBER ADAM BAZELON: Okay.

9 RALPH BENCRISCUTTO: Isn't that why I
10 got the erosion permit, because I'm not grading,
11 I'm disturbing, and this is why I got the erosion
12 permit. And that's an 8,000 foot
13 (indiscernible). If it was -- otherwise, then
14 we'd have to get two permits for everything.
15 You'd have to get a grading permit when you're
16 not grading. This is the whole argument. But if
17 you look at the thing you're looking at, 256-7.

18 BOARD MEMBER ADAM BAZELON: 756-7,
19 yeah.

20 RALPH BENCRISCUTTO: 756-7. If you
21 look at the top where the subheading is,
22 "Grading", everything below that is relative to
23 grading. It has nothing to do with anything
24 else. Everything in that subcategory. So, when
25 they say, "land disturbing activities", it's

1 related to grading. It's not really --

2 BOARD MEMBER ADAM BAZELON: Well, it
3 just says you have to apply for a drainage permit
4 if you disturb it. It doesn't make an assumption
5 one way or the other.

6 RALPH BENCRISCUTTO: Yeah
7 (indiscernible). Well, okay, this is where the
8 ambiguity is. This is my -- in their defense.
9 I'm saying it's a little ambiguous because they
10 picked up on that and they wrote the whole code
11 requirement to me based on just land disturbing
12 activity. And there's no logic in that because
13 I'm not going to grade anything. The project is
14 already finished. So, if you said I needed a
15 grading permit --

16 BOARD MEMBER MARK GRADY: Well, if you
17 hadn't finished the project without the permit,
18 you might have had to grade something. Right?

19 RALPH BENCRISCUTTO: No, I couldn't
20 grade anything. It was all recently graded. The
21 front yard grade is fine, and the backyard is too
22 close to the neighbors. I can't change the
23 grading.

24 BOARD MEMBER MARK GRADY: Well, you
25 wouldn't have been able to put any of the dirt

1 you pushed up around the house, right?

2 RALPH BENCRISCUTTO: No, there's no
3 proof required for that. It's in the exemptions.

4 BOARD MEMBER MARK GRADY: I --

5 RALPH BENCRISCUTTO: I don't think I
6 understand your question (indiscernible)

7 VILLAGE ATTORNEY ERIC LARSON: So, I
8 want to go back to something that was said some
9 time (indiscernible). It's my understanding that
10 there was some fill placed to raise up some of
11 the construction that was done. So, it's under
12 new construction at this point. Do you consider
13 that to be fill? Dirt that was added that is now
14 underneath a structure.

15 BOARD MEMBER MARK GRADY: No, they
16 didn't add dirt under a structure.

17 VILLAGE ATTORNEY ERIC LARSON: I
18 thought they added under the addition.

19 BOARD MEMBER MARK GRADY: No, they
20 excavated under the addition. That's where the
21 big pile of dirt came from. But -- right? Am I
22 wrong?

23 BOARD MEMBER ADAM BAZELON: There
24 wasn't any dirt added under --

25 RALPH BENCRISCUTTO: No, we took it

1 out.

2 DIRECTOR OF PUBLIC WORKS SCOTT

3 BRANDMEIER: It was -- you had the existing house
4 and again, if the board so (indiscernible) I can
5 bring it up on GIS and show the differences. But
6 there's an existing house to which there was an
7 addition, plus the garage. And underneath that
8 addition and garage, that's the area that was
9 excavated.

10 There was no fill, per se, placed
11 underneath that, other than stone for the
12 concrete slab for the addition if you do a full
13 basement addition. But then that fill was placed
14 around in the parcel while construction was
15 ongoing. And then the placement of that fill is
16 really what's at dispute. Where was it placed
17 and do the exceptions fall (indiscernible)?

18 BOARD MEMBER MARK GRADY: Some of it
19 was trucked off-site. Some of it was pushed
20 around the house and treated the planters that
21 are around the house and treated the base for the
22 driveway that was raised up.

23 DIRECTOR OF PUBLIC WORKS SCOTT

24 BRANDMEIER: That is correct.

25 RALPH BENCRISCUTTO: No, we couldn't

1 use the clay. We had to go (indiscernible). So,
2 I mean, maybe that's the issue.

3 BOARD MEMBER MARK GRADY: It doesn't
4 matter to me whether it's new dirt or old dirt.
5 I don't care.

6 RALPH BENCRISCUTTO: Well, this
7 (indiscernible)

8 BOARD MEMBER MARK GRADY: It makes a
9 difference to you in constructing it, but for
10 purposes of how much fill you used, it's fill,
11 whether it's new fill or old fill or clay or
12 dirt. But no, there was no fill under the
13 structure.

14 RALPH BENCRISCUTTO: Well, underneath
15 (indiscernible)

16 BOARD MEMBER MARK GRADY: No, it's just
17 gravel. But you didn't throw dirt into the hole
18 after you dug the hole.

19 RALPH BENCRISCUTTO: There's gravel in
20 my driveway. In fact, there's (indiscernible)

21 BOARD MEMBER MARK GRADY: Right, but
22 there's dirt under the gravel.

23 RALPH BENCRISCUTTO: (indiscernible)

24 BOARD MEMBER MARK GRADY: Yeah.

25 CHAIR NANCY FILSINGER: All right.

1 Adam?

2 BOARD MEMBER ADAM BAZELON: What?

3 CHAIR NANCY FILSINGER: See, if Mark
4 wants to -- still confused as to what we are
5 determining?

6 BOARD MEMBER ADAM BAZELON: I have a
7 better idea. I mean, I would almost like a post-
8 hearing briefing on this. But if someone wants
9 to make the motion, I'll entertain it. I mean, I
10 don't have a choice. I --

11 BOARD MEMBER MARK GRADY: I wanted to
12 ask Mr. Brandmeier one last question to respond
13 to the applicant. He was essentially saying that
14 there's no point in having an erosion permit and
15 a permit under 756 because they do the same
16 thing. I'm oversimplifying. But I mean, what is
17 the distinction between the two in terms of
18 purchase of the policy or the reasoning behind
19 this?

20 DIRECTOR OF PUBLIC WORKS SCOTT
21 BRANDMEIER: Well, the distinction really is in
22 the description itself. So, (indiscernible)
23 permit identifies what you're going to do to
24 prevent sediment from floating off site during
25 construction, okay. And so, that's why we have

1 separate code requirements. For some reason, and
2 again, it predates me, that one was written with
3 an 8,000 square foot minimum disturbed area.

4 I don't know why, but that predates me
5 why it was written as that. It might have been a
6 DNR model ordinance that 8,000 square feet of
7 disturbed area would trigger, amongst other
8 things, placement of 600 linear feet by
9 excavating 800 cubic yards, et cetera. Those all
10 trigger the need for an erosion control permit.

11 So, whether it's silk socks, core logs,
12 which are coconut fiber logs, an erosion control
13 fence around the property, the whole purpose
14 behind that is to say, "Hey, this is how I'm
15 going to protect sediment from running off site
16 during my construction activities."

17 The grading and drainage plan is a
18 completely different animal. And that 4,000
19 square feet trigger was written during my tenure
20 here, as I noted, and I recommended this be done
21 because I had done it in the private sector many
22 times. And the board adopted that 4,000 square
23 foot trigger to say, okay, if you're going to
24 build something.

25 Let's just say, hypothetically, a new

1 principal home and you've got a virgin lot,
2 you're putting up a new principal home, you've
3 got to identify how that construction is going to
4 impact the neighboring property owners because of
5 the residential infill that we have in a
6 completely built out community. And so, therein
7 lies the distinction between the two.

8 You can get into the discussion of,
9 "Well, shouldn't they match? Shouldn't you do
10 4,000 and 4,000 or 8,000 and 8,000?" Certainly,
11 that's an agreement, but an argument that could
12 be made, but that's not the way the code is
13 defined. So, they have separate and distinct
14 purposes. One is to say, "Hey, you're disturbing
15 more than 4,000 square feet of land", or if you
16 need a fill permit, you have to undertake this
17 activity to show that you're not going to
18 adversely affect the neighboring property owner.

19 Do the analysis with an engineer. The
20 8,000 square feet or 600 feet of pipe or 800
21 cubic yards says, "What are you going to do to
22 control the runoff from your site while you're
23 doing this project?" Theoretically, you may not
24 begin the requirement for 756-7. You might be
25 stripping the entire property and keeping it a

1 virgin property, but you're affecting more than
2 8,000 square feet.

3 You may not need that permit under 756-
4 7, but you could be stripping off 800 cubic yards
5 and affecting more than 8,000 square feet. So,
6 that would kick in the requirement for an erosion
7 control plan. Tell us what you're going to do to
8 make sure that you do not have sediment in --
9 from a DNR company perspective, you'll look at
10 phosphorous in the sediment and bacteria flowing
11 off site from a parcel.

12 And what are you going to do to restore
13 that area after you've done with that particular
14 application, that activity? And therein lies the
15 distinction between the two. So, they're
16 separate and distinct and that's why I laid it
17 out in my memo when I said all three are separate
18 and distinct.

19 BOARD MEMBER ADAM BAZELON: Now is it
20 25 square feet or cubic?

21 DIRECTOR OF PUBLIC WORKS SCOTT
22 BRANDMEIER: Cubic.

23 BOARD MEMBER ADAM BAZELON: And that's
24 in 272?

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: That is correct.

2 BOARD MEMBER ADAM BAZELON: What
3 section?

4 DIRECTOR OF PUBLIC WORKS SCOTT
5 BRANDMEIER: E.

6 BOARD MEMBER ADAM BAZELON: E?

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: Well, and B. So, we provided an
9 exception. When I arrived at the Village, there
10 were no exceptions, and I worked with the Village
11 attorney and made the call where we adopted --

12 BOARD MEMBER ADAM BAZELON: I see.

13 DIRECTOR OF PUBLIC WORKS SCOTT

14 BRANDMEIER: -- certain exceptions and one of
15 them was 25 cubic yards.

16 BOARD MEMBER ADAM BAZELON: So, you're
17 making the exception into a requirement,
18 essentially?

19 DIRECTOR OF PUBLIC WORKS SCOTT

20 BRANDMEIER: Yes.

21 BOARD MEMBER ADAM BAZELON: It's a de
22 minimis exception and you're saying if it's above
23 that, then that means --

24 BOARD MEMBER MARK GRADY: The exception
25 doesn't apply and therefore, you have to have a

1 permit.

2 DIRECTOR OF PUBLIC WORKS SCOTT

3 BRANDMEIER: Yes.

4 BOARD MEMBER ADAM BAZELON: But it's
5 not an affirmative requirement?

6 DIRECTOR OF PUBLIC WORKS SCOTT

7 BRANDMEIER: No.

8 BOARD MEMBER MARK GRADY: There's a
9 requirement, 272-1A.

10 DIRECTOR OF PUBLIC WORKS SCOTT

11 BRANDMEIER: 1A says if you place --

12 BOARD MEMBER MARK GRADY: Any fill --

13 DIRECTOR OF PUBLIC WORKS SCOTT

14 BRANDMEIER: -- any fill, you need a permit.

15 BOARD MEMBER ADAM BAZELON: Got it.
16 Okay. Thank you.

17 DIRECTOR OF PUBLIC WORKS SCOTT

18 BRANDMEIER: And then, you'll get exception --

19 BOARD MEMBER ADAM BAZELON: I see that
20 now, yes.

21 DIRECTOR OF PUBLIC WORKS SCOTT

22 BRANDMEIER: -- if it's less than 25 cubic yards.

23 BOARD MEMBER ADAM BAZELON: Understood.

24 DIRECTOR OF PUBLIC WORKS SCOTT

25 BRANDMEIER: And then it's for this board to

1 decide whether that exception includes a greater
2 amount to fill underneath the driveway, the
3 sidewalk, the patio, planters, et cetera. That
4 is the applicant's argument. And that's what I
5 note in my memo. That's really -- if the board
6 says, "We agree with the applicant", we move
7 forward with that definition.

8 If the board says, "No, you can't do
9 that", you'll get a reasonable amount, which
10 would be four inches of concrete, four inches of
11 stone and anything beneath that is fill because
12 the intent never was to add 8 feet or 6 feet, as
13 you noted, of fill to get to the elevation that
14 you need in order to put in the driveway, or the
15 sidewalk or the patio or whatever it might be, or
16 the planter.

17 That's for the board to determine. I
18 don't think anything's in dispute now based on
19 what was agreed to by the applicant that 4,000 or
20 8,000 square feet was disturbed. So, 756-7 seems
21 to certainly apply.

22 BOARD MEMBER MARK GRADY: He's made an
23 argument about the interplay of these sections.

24 DIRECTOR OF PUBLIC WORKS SCOTT
25 BRANDMEIER: Yes.

1 BOARD MEMBER MARK GRADY: A legal
2 argument. I'm not talking about a factual
3 argument, but a legal argument --

4 DIRECTOR OF PUBLIC WORKS SCOTT
5 BRANDMEIER: That's correct.

6 BOARD MEMBER MARK GRADY: -- about why
7 they don't apply but --

8 DIRECTOR OF PUBLIC WORKS SCOTT
9 BRANDMEIER: Yes. That's correct.

10 RALPH BENCRISCUTTO: Can I respond?

11 BOARD MEMBER MARK GRADY: Sure.

12 VILLAGE ATTORNEY ERIC LARSON: Before
13 we leave it though, I mean, that distinguishes
14 756 from 272. What about (indiscernible)?
15 (indiscernible) said that was moot, right? So,
16 it's a 285, but you addressed two, and I'm
17 wondering about the third.

18 DIRECTOR OF PUBLIC WORKS SCOTT
19 BRANDMEIER: That is -- go ahead. I'm sorry.

20 VILLAGE ATTORNEY ERIC LARSON: And his
21 argument is, "Hey, if I get one of these, I'm
22 really doing all three, aren't I?" And I think
23 actually the one that hasn't been talked about is
24 272.

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: Yes.

2 VILLAGE ATTORNEY ERIC LARSON: So, the
3 fill ordinance. Why doesn't that overlap with
4 the building permit ordinance?

5 DIRECTOR OF PUBLIC WORKS SCOTT

6 BRANDMEIER: It can, and it does. But again,
7 you've got the disagreement between the Village
8 and the applicant over whether the exemptions in
9 272-10 apply to everything underneath the
10 driveway, everything underneath the planters,
11 everything underneath the patio. And even if it
12 were to apply, what is the amount of fill that
13 has been added beyond that footprint of those
14 three areas?

15 And the only way to know that for sure
16 is if the drawing, which is required by 756-7,
17 will show, okay, these are the grades. Here was
18 the existing, here is the proposed. You'll be
19 able to calculate what the difference is. Even
20 if you were to exempt everything within the
21 footprint of driveways, patios and planters. We
22 would be able to determine whether that threshold
23 that de minimis exception, for instance, of 25
24 cubic yards, applies or does not apply.

25 And therein lies the three separate and

1 distinct arenas that how they could apply in
2 mind, and I think the 756-7 probably was adopted
3 16-17 years ago. The fill ordinance has been in
4 existence predating me, probably 20-25 years, and
5 the erosion control ordinance predates me.

6 Now, as Attorney Larson noted, you can
7 see in 756-7, that if a fill permit is needed,
8 the requirements of 756-7 are then triggered.
9 Because it says, "For all circumstances where a
10 fill permit is required, you have to do it."

11 BOARD MEMBER MARK GRADY: You're just
12 sitting here today saying you're not definitively
13 certain that a fill permit is required because
14 you're not certain whether, number one, what the
15 answer to the interpretation question is, and
16 number two, whether there's 25 yards of fill?

17 DIRECTOR OF PUBLIC WORKS SCOTT
18 BRANDMEIER: That is correct. But 756-7
19 certainly seems to apply. And if you do that,
20 creating a drainage analysis, that helps the
21 applicant as it relates to 272. 272 is just an
22 additional permitting process where you will be
23 doing this regardless with 756-7.

24 BOARD MEMBER MARK GRADY: At this
25 point, are what the fill permit requires is moot

1 as well because, coupled with the plan for
2 trucking and routes and et cetera, et cetera, and
3 essentially that's all done now?

4 DIRECTOR OF PUBLIC WORKS SCOTT

5 BRANDMEIER: It's already been done, but there is
6 a requirement that you provide a 21-day notice
7 requirement to the surrounding property owners
8 because it gives them an opportunity to comment
9 on the application. So, what's happened here is
10 that the issue has been pushed down the road and
11 (indiscernible) property owners within 500 feet
12 of not being given that opportunity to comment.

13 Well, certainly (indiscernible) on this
14 board might say, "Okay, we agree with the
15 applicant. Let's figure out whether, with the
16 exception argument, well, let's figure out
17 whether 25 cubic yards applies or is there or not
18 beyond the footprint." And if the board so does
19 decide that, like they did waive the 30-day
20 requirement, perhaps, I may be speaking out of
21 turn, they waived the requirement for the 21-day
22 notice period as well.

23 Because, as you know, it ends up being
24 almost a moot point because the project, from a
25 grading perspective, appears to be done other

1 than the request that the applicant does expand
2 the driveway.

3 BOARD MEMBER MARK GRADY: Well, it's
4 done from a fill perspective. But if you --
5 let's assume --

6 DIRECTOR OF PUBLIC WORKS SCOTT
7 BRANDMEIER: Yes.

8 BOARD MEMBER MARK GRADY: Assuming we
9 agree with you completely, just for the sake of
10 argument. And he says, "Okay, fine. I'll pay
11 the fees for the permit. I'll hire the guy.
12 I'll give you the plans." He gives you the plans
13 and you look at the plans and say, "We don't like
14 the way it's set up for drainage." As-built for
15 drainage.

16 You could, theoretically then, say,
17 "No, you've got to, somehow, re-grade around the
18 house or around the driveway to push the drainage
19 towards Dean Road or something else.
20 Theoretically, that can happen?

21 DIRECTOR OF PUBLIC WORKS SCOTT
22 BRANDMEIER: Theoretically, yes. That is
23 correct. Yes. We've had situations --

24 BOARD MEMBER MARK GRADY: And at some
25 point, the neighbors might have a chance to talk

1 about that.

2 BOARD MEMBER MARK GRADY: Comment on
3 it.

4 RALPH BENCRISCUTTO: (indiscernible)
5 These guys did a good job of explaining the
6 purpose of permits, drainage, (indiscernible), et
7 cetera. So, what's the aversion to a permit?
8 It's not accurate that the erosion control permit
9 covers everything because filling and grading is
10 just filling and grading. It needed a permit to
11 put gravel underneath the driveway, a filling and
12 grading permit.

13 First of all, you don't need a permit
14 for the driveway, so (indiscernible) and what
15 would they be looking at, cubic yards, drainage?
16 The drainage permit does not talk about cubic
17 yards, it talks about topography.
18 (indiscernible) or if you had a 10,000-foot lot
19 or a 50,000-foot lot, it's the topography that's
20 different. That's the reason for the berm.

21 It's to hold the water. You want to
22 maintain where it's supposed to go. You want it
23 to go over (indiscernible). 272-10 exemptions E,
24 Minor Grading. You read the entire section that
25 talks about the filling activities of 25 yards or

1 less, minor grading. That's grading. That's not
2 fill underneath the driveway, that's not
3 planters, that's not top dressing, it's not
4 berms, it's not trench fill, it's minor grading.

5 It has its own definition. It's the
6 only thing that has a cubic yard detection. Top
7 dressing could be 25 yards, easy. That's not --
8 it's exempt. Why? Because as long as you don't
9 change the grading, you're not grading the fill.
10 And then (indiscernible) permit is designed to
11 mitigate problems (indiscernible), just like it
12 said. 7,000 yards of something, somebody brought
13 it in there.

14 They changed the whole grade of the
15 lot. There's no permits required so they pushed
16 it all to the neighbor, everybody's in lawsuits.
17 I can't believe (indiscernible). But what is the
18 reason for the permit at this site? Let's get
19 down to the nitty gritty. Why would you want the
20 grading and fill permit, and then you start
21 talking about the planters?

22 If you added up all the square footage
23 -- now, let's not talk about cubic yards because
24 cubic yards is minor grading on the lot. You add
25 up the square footage of the planters

1 (indiscernible), it's not even 2,000 feet. The
2 topography is only 1,200 feet, that is 600-foot
3 (indiscernible). The literal area he said by the
4 house is two feet wide by 50. That's 100 feet.
5 You're just not getting anywhere near this 4,000
6 feet, even if you included that.

7 But what would be the purpose of a
8 grading permit by the driveway? Before you put
9 it in, it has to go from the road to the house,
10 the driveway. That's it. How else are you going
11 to do it? It's going to end up at the road.

12 BOARD MEMBER MARK GRADY: You lost me
13 on one point. Why isn't the dirt that you pushed
14 around the house to create the planters minor
15 grading? Why isn't that considered minor
16 grading, in your mind?

17 RALPH BENCRISCUTTO: Because if you
18 look at where this says, "minor grading", it's so
19 that it doesn't affect the direction of the
20 water. That's the yard. Right against the
21 house, that doesn't affect any neighbors. That's
22 why they say that's customary, you build it up.

23 BOARD MEMBER MARK GRADY: What if -- I
24 understand that argument. What if Mr. Brandmeier
25 disagrees? What is Mr. Brandmeier or the Village

1 of Fox Point, to be (indiscernible) about it --

2 RALPH BENCRISCUTTO: Well, I really --

3 BOARD MEMBER MARK GRADY: -- feels that
4 the planters have affected the grading or the
5 flow and the drainage. I don't know if he feels
6 that way or not. He may look at your plans and
7 say, "Bingo. They're fine." I don't know. But
8 what if he thinks, before you had built this,
9 before the dirt was pushed up, you've got 18
10 inches, I'll just use that number, 18 inches of
11 foundation above grade around parts of this
12 house.

13 And if you had then come in and agreed
14 with him, we got to apply for a permit, you did
15 the work and he says, "I don't want you to grade
16 around that. I don't want you to raise dirt
17 around that house. I think that's going to
18 create problems, like you said, for the neighbors
19 because it's going to push water into the
20 neighborhoods. I want you to leave the 18 inches
21 of foundation exposed and paint it."

22 I'm just -- I don't know what he's
23 going to say. But you didn't give him the chance
24 to say that. Now, you're coming in and saying,
25 "These planters don't affect the topography, they

1 don't affect water." The Village of Fox Point
2 might disagree. I don't know.

3 RALPH BENCRISCUTTO: Well, there's
4 exemptions and to say that the 272 exemptions
5 don't apply to the permit application for 272,
6 doesn't make any sense. If I want to get this
7 272 permit, I use 756-7. That is the application
8 for a permit which requires plan review and
9 everything else for this code. So, how many can
10 say that that application for the permit isn't
11 relative to the exemptions in this permit?

12 It's not a code, 272, it is the
13 application for the code. And I didn't add dirt
14 around the house, I just -- I took out all the
15 bushes and I pushed it around where it was. I
16 can't add any dirt because -- and that's the old
17 house. The only place I left -- and I left the
18 18 inches exposed on the garage, where it faces
19 west. The rest of the house, it was pretty much
20 left. It's just where it faces the west.

21 So, that's where you can see the 18
22 inches and you could see in the pictures
23 (indiscernible). It's the garage. The house is
24 the way it was. All four sides -- all three
25 sides of the house (indiscernible).

1 BOARD MEMBER MARK GRADY: If I'm right,
2 can I add a note here?

3 CHAIR NANCY FILSINGER: (indiscernible)

4 DIRECTOR OF PUBLIC WORKS SCOTT

5 BRANDMEIER: When you look at 756-7, and I think
6 what's being lost in all of this is the argument
7 of disturbed area, not disturbed area, fill, not
8 fill, what applies, what doesn't apply. When you
9 look at 756-7 the point of that is to look at
10 pervious and impervious surfaces. I don't think
11 there's any dispute here that additional
12 impervious area was added, particularly when you
13 put on an addition, you expand the driveway, put
14 in a patio, put in a sidewalk, things that did
15 not exist before.

16 And so, one could reasonably say,
17 theoretically, hypothetically, that it's putting
18 at the same elevation that existed before.
19 There's no change in grading. But because you've
20 added impervious area, and you've affected more
21 than 4,000 square feet, your runoff is going to
22 be greater because you don't have the absorption
23 capacity of the ground in that area that's now
24 been disturbed and has been changed over from
25 native soils to an impervious area.

1 So, that has to be kept in mind as you
2 evaluate the application because you do have an
3 addition, you do have an expanded driveway,
4 you've got a patio and sidewalks that create
5 additional impervious area. And so, when the
6 grading and drainage analysis is done, engineers
7 will look at what existed at the time of the
8 application? How much impervious area was there?
9 How much impervious area?

10 And they put in what's called a "curve
11 number". A curve number is used by engineers
12 (indiscernible) engineers to identify the
13 percentage of impervious versus pervious area.
14 Like, it might be 80, it might be 95, whatever it
15 is, and then they look at it for the proposed
16 development. And that number likely drops,
17 meaning there's no runoff when you have more
18 impervious added to the lot.

19 RALPH BENCRISCUTTO: That's why we
20 ended up paying more for (indiscernible). We did
21 that and (indiscernible) permit and you put
22 together a plan, a drainage plan (indiscernible)
23 everything in the house (indiscernible) the
24 driveway (indiscernible) that was in the erosion
25 control plan that we paid for.

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: No-one's disputing that.

3 RALPH BENCRISCUTTO: (indiscernible)

4 BOARD MEMBER MARK GRADY: Let's --

5 VILLAGE ATTORNEY ERIC LARSON: So, I
6 feel like we're getting a little bit repetitive.

7 CHAIR NANCY FILSINGER: I hear you.

8 VILLAGE ATTORNEY ERIC LARSON: But I do
9 have code specific questions, and I'll start with
10 you, Mr. Brandmeier. 756-7E(1), do you have
11 that?

12 DIRECTOR OF PUBLIC WORKS SCOTT

13 BRANDMEIER: Yes.

14 VILLAGE ATTORNEY ERIC LARSON: Now this
15 is related to the building permit. They needed a
16 building permit for this project, correct?

17 DIRECTOR OF PUBLIC WORKS SCOTT

18 BRANDMEIER: That is correct.

19 VILLAGE ATTORNEY ERIC LARSON: So, for
20 their building permit sub E relates to drainage.
21 Sub 1 says grading of lots. A says, "A drainage
22 plan is required (1) for applications for the
23 construction of a new principal building." That
24 doesn't apply, right? (1) does not apply.

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: It's not a new principal building,
2 it's an addition.

3 VILLAGE ATTORNEY ERIC LARSON: "(2) For
4 applications for land disturbing activity
5 requiring a permit affects the surface area of
6 4,000 square feet or more." Does that apply?

7 DIRECTOR OF PUBLIC WORKS SCOTT

8 BRANDMEIER: I believe that it does, yes.

9 VILLAGE ATTORNEY ERIC LARSON: So, the
10 phrase "requiring a permit", it says, "For
11 applications for land disturbing activity
12 requiring a permit that affects the surface area
13 of 4,000 square feet." Do you have an opinion of
14 what that language would require of you?

15 RALPH BENCRISCUTTO: It would require
16 it being outside of the exemptions, obviously.
17 In the beginning of that same thing, it says --

18 VILLAGE ATTORNEY ERIC LARSON: I -- I
19 asked -- I'm talking to Mr. Brandmeier for the
20 moment. And if you don't, then I'm just going to
21 move on. But I'd just highlight that that does
22 say that. Do you have a thought on that?

23 DIRECTOR OF PUBLIC WORKS SCOTT

24 BRANDMEIER: This is an activity that required a
25 permit, the addition. So, we -- and I'd have to

1 go back to -- frankly, I'd have to go back to our
2 -- the notes that (indiscernible) when we were
3 looking to adopt this part of the ordinance. My
4 recollection from 15, 16, 17 years ago is that
5 you have land disturbing activity requiring a
6 permit.

7 So, that could be an addition to a new
8 house and any other activity that might require a
9 permit under the code, and you're going to
10 disturb 4,000 square feet of land
11 (indiscernible). Okay.

12 VILLAGE ATTORNEY ERIC LARSON: So, then
13 sub 3 says, "For applications for land disturbing
14 activity, other than tree removal on the face of
15 the ravine bluff or lake bluff. Does that apply?

16 DIRECTOR OF PUBLIC WORKS SCOTT
17 BRANDMEIER: And that does not apply.

18 VILLAGE ATTORNEY ERIC LARSON: 4, "For
19 all circumstances where a fill permit is
20 required, pursuant to Chapter 272 of this code."

21 DIRECTOR OF PUBLIC WORKS SCOTT
22 BRANDMEIER: Which we don't know at this time.

23 VILLAGE ATTORNEY ERIC LARSON: That may
24 or may not be a trigger here.

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: Right.

2 VILLAGE ATTORNEY ERIC LARSON: And then
3 sub 5 says, "When required by the Village in
4 particular cases due to particular concerns
5 arising in the application."

6 DIRECTOR OF PUBLIC WORKS SCOTT

7 BRANDMEIER: And that could certainly apply
8 because you're adding impervious area on a
9 smaller lot.

10 VILLAGE ATTORNEY ERIC LARSON: So, you
11 would have applied sub 5 regardless --

12 DIRECTOR OF PUBLIC WORKS SCOTT

13 BRANDMEIER: Yes.

14 VILLAGE ATTORNEY ERIC LARSON: -- of 1,
15 2, 3 or 4?

16 DIRECTOR OF PUBLIC WORKS SCOTT

17 BRANDMEIER: Yes.

18 VILLAGE ATTORNEY ERIC LARSON: So, you
19 would say that the drainage plan is required
20 because this code section allows you to require
21 it, and you did require it?

22 DIRECTOR OF PUBLIC WORKS SCOTT

23 BRANDMEIER: That is correct.

24 BOARD MEMBER ADAM BAZELON: Well, what
25 would you articulate is your particular concerns?

1 DIRECTOR OF PUBLIC WORKS SCOTT

2 BRANDMEIER: Residential infill, adding
3 impervious area on a small lot.

4 RALPH BENCRISCUTTO: Adding impervious
5 area is not relative to filling or grading.
6 That's relating to storm water. And the house
7 itself is impervious. The garage, it's -- you
8 don't get grading from it from the garage. At
9 the top of that same 756-7, the first line on the
10 first page says, "Filling and grading
11 (indiscernible) patio justified" and that's how
12 they described land disturbing activities on all
13 three permits.

14 Erosion is land disturbing activities,
15 (indiscernible) is land disturbing activities,
16 filling and grading is land disturbing
17 activities. It's just not land disturbing
18 activities. It's relating to the subheading of
19 the permit application, which says, "Grading."
20 That's how the contracts read. That's a legal
21 document. The subheadings are related to them.
22 Underneath that section is related to -- and in
23 itself, grading.

24 BOARD MEMBER ADAM BAZELON: So, you're
25 saying it's only where you trenched or excavated

1 to put the addition on that's subject to the
2 counting of the square footage for this section?

3 RALPH BENCRISCUTTO: No, the grading is
4 where you change the topography of the lot and
5 then (indiscernible). Scott did a great job
6 explaining why that permit is relative. It is.
7 (indiscernible) perfect. It's exactly right.

8 BOARD MEMBER ADAM BAZELON: Right.
9 You're (indiscernible) under the 4,000.

10 RALPH BENCRISCUTTO: I just -- I don't
11 -- first of all, I'm not going to grade it. I'm
12 done, and I can't grade it. And the driveway
13 can't be graded. The original permit -- why have
14 a gravel permit for the driveway if you're not
15 putting a fill requirement or somehow monitor
16 that? You'd need to have a permit for the
17 driveway.

18 There is no permit for it, so if
19 anybody wants to put a driveway -- let's say it's
20 all I did was put in the driveway. Nobody would
21 come around telling me I need a fill and grading
22 permit. If all I did was the patio and the
23 sidewalks, the planters and just, I'm the
24 neighbor, there would be no question of what I
25 did. It's all exempt. It's exempt.

1 It makes it clear you can do this. So,
2 I did it without a permit. They all watched me
3 do it, and they watched me clean up that mess
4 down to the grass to try to replant it. I did
5 this trying to follow the codes. We had a
6 contract, you might say. He said, "Okay, do
7 this, get rid of all the dirt (indiscernible)
8 final elevations." That's what I did.

9 Everything else didn't require a
10 permit. So, I'm not here asking permission and
11 now you're saying I needed permission and there's
12 some sort of unseen requirement that's in some
13 other code? Because 756-7 is the application for
14 this permit. You can't say that these exemptions
15 don't apply. You know what? If you want to
16 clarify it, you need to clarify it because the
17 language is why we're in this argument.

18 And we all went around in circles,
19 "land disturbing activity, land disturbing
20 activity". That's for the (indiscernible). It's
21 also in the (indiscernible). It's also in the
22 other (indiscernible). So, this is the problem.
23 It's not written clearly. And, you know, Scott,
24 both Scotts (indiscernible) tried to make sense
25 of this, but they're just trying to do their job.

1 But you have to have some logic here. It's not -
2 - it just doesn't make any sense.

3 VILLAGE ATTORNEY ERIC LARSON: So, I
4 think we can close our argument unless -- yeah,
5 unless we want a summation, or I know there was a
6 suggestion for a briefing. I don't know if we
7 want to pursue that.

8 BOARD MEMBER MARK GRADY: I think if
9 there was an attorney here for the applicant,
10 that might be different. But I hesitate to ask
11 the applicant to write a brief. I think he's
12 done what you would expect his attorney to do.

13 BOARD MEMBER ADAM BAZELON: Yeah.
14 Well, what I have in mind is that -- I mean,
15 Scott's more or less done it. But I think
16 there's still a lot of clutter in there, like
17 about the emails back and forth. I'd like to
18 see, "Here's the code sections that are
19 applicable. Here's how I interpret them and
20 here's the facts that make it applicable."

21 Like bullet points, like, one page.
22 And then, Mr. -- how do you pronounce your last
23 name?

24 RALPH BENCRISCUTTO: Bencriscutto.

25 BOARD MEMBER ADAM BAZELON: You get his

1 brief, and you respond to it, and you say, "He's
2 wrong on Point 1 and here's why, legally and
3 factually. He's wrong on Point 2. Here's why
4 legally and factually." Now, we give Scott a
5 week to give us that and then you will wait to
6 write it back and then we call a special meeting
7 because I am -- I cannot make a decision and I
8 believe you're entitled to a fair shake.

9 And I tried to be prepared to come here
10 and I was, to the best of my ability, I think.
11 But I'm not prepared to make a decision. So, at
12 this point, unless someone convinces me, I'd
13 probably abstain from a motion on the merits
14 because I don't think I'd be giving the applicant
15 a fair shake at this point.

16 RALPH BENCRISCUTTO: Can I offer a
17 compromise?

18 BOARD MEMBER MARK GRADY: Sorry?

19 RALPH BENCRISCUTTO: Can I offer a
20 compromise? Considering the before and after has
21 already been done. I already did the plan review
22 and the drainage from it (indiscernible) it's all
23 gone. If you just want me to get the permit, but
24 I don't go through all the other stuff, I would
25 be happy to just pay for the permit to settle.

1 It's only \$400, but I'm not going to
2 post a \$5,000 cash bond and -- because I've got
3 the plans, and it's already finished. So, it
4 isn't like you have to check it. The elevations
5 have been shown. I'm not affecting the drainage.

6 BOARD MEMBER ADAM BAZELON: Here's how
7 I view that. I don't think we have, as a
8 decision-making body, I don't think we can say,
9 "We're going to settle it this way." I think we
10 can say, "We'll handle this briefing." You two
11 can make friends in the meantime and if you
12 resolve it, you could say, "I withdraw my
13 application", and you don't need to decide it and
14 you could go on with your lives.

15 BOARD MEMBER MARK GRADY: And I think
16 it's clear Mr. Brandmeier's already said that he
17 needs more. He needs a -- I don't know what he
18 called it, but a drainage analysis, for lack of a
19 better word, a water drainage analysis that
20 (indiscernible). And this has gone on -- I mean,
21 they can do whatever they do. I agree with you,
22 we're not here to resolve compromises.

23 On your briefing suggestion, I
24 personally don't think we're going to get
25 anything more than we've got. Mr. Brandmeier did

1 a four or five-page summary, if you will, of the
2 situation. The applicant did a one or two-page
3 appeal of his situation. They've obviously
4 talked about it, at length, here. I personally
5 don't think we're going to get more out of
6 additional writings.

7 I do think we could give some
8 preliminary thoughts to our attorney who could
9 try to formulate a draft document that we could
10 then look at in terms of a determination, and
11 then modify, as needed, maybe in a closed
12 session. I don't know, but not tonight, but in
13 the future. I don't know. That's just my
14 position. We can get advice from counsel,
15 obviously, on what the best --

16 VILLAGE ATTORNEY ERIC LARSON: So, just
17 to summarize the status of where I think we are,
18 to your point, I think 756-7 is the heart of the
19 issue. Do they have to do that drainage plan or
20 not? The drainage plan is quite specific and
21 that's his concern is that it's going to be quite
22 costly and time-consuming to do that. We don't
23 know until we have that, whether the fill permit
24 is even required.

25 We're referencing the fill permit may

1 be required, but we're not -- what I heard is
2 that the Village is not saying they have to do
3 that, necessarily, till we see that drainage
4 plan. And 285, the erosion control permit, I've
5 heard both sides say it's moot, it's done. So, I
6 think the only issue is 756-7. Do they -- is the
7 Village fairly requiring the applicant here to do
8 that drainage plan?

9 BOARD MEMBER MARK GRADY: The only
10 caveat I would add is, whether we want to do this
11 is not a question. But I think the Village is
12 looking to us, and perhaps the applicant as well,
13 if they get to the fill permit, does it include
14 the driveway and patio, the fill under the
15 driveway and patio? And that's, sort of, an
16 advisory opinion and maybe you don't want us to
17 do that.

18 But it would save them time, if they
19 get to that process. That's the only caveat on
20 272.

21 RALPH BENCRISCUTTO: You've got to
22 remember, I already submitted the permitted plans
23 and (indiscernible) the permit (indiscernible).
24 We executed that plan, and as agreed, we moved
25 the dirt and gave final elevations. This was the

1 requirement for our building permit.

2 BOARD MEMBER MARK GRADY: I understand
3 you submitted an additional drawing that said
4 over 4,000 square feet of land disturbing
5 activities. You submitted a revised one to say
6 2,100 square feet of land disturbing activities.
7 And essentially, what Mr. Brandmeier and the
8 Village are saying is that you didn't live up to
9 that plan of 2,100 square feet, you've now
10 disturbed over 4,000 square feet. You disagree.
11 I get that.

12 RALPH BENCRISCUTTO: I (indiscernible)
13 disagree with the fact that (indiscernible)
14 control permit plan was accurate, and we did it
15 exactly like it was supposed to be done. Even
16 though we disturbed more area, the minimum was
17 8,000 feet, which he's acknowledging. The only
18 thing we're disputing is, do I need a fill permit
19 for grading, when I've already done my drainage
20 plan?

21 I can't change the drainage plan. I've
22 already submitted it. I've already finished the
23 job. I'm not going to change the drainage plan.
24 The argument is, do I need a fill permit now, for
25 what we put underneath the driveway, or if we put

1 some dirt in the planters? And (indiscernible)
2 logic on that, even if you add it all up, it's
3 still under 4,000 square feet, not cubic yards.
4 That's not relative. It's square feet. Why?
5 Because it affects the topography of the lot.

6 So, if you go into (indiscernible) my
7 planter along the side of the building and say
8 it's affecting the drainage of the lot.
9 Impossible. I'm an engineer. It doesn't --
10 there's no more water or less and it's not
11 (indiscernible). It's going down through the
12 rocks where it was supposed to go before.

13 BOARD MEMBER ADAM BAZELON: But Mr.
14 Brandmeier said you haven't done a drainage plan
15 because you haven't done the 100-year something,
16 right?

17 RALPH BENCRISCUTTO: We had to have the
18 drainage plan for the erosion permit.

19 BOARD MEMBER ADAM BAZELON: Okay, so
20 then what requires the additional 100-year --

21 RALPH BENCRISCUTTO: Grading is not
22 changing the topography.

23 BOARD MEMBER ADAM BAZELON: Correct.

24 RALPH BENCRISCUTTO: So, let's say I
25 wanted to add -- let's say the lot was

1 (indiscernible) a whole bunch of (indiscernible).
2 It's not changing the way it flows.
3 (indiscernible) careful so I don't go into the
4 neighbor's yard or whatever. I mean, I get that.
5 It makes sense.

6 VILLAGE ATTORNEY ERIC LARSON: So --

7 RALPH BENCRISCUTTO: But I can't grade
8 that lot.

9 VILLAGE ATTORNEY ERIC LARSON: Did you
10 provide, in your plan, flows off the property in
11 the 210 and 100-year storm events?

12 RALPH BENCRISCUTTO: That's not
13 required for the erosion permit because I'm not
14 changing the topography. The erosion permit is
15 (indiscernible)

16 VILLAGE ATTORNEY ERIC LARSON: I -- I'm
17 just asking, did you or did you not do that?

18 RALPH BENCRISCUTTO: No, because we
19 didn't grade it.

20 VILLAGE ATTORNEY ERIC LARSON: Okay.

21 RALPH BENCRISCUTTO: This whole
22 argument is, do I need a grading permit when I'm
23 not going to grade anything?

24 BOARD MEMBER MARK GRADY: So, Mr.
25 Brandmeier, let's assume he submitted the 210 and

1 100-year plans and the drainage, etc. and let's
2 say you don't like the way (indiscernible) built.
3 What other kind of possibilities? And I'm not
4 (indiscernible). So, as an example, would you
5 possibly have him grade the lot to create swales
6 and lower levels that are sort of in the middle
7 of the yard that run towards Dean Road, for
8 example?

9 DIRECTOR OF PUBLIC WORKS SCOTT

10 BRANDMEIER: Yes.

11 BOARD MEMBER MARK GRADY: Is that the
12 kind of thing you would do?

13 DIRECTOR OF PUBLIC WORKS SCOTT

14 BRANDMEIER: Yes. So, that is correct. We
15 evaluate that when the -- when an applicant
16 submits that grading and drainage analysis of
17 pre- and post-development flows, there are what's
18 called (indiscernible)

19 BOARD MEMBER MARK GRADY: I just want -
20 - I really don't need --

21 DIRECTOR OF PUBLIC WORKS SCOTT

22 BRANDMEIER: Okay.

23 BOARD MEMBER MARK GRADY: -- why. I
24 just wanted --

25 DIRECTOR OF PUBLIC WORKS SCOTT

1 BRANDMEIER: Yes.

2 BOARD MEMBER MARK GRADY: That's the
3 kind of thing. It wouldn't necessarily be what
4 you would do. I'm just saying that's the kind of
5 thing you've done on other properties?

6 DIRECTOR OF PUBLIC WORKS SCOTT

7 BRANDMEIER: Yes.

8 RALPH BENCRISCUTTO: But I would have
9 to change the grade to (indiscernible)

10 BOARD MEMBER MARK GRADY: Yes, you
11 would.

12 RALPH BENCRISCUTTO: But I'm not
13 changing the grade. It's the way it was. That's
14 -- I had to (indiscernible) once.

15 BOARD MEMBER ADAM BAZELON: Does
16 someone want to make a motion?

17 RALPH BENCRISCUTTO: I agree. I don't
18 see how you can come up with any other
19 conclusions. We're arguing (indiscernible). I
20 think the whole problem is -- this whole argument
21 is semantics of 756-7 when it said, "land
22 disturbing activities" instead of saying,
23 "grading and filling activities". And that's
24 because they used the same definition
25 (indiscernible)

1 BOARD MEMBER ADAM BAZELON: I mean, I
2 think -- I think --

3 RALPH BENCRISCUTTO: (indiscernible)

4 VILLAGE MANAGER SCOTT BOTCHER:
5 (indiscernible)

6 BOARD MEMBER ADAM BAZELON: Go ahead.
7 Final word.

8 VILLAGE MANAGER SCOTT BOTCHER: This,
9 to me, is really silly. This really isn't that
10 hard, I don't think. He's going to need a fill
11 permit. He said he's disturbed more than 4,000
12 square feet. 756-7 here applies.
13 (indiscernible) done. That's not a question.
14 This is not a question.

15 We'll go round and round for two hours
16 in circles on 4,000 -- it doesn't matter. He's
17 admitted he (indiscernible) and he's going to
18 need a fill permit. It's done.

19 BOARD MEMBER ADAM BAZELON: He hasn't
20 admitted that, though. You haven't -- have you
21 admitted that?

22 RALPH BENCRISCUTTO: This --

23 BOARD MEMBER MARK GRADY: Wait, wait,
24 wait. I think we've heard enough from everybody.

25 VILLAGE MANAGER SCOTT BOTCHER:

1 (indiscernible)

2 BOARD MEMBER MARK GRADY: I really --
3 for me, we've heard enough from everybody. I
4 move to close the testimony.

5 VILLAGE CLERK TREASURER SARA BRUCKMAN:
6 Testimony is closed at 7:17.

7 BOARD MEMBER MARK GRADY: Well, wait a
8 minute. I don't know if everybody else agrees
9 with me or not.

10 BOARD MEMBER SCOTT RATKE: I'll second
11 it.

12 VILLAGE ATTORNEY ERIC LARSON: I'll
13 second it. So, you can just take --

14 CHAIR NANCY FILSINGER: Unanimous
15 consent? You had unanimous consent to close
16 testimony?

17 VILLAGE ATTORNEY ERIC LARSON: Yes.

18 CHAIR NANCY FILSINGER: All right.

19 BOARD MEMBER MARK GRADY: Yes.

20 VILLAGE CLERK TREASURER SARA BRUCKMAN:
21 All right. Testimony is closed at 7:17.

22 VILLAGE ATTORNEY ERIC LARSON: How do
23 you want to proceed?

24 BOARD MEMBER ADAM BAZELON: I would
25 propose my briefing schedule, but I don't think

1 there'd be a majority that agree.

2 CHAIR NANCY FILSINGER: Does anyone?

3 BOARD MEMBER ADAM BAZELON: Somebody
4 has to make it on the merits.

5 BOARD MEMBER SCOTT RATKE: I feel like
6 everything's been presented to us at this point.

7 CHAIR NANCY FILSINGER: Yeah. Does
8 anyone --

9 BOARD MEMBER SCOTT RATKE:
10 (indiscernible) clear way.

11 BOARD MEMBER MARK GRADY: We can, but
12 it's not noticed for closed session.

13 CHAIR NANCY FILSINGER: It's what?

14 BOARD MEMBER MARK GRADY: It's not
15 noticed for closed session.

16 CHAIR NANCY FILSINGER: Does anyone --
17 are you ready to make a motion?

18 BOARD MEMBER MARK GRADY: It should
19 always (indiscernible) closed session.

20 BOARD MEMBER ADAM BAZELON: I am.

21 CHAIR NANCY FILSINGER: Okay.

22 BOARD MEMBER MARK GRADY:
23 (indiscernible) I don't know how detailed a
24 motion you want. Fundamentally, my motion would
25 be to deny the appeal for the reasoning and

1 justification to help our attorney draft a
2 decision. But that's fundamentally the motion.

3 BOARD MEMBER ADAM BAZELON: What's the
4 basis of the denial?

5 BOARD MEMBER MARK GRADY: You get a
6 second person?

7 VILLAGE ATTORNEY ERIC LARSON: Sure.
8 Is there a second?

9 BOARD MEMBER SCOTT RATKE: If you'd
10 repeat it, just one more time.

11 BOARD MEMBER MARK GRADY: It's to deny
12 the appeal. He's appealing their decision.

13 CHAIR NANCY FILSINGER: We're denying -
14 -

15 BOARD MEMBER MARK GRADY: My motion is
16 to deny the appeal and their decision stands.

17 BOARD MEMBER SCOTT RATKE: I'd have to
18 second that. Is that further with the opinion
19 from the attorney?

20 BOARD MEMBER MARK GRADY: Well, yeah,
21 we'll get to it.

22 VILLAGE ATTORNEY ERIC LARSON: So, I'm
23 happy to write something up for you for your
24 consideration to support that decision. And we
25 can go into closed session to talk about it. And

1 I can tell you that I'm envisioning, based on the
2 discussion, that determination would be that the
3 grading plan of 756-7 is required because under
4 757-E(1)(a)(5), it's required when the Village,
5 in particular cases, determine -- has concerns
6 arising in the application.

7 For nothing -- no other reason, the
8 Village Director of Public Works has said that he
9 has some particular concerns. And so, he wants
10 this plan that's required for the building
11 permit. There are other subsections here that
12 seem to apply, as well. But I don't know that we
13 need to dwell on them because we have this catch-
14 all.

15 BOARD MEMBER MARK GRADY: Well, I agree
16 with what you said. I would say that there are
17 alternate grounds, which is the 756-7(1)(a)(2),
18 which is the land disturbing activity over 4,000
19 square feet. And I would address the applicant's
20 arguments, as best as I understand them, by
21 saying that I believe these requirements of 756
22 are independent of and completely separate from
23 anything contained in 272.

24 I don't see -- or in 285. I see these
25 as, if you will, three separate silos, three

1 separate requirements and whether a fill permit
2 is required or not, has nothing to do with
3 whether a drainage permit is required for land
4 disturbing activities over 4,000 square feet
5 (indiscernible). Whether an erosion permit is
6 required for 8,000 square feet of disturbing
7 activities is a separate thing from whether a
8 drainage permit or a fill permit is required.

9 And I see them as separate. I
10 understand, on a contractor's perspective, why a
11 person might see these as all interrelated and I
12 think in the -- out on the piece of property,
13 they are, I'll just say, physically interrelated,
14 but they are three separate requirements under
15 the code, and I see them as separate.

16 So, I think you can't take the
17 exceptions for driveways and patios and planters,
18 et cetera from 272 and put them into 756-
19 7(1)(a)(4), or excuse me, (1)(a)(2). So, I just
20 see them as separate.

21 VILLAGE ATTORNEY ERIC LARSON: Thank
22 you.

23 RALPH BENCRISCUTTO: How could it be
24 separate? That's the application for 272
25 (indiscernible)

1 VILLAGE ATTORNEY ERIC LARSON: Your
2 time is done. (indiscernible)

3 BOARD MEMBER ADAM BAZELON: And I'll
4 just say, I understand what you're saying, but
5 Section 272 is addressed in that subsection. So,
6 what you're saying makes sense to me, but from my
7 perspective, it requires more study and more
8 analysis and I'm not ready to concede that the
9 applicant is wrong because there does seem to
10 potentially be some incorporation.

11 I'm not saying I'm right, but I'm just
12 saying I am not to where you are.

13 BOARD MEMBER MARK GRADY: But, and
14 just, so where are you seeing the incorporation
15 part? Is it subsection --

16 BOARD MEMBER ADAM BAZELON: Well, I'm
17 not saying I do see the incorporation.

18 BOARD MEMBER MARK GRADY: Well, I mean
19 --

20 BOARD MEMBER ADAM BAZELON: I'm just
21 saying, I think --

22 BOARD MEMBER MARK GRADY: The
23 possibility of incorporation.

24 BOARD MEMBER ADAM BAZELON: Right,
25 because -- right. Two subsections below, it

1 references 272. So, to me that shows, if I sat
2 down and poured over these statutes, I may come
3 to that conclusion that there is some
4 incorporation, and one may be the general and
5 this is the specific. That may be completely
6 wrong.

7 I'm just saying, as I sit here tonight,
8 I am not prepared to vote to say that the
9 applicant is wrong on that. And I'm also not
10 prepared to say he's right. I'm just -- I am not
11 prepared to make a decision.

12 BOARD MEMBER MARK GRADY: So, I would
13 just say, in response to that, I agree, obviously
14 272 is incorporated in Subsection 4. But I see
15 that as completely independent on whether 272 has
16 anything to do with Subsection --

17 BOARD MEMBER ADAM BAZELON: Right.
18 Just so some interrelation between the two
19 sections. That's all. And there may be more,
20 there may not be.

21 VILLAGE ATTORNEY ERIC LARSON: Well,
22 given that you're going to ask me to write it
23 out, do you want to table your motion until you
24 have an opportunity to see it in writing at your
25 next meeting, and then make the final decision

1 then?

2 BOARD MEMBER SCOTT RATKE: In two
3 months we would do it, as a special meeting?

4 VILLAGE ATTORNEY ERIC LARSON: Well,
5 you may want to do a special meeting, yeah.

6 CHAIR NANCY FILSINGER:
7 (indiscernible), so I would say we should add a
8 special meeting.

9 VILLAGE ATTORNEY ERIC LARSON:
10 (indiscernible) two weeks from today though.
11 Yeah, I can't do it that day unless we do it
12 earlier, if we did it at --

13 BOARD MEMBER SCOTT RATKE: What day are
14 you looking at?

15 VILLAGE ATTORNEY ERIC LARSON: 4
16 o'clock. I could do (indiscernible)

17 CHAIR NANCY FILSINGER: The 9th?

18 VILLAGE ATTORNEY ERIC LARSON: The 9th.

19 CHAIR NANCY FILSINGER: Are you talking
20 about --

21 VILLAGE ATTORNEY ERIC LARSON: On the
22 9th. Otherwise, the 10th, I can do 5 o'clock.

23 BOARD MEMBER THOMAS DUNST: I cannot do
24 it at 6.

25 CHAIR NANCY FILSINGER: Can you do the

1 9th at --

2 BOARD MEMBER THOMAS DUNST:

3 (indiscernible)

4 BOARD MEMBER SCOTT RATKE: I couldn't
5 hear (indiscernible)

6 CHAIR NANCY FILSINGER: The 9th, at 4.
7 Adam?

8 BOARD MEMBER ADAM BAZELON: The 9th at
9 4? Sure. I would also invite post-hearing
10 briefing due within a week.

11 BOARD MEMBER MARK GRADY: I have no
12 objection. I guess the way I would put it is, if
13 the applicant wants to submit something, I
14 wouldn't require that he do.

15 BOARD MEMBER ADAM BAZELON: Yeah.

16 BOARD MEMBER MARK GRADY: If they want
17 to submit something more in writing in the next
18 week, feel free to do it. If you feel like
19 you've submitted everything, either in writing or
20 verbally, if you want a say, then you don't have
21 to. It's up to you.

22 RALPH BENCRISCUTTO: I think we should
23 submit, because it's a legal argument.
24 (indiscernible)

25 BOARD MEMBER MARK GRADY: Yeah. Well,

1 it's up to you. You have the opportunity if you
2 want to submit something. Within a week. Is
3 that okay with everybody?

4 CHAIR NANCY FILSINGER: It is.
5 (indiscernible)

6 VILLAGE ATTORNEY ERIC LARSON: So,
7 submit it to the Clerk if you care to. It's due
8 a week from today and (indiscernible) distribute
9 it when she gets it.

10 BOARD MEMBER MARK GRADY: And we will -
11 -

12 VILLAGE ATTORNEY ERIC LARSON:
13 (indiscernible)

14 BOARD MEMBER MARK GRADY: I tend to put
15 on the agenda the possibility of a closed
16 session.

17 VILLAGE CLERK TREASURER SARA BRUCKMAN:
18 I just need a new motion to table it, then.

19 BOARD MEMBER MARK GRADY: Oh. Well,
20 I'd move to table --

21 BOARD MEMBER THOMAS DUNST: I'll move
22 to table.

23 VILLAGE CLERK TREASURER SARA BRUCKMAN:
24 Okay.

25 BOARD MEMBER SCOTT RATKE: I'll second

1 it.

2 VILLAGE ATTORNEY ERIC LARSON: All
3 those in favor?

4 (All respond "aye")

5 VILLAGE ATTORNEY ERIC LARSON: So,
6 October 9th at 4 p.m.

7 VILLAGE CLERK TREASURER SARA BRUCKMAN:
8 October 9th at 4 p.m.

9 BOARD MEMBER THOMAS DUNST: We're
10 admitting (indiscernible)

11 VILLAGE ATTORNEY ERIC LARSON: Yeah.

12 CHAIR NANCY FILSINGER: Motion to
13 adjourn?

14 BOARD MEMBER THOMAS DUNST: Move to
15 adjourn.

16 BOARD MEMBER ADAM BAZELON: I second
17 it.

18 VILLAGE CLERK TREASURER SARA BRUCKMAN:
19 All those in favor?

20 (All respond "Aye")

21 VILLAGE CLERK TREASURER SARA BRUCKMAN:
22 Opposed? We're adjourned at 7:28.

23 BOARD MEMBER ADAM BAZELON: These are
24 your drawings. (indiscernible)

25 (indiscernible)

1 RALPH BENCRISCUTTO: You can have those
2 (indiscernible)

3 BOARD MEMBER ADAM BAZELON: Oh, okay.

4 BOARD MEMBER MARK GRADY: They're in
5 your packet, too.

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the
foregoing transcript is a true and accurate
record of the proceedings.

Sonya M. Ledanski Hyde

Veritext Legal Solutions
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140:21 village's 6:6 9:21 virgin 95:1 96:1 vote 136:8 votes 5:19	127:19 128:16 130:23 131:24 136:23 137:5 138:16,20 139:2 wanted 15:4 54:24 65:8 93:11 125:25 127:24 wants 93:4,8 117:19 133:9 138:13 watched 118:2 118:3 water 15:7 28:4 32:5 34:8 66:15,18 67:3 67:11 68:18 69:18,19 75:6 75:8 84:19 105:21 107:20 108:19 109:1 116:6 121:19 125:10 way 8:7 37:19 58:3 74:21 78:25 84:9 89:5 95:12 101:15 104:14 108:6 109:24 121:9 126:2 127:2 128:13 131:10 138:12 we've 11:15 26:22 28:2	49:16 66:17 104:23 121:25 129:24 130:3 week 120:5 138:10,18 139:2,8 weeks 137:10 went 13:5 21:3 33:24 41:25 63:11 118:18 west 26:1 32:2 58:12 59:18 60:25 67:17 69:8 109:19,20 wet 51:8 whichever 24:2 wide 68:3 73:14 107:4 wider 71:19,21 willing 6:9 windows 58:2 winter 33:13 wisconsin 1:11 10:21,25 withdraw 121:12 witnesses 9:15 wonder 66:4 wondering 28:3 100:17 word 121:19 129:7 words 6:5 work 25:16,19 25:22 27:21	53:22 108:15 worked 97:10 works 2:1,5 10:22 11:7,19 11:24 12:7,14 12:22 13:4,7 13:22 14:1 19:10,25 21:15 22:3,19,24 23:6,11 24:5,9 24:19,24 25:4 25:10,17,21 26:11 27:22 28:1,16,21 30:7,12 31:1,4 52:3,8,13,17,22 53:2,6,14 54:8 54:19 60:7,11 62:1,9 63:8 73:12,22 75:23 76:1,24 77:18 77:23 79:24 80:4,14 81:11 81:22 82:6,12 82:16,24 83:10 84:1,12,16 91:2,23 93:20 96:21,25 97:4 97:7,13,19 98:2,6,10,13,17 98:21,24 99:24 100:4,8,18,25 101:5 102:17 103:4 104:6,21 110:4 112:1,12
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**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JANUARY 22, 2025**

A meeting of the Fox Point Board of Appeals was held in Schwemer Hall, 7200 N. Santa Monica Blvd., on Wednesday, January 22, 2025 at 5:00 p.m.

Chair Nancy Filsinger called the meeting to order at 5:00 p.m. The Village Attorney took roll call.

Those present included:

Nancy Filsinger, Chair
Thomas Dunst, Board Member
Scott Ratke, Board Member
Adam Bazelon, Board Member
Julianna Javor, Alternate Board Member

Staff members also present were Attorney Eric Larson, Building Inspector Michael Rakow, and Assistant Village Manager Kevin Ausman (via Zoom).

Approval of Minutes September 25, 2024 Meeting and the Findings of Fact, Decision and Order

Roll call vote:

Nancy Filsinger, Chair	Aye
Thomas Dunst, Board Member	Aye
Scott Ratke, Board Member	Aye
Adam Bazelon, Board Member	Aye
Julianna Javor, Alternate Board Member	Aye

Motion by Board Member Bazelon and seconded by Board Member Dunst to table the item until the next meeting. ***Motion carried 5-0.***

Approval of Minutes October 9, 2024 Special Meeting and the Findings of Fact, Decision and Order.

Roll call vote:

Nancy Filsinger, Chair	Aye
Thomas Dunst, Board Member	Aye
Scott Ratke, Board Member	Aye
Adam Bazelon, Board Member	Aye
Julianna Javor, Alternate Board Member	Aye

Motion by Board Member Bazelon and seconded by Board Member to approve the minutes of October 9, 2024 subject to correction of votes which include Member Adam Bazelon. ***Motion carried 5-0.***

**VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JANUARY 22, 2025**

CASE 2025-01: 1130 E Dean Road.

The applicant is requesting a special exception to install 6ft tall fencing within the street yard setback. The special exception request is made pursuant to 745-7 B.(3)(h)[2] and 745-7 B.(3)(j) of the Fox Point Code.

Motion by Bazelon, second by Filsinger to allow the fence installation contractor to present testimony on behalf of the property owner.

Under discussion, motion to amend by Dunst, second by Filsinger to ask the property owner via telephone to authorize the fence installation contractor to present testimony on their behalf. ***Amendment failed 2-2; Bazelon and Dunst dissenting, and Filsinger abstains.***

A vote was held on the main motion by Bazelon, second by Filsinger to allow the fence installation contractor to present testimony on behalf of the property owner. ***Motion carried 5-0.***

Village of Fox Point Building Inspector Michael Rakow

Building Inspector Michael Rakow stated his name and was sworn in to provide testimony by the Village Attorney. Rakow corrected the record to reflect that the fence is 4ft tall. Rakow described the proposed fence located in the street yard.

Applicant Steve Fouhal represented by Jeffery Jarozewski, Jeff the Fence Guy LLC.

Applicant Representative was sworn in to provide testimony by the Village Attorney. Jarozewski stated under oath that he is authorized to present testimony on behalf of the property owner. Jarozewski described the fence to be located along the front property line, set back 6", and is intended for both a symbolic religious enclosure, and to keep out deer.

Closing of Testimony: Case 2025-01

Without objection and by unanimous consent, Chair Nancy Filsinger closed testimony for Case 2025-01 at 5:52 PM.

The Board discussed standards for a special exception. Deer are not a danger and financial hardship is not a standard for granting an exception. As stated by the fence representative, the religious enclosure request could instead be met by a wire and not necessarily by a fence.

Motion by Board Member Bazelon, seconded by Board Member Dunst, to deny the request as the standards for special exception have not been met.

VILLAGE OF FOX POINT
BOARD OF APPEALS MEETING
MINUTES AND DETERMINATION
WEDNESDAY, JANUARY 22, 2025

Roll call vote:

Nancy Filsinger, Chair	Aye
Thomas Dunst, Board Member	Aye
Scott Ratke, Board Member	Aye
Adam Bazelon, Board Member	Aye
Julianna Javor, Alternate Board Member	Aye

Motion is carried 5-0. The request is denied.

Adjourn

Motion by Board member Bazelon, second by Board member Dunst to adjourn.
The motion carried 5-0. Meeting adjourned at 5:55 PM.

Respectfully Submitted,

Kevin Ausman
Assistant Village Manager



VILLAGE OF FOX POINT
MILWAUKEE COUNTY
WISCONSIN

BOARD OF APPEALS
APPLICATION

VILLAGE HALL
7200 N. SANTA MONICA BLVD. FOX
POINT WI 53217-3505
414-351-8900
FAX 414-351-8909

1. Name of Appellant TOM ZUKOWSKI Address of Appellant 7160 N. BARNETT LANE
Phone Number 414-416-6244 11
E-mail Address THZUKOWSKI@GMAIL.COM Home Work Cell
2. Address of Property 7160 N. BARNETT LANE
Present Use of Property RESIDENCE Proposed Use of Property _____
Owner's Name and Address if Different than Above _____
3. Has a Previous Appeal or Application Been Made to the Board of Appeals with Respect to This Property?
Yes ☐ No ☒ If Yes, State the Nature of Previous Appeal or Application _____
Disposition of Previous Appeal _____
Date of Decision in Previous Case _____
4. Date of Decision or Order of Administrative Official from which Appeal is Taken _____
Date of Notice of Such Decision Received by Appellant _____
5. Purpose of Grounds of Appeal or Application. Check Below the Relief Requested by This Appeal or Application:
☐ A. "Appeal Administrative Decision." Request for interpretation of Zoning Code and reversal of order, requirement, decision or determination of administrative official.
1. I have read and I understand Attachment A: Yes ☐
2. I have fully answered the questions in Attachment A and have attached additional explanations as necessary. Yes ☐
☐ B. "Request Variance." State Law Empowers the Board of Appeals to Grant a Variance to the Otherwise Applicable Requirements of the Zoning Code in Limited Circumstances.
1. I have read and I understand Attachment B: Yes ☐
2. I have fully answered the questions in Attachment B and have attached additional explanations as necessary. Yes ☐
☒ C. "Request Special Exception." The Village Code Specifies Situations When a Special Exception May be Granted.
1. I have read and I understand Attachment C: Yes ☒
2. I have fully answered the questions in Attachment C and have attached additional explanations as necessary. Yes ☒
6. Each application must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties, and improvements thereon, and the requested change or addition. A \$200 filing fee must also accompany this application.

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief. I also hereby swear and acknowledge that I have read this application and all attachments in its entirety, including the standards applicable to my application.

Jo P. Ol
Signature of Appellant

APRIL 23, 2025
Date

For Office Use Only:

Application, and related Attachment, is Fully and Properly Completed with attachments Yes / No (If "No" reject the application and await a completed application.)

Date Application Received 4/23/25 Receipt Number for \$200 Filing Fee 61356

Case Number 2025-02 Hearing Date 5/28/25

Disposition _____

Attachment C ✓

Standards of Review for Special Exceptions

The Village of Fox Point Village Code allows special exceptions to be granted for certain accessory structures. Applicable provisions include the following:

Structure on Corner/Irregularly Shaped Lot. (Village Code Section 745-7(B)(3)(h)[1]).

In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance with Subsection B(3)(j) herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to balance the interests of the applicant with the interests of the surrounding property owners.

Structure Forward of Front Lot Line. (Village Code Section 745-7(B)(3)(h)[2]).

*No new fence, wall, architectural screening device, driveway gate or arbor shall be located beyond the front line of the principal building unless permitted by the Board of Appeals by special exception after a hearing, pursuant to the procedures described in Subsection B(3)(j) below. The Board of Appeals may grant a special exception under this subsection only if it finds that the fence, wall, architectural screening device, arbor or driveway gate is **reasonably necessary to protect the safety of people residing on the property**, in addition to the additional findings and conditions required by Subsection B(3)(j) below. Every special exception granted by the Board of Appeals for a driveway gate shall be conditioned upon the applicant filing with the Village Clerk/Treasurer the written approval of the Village Police Chief in consultation with the Fire Chief for the specific driveway gate and gate location that is proposed; and if such approval is denied, the special exception is thereby denied.*

Special Exceptions Generally. (Village Code Section 745-7(B)(3)(j)).

*A special exception to the height, size, material, design, setback or other physical standards set forth in this subsection or to allow a driveway gate may, upon filing a written application, be considered by the Board of Appeals after a hearing. The application must include an accurate visual rendering of the proposed wall, architectural screening device, driveway gate or arbor, along with a written statement outlining the applicant's need for the same. Notice of hearing shall be given to all property owners within a radius of 500 feet of the property upon which the fence, wall, architectural screening device, driveway gate or arbor is proposed to be constructed and the notice shall include the visual rendering submitted by the applicant. The Board of Appeals may grant the request for a special exception upon **finding that the property owner has shown clear and convincing evidence to believe that the applicant has a legitimate need for the special exception and that granting the special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the purpose, spirit and intent of this section, in addition to such other specific findings as may be required by other subsections of this section**. Every special exception granted by the Board of Appeals shall be conditioned upon the applicant submitting the visual rendering to the Village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction materials for the proposed fence, wall, architectural screening device, arbor or driveway gate, taking into consideration the existing development on the lot and in the surrounding neighborhood, and if the Building Board denies the application, the special exception is thereby denied.*

Applicant to Complete the following: Describe the reasons why you believe your situation qualifies for a special exception, based on these applicable ordinances (attach additional sheets as necessary):

WE ARE PROPOSING A DECORATIVE 3½' HIGH SPACED PILLMET FENCE
PAINTED WHITE. IT IS FOR DECORATIVE PURPOSES TO DEFINE
THE CORNERS OF THE DRIVEWAY. EVEN THOUGH ITS OUR FRONT
YARD, THE HOUSE TO OUR WEST ITS THEIR BACKYARD! THATS
WHY WE FEEL IT DESERVES A SPECIAL EXCEPTION.

Services Offered
 Commercial Site Development
 Subdivision Design and Platting
 Planning and Plan Review
 Streets and Highway Design
 Drainage Studies
 Water Distribution Systems
 Sewer Collection Systems
 Construction Surveying and Stake-out Services
 GPS Surveying
 Certified Soil Testing



Nienow Engineering Assoc.
 Consulting Engineers and Surveyors
 5555 N. Port Washington Road
 Milwaukee, WI 53217
 (414) 963-4022 Fax (414) 963-4028

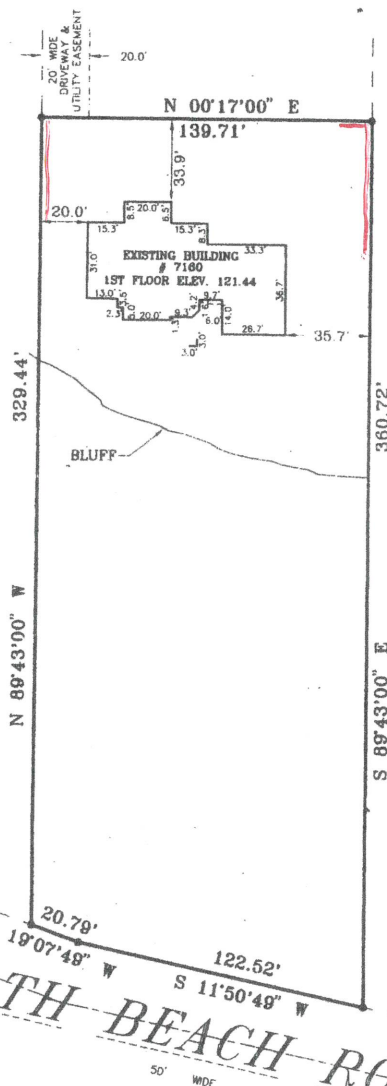
PLAT OF SURVEY

PROJ. NO. 962744
 962744R1

PREPARED FOR: MICHAEL BEST & FRIEDRICH

PARCEL 4 OF CERTIFIED SURVEY MAP NO. 4255,
 BEING A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 16 AND OF THE
 SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16 AND THE NORTHWEST 1/4 OF THE NORTHEAST FRACTIONAL
 1/4 OF SECTION 21 AND OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 21, ALL IN TOWN 8 NORTH,
 RANGE 22 EAST, IN THE VILLAGE OF FOX POINT, MILWAUKEE COUNTY, WISCONSIN.

BENCHMARK
 FOX POINT FIRE HYDRANT #56
 ON W. SIDE OFF BARNETT LANE
 E. FLANGE BOLT ELEV. -118.74



3 1/2' HIGH SPACED PILING

• - DENOTES IRON PIPE - FOUND



SCALE 1" = 50'

NORTH BEACH ROAD
 50' WIDE

STATE OF WISCONSIN)
 MILWAUKEE COUNTY)

I hereby certify that I have surveyed the above described property and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location of all visible structures and dimensions of all principal buildings thereon, boundary fences, apparent easements, roadway and visible encroachments, if any.

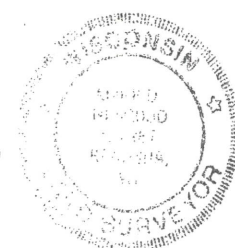
This survey is made for the present owners of the property, and also those who purchase, mortgage, or guarantee, the title thereto within (1) year from date hereof.

Dated at MILWAUKEE, WI this 29TH day of JULY 19 96

Recertified _____

Surveyor

Michael Best & Friedrich



CHKD: D.S.



VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-351-8900

Receipt No: 1.061356

Apr 23, 2025

7160 N BARNETT LN

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	200.00
10-44540 OTHER PERMIT	

Total:	200.00
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CHECK	Check No: 1230	200.00
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Payor: SUBURBAN FENCE

Total Applied:	200.00
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Change Tendered:	.00
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04/23/2025 3:50 PM



VILLAGE OF FOX POINT
MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD. FOX
POINT WI 53217-3505
414-351-8900
FAX 414-351-8909

BOARD OF APPEALS APPLICATION

1. Name of Appellant STEVE JURKEN Address of Appellant 1562 E GODDACH LN
Phone Number 917 971 2489 _____
E-mail Address Home SJURKEN@GMAIL.COM Work _____ Cell _____
2. Address of Property 1562 E. GODDACH LANE
Present Use of Property RESIDENCE Proposed Use of Property SAME
Owner's Name and Address if Different than Above _____
3. Has a Previous Appeal or Application Been Made to the Board of Appeals with Respect to This Property?
Yes ☐ No ☒ If Yes, State the Nature of Previous Appeal or Application _____
Disposition of Previous Appeal _____
Date of Decision in Previous Case _____
4. Date of Decision or Order of Administrative Official from which Appeal is Taken _____
Date of Notice of Such Decision Received by Appellant _____
5. Purpose of Grounds of Appeal or Application. Check Below the Relief Requested by This Appeal or Application:
- ☐ A. "Appeal Administrative Decision." Request for interpretation of Zoning Code and reversal of order, requirement, decision or determination of administrative official.
1. I have read and I understand **Attachment A:** Yes ☐
2. I have fully answered the questions in **Attachment A** and have attached additional explanations as necessary. Yes ☐
- ☐ B. "Request Variance." State Law Empowers the Board of Appeals to Grant a Variance to the Otherwise Applicable Requirements of the Zoning Code in Limited Circumstances.
1. I have read and I understand **Attachment B:** Yes ☐
2. I have fully answered the questions in **Attachment B** and have attached additional explanations as necessary. Yes ☐
- ☒ C. "Request Special Exception." The Village Code Specifies Situations When a Special Exception May be Granted.
1. I have read and I understand **Attachment C:** Yes ☒
2. I have fully answered the questions in **Attachment C** and have attached additional explanations as necessary. Yes ☒
6. Each application must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties, and improvements thereon, and the requested change or addition. A \$200 filing fee must also accompany this application.

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief. I also hereby swear and acknowledge that I have read this application and all attachments in its entirety, including the standards applicable to my application.

[Signature]
Signature of Appellant

4/22/25
Date

For Office Use Only:

Application, and related Attachment, is Fully and Properly Completed with attachments Yes / No (If "No" reject the application and await a completed application.)

Date Application Received 4/23/25 Receipt Number for \$200 Filing Fee 61357

Case Number 2025-03 Hearing Date 5/28/25

Disposition _____

Attachment C ✓

Standards of Review for Special Exceptions

The Village of Fox Point Village Code allows special exceptions to be granted for certain accessory structures. Applicable provisions include the following:

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In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance with Subsection B(3)(j) herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to balance the interests of the applicant with the interests of the surrounding property owners.

Structure Forward of Front Lot Line. (Village Code Section 745-7(B)(3)(h)[2]).

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Applicant to Complete the following: Describe the reasons why you believe your situation qualifies for a special exception, based on these applicable ordinances (attach additional sheets as necessary):

OUR LOT IS AN IRREGULAR SHAPE AND OUR HOUSE IS POSITIONED
VERY CLOSE TO THE BLUFF, LEAVING A VERY WIDE FRONT & SIDE
SECTION BUT VIRTUALLY NO BACKYARD FOR A FENCE IN AREA.
WE WOULD GREATLY APPRECIATE A SPECIAL EXCEPTION SO OUR FAMILY
IS ABLE TO SAFELY ENJOY BEING OUTSIDE IN OUR YARD.

SECURITY FOR YOUR ASSETS



EFF-20



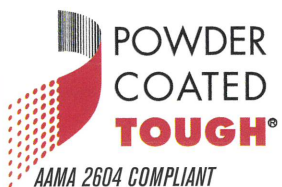
LifeGard



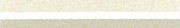
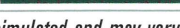
EFF-20 Custom Rail Spacing, No Picket Through Bottom



EFF-20



+ Available in nine sensational colors:

Black		Available in Matte Finish
White		
Quaker Bronze		Available in Matte Finish
Walnut Brown		
Beige		
Sandstone		
Hartford Green		

Colors shown are simulated and may vary.

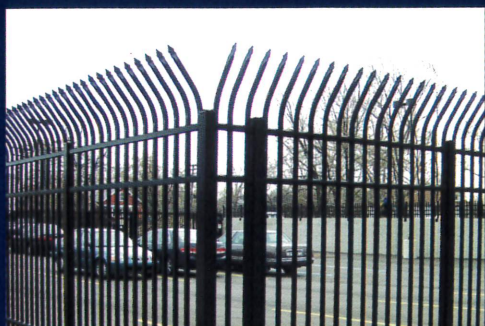


INDUSTRIAL GRADE

1-5/8" x 1-5/8" Rails with 1" x 1" Pickets



EFF-20 No Picket Thru Bottom



EFS-66



EFS-10 w/Optional Quads



EFS-10



We are environmentally responsible

WWW.ELITEFENCE.COM

VISIT OUR WEBSITE FOR MORE IMAGES AND INFORMATION

PROUDLY MADE IN AMERICA
EXTRUDED & ASSEMBLED



VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-351-8900

Receipt No: 1.061357

Apr 23, 2025

1562 E GOODRICH LN

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	200.00
10-44540 OTHER PERMIT	

Total:	200.00
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CHECK	Check No: 102	200.00
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Payor: JULIENNE JURKEN

Total Applied:	200.00
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Change Tendered:	.00
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