

VILLAGE OF LONG GROVE

ORDINANCE NO. 2020-O-____

**AN ORDINANCE GRANTING SETBACK VARIATIONS
FOR THE CONSTRUCTION OF A RESIDENTIAL DETACHED GARAGE
(3378 Old McHenry Road)**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this ____ day of _____, 2020

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this _____ day of _____, 2020

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ORDINANCE NO. 2020-O-____

**AN ORDINANCE GRANTING SETBACK VARIATIONS
FOR THE CONSTRUCTION OF A RESIDENTIAL DETACHED GARAGE
(3378 Old McHenry Road)**

WHEREAS, the **Marcia W. Dam Trust** (“**Owner**”) is the owner of that certain real property commonly known as 3378 Old McHenry Road, Long Grove, Illinois (PIN No. 14-24-200-027) and legally described on **Exhibit A** hereto, (“**Property**”); and

WHEREAS, the Property is located in the R-1 Residential District and is currently improved with an approximately 2,695 square foot single-family residence (the “**Residence**”), a guest house, and other related accessory structures; and

WHEREAS, the Property’s northern lot line fronts on a private access easement commonly referred to as “Tee Pee Lane,” which provides access from the Property to Old McHenry Road; the Property does not have frontage on any public street; and

WHEREAS, the Owner desires to construct a new approximately 1,800 square foot detached garage (the “**Garage**”) in the location depicted on the plans attached hereto as **Exhibit B** (the “**Plans**”); and

WHEREAS, Section 5-3-12 of the Long Grove Zoning Code requires minimum front yard setbacks of 100 feet and minimum side yard setbacks of 50 feet in the R-1 District; and

WHEREAS, the existing Residence on the Property is set back approximately 24 feet from the front lot line of the Property, and the proposed Garage would have a 6-foot front yard setback and a 20-foot eastern side yard setback; and

WHEREAS, significant portions of the Property and several adjacent parcels that are also owned by the Owner are designated conservation areas that are subject to development restrictions; and

WHEREAS, the location of the Garage is limited by the Property’s unique configuration and conditions, including the location and configuration of the Residence, the Property’s access

limitations, the designation of significant conservation areas on the Property, and the number and location of trees on the Property; and

WHEREAS, the Owner submitted an application requesting variations from Section 5-3-12 of the Long Grove Zoning Code to reduce the required front yard setback for the Property from 100 feet to 6 feet and to reduce the required eastern side yard setback for the Property from 50 feet to 20 feet to order to permit construction of the Garage (the “**Requested Variations**”); and

WHEREAS, Section 5-11-15(E)(1)(a) of the Zoning Code authorizes the Village Board to grant variations to reduce the size of any required yard; and

WHEREAS, pursuant to notice duly published, the Plan Commission and Zoning Board of Appeals (“**PCZBA**”) of the Village of Long Grove conducted a public hearing on July 7, 2020 regarding the Requested Variations; and

WHEREAS, the PCZBA, having fully heard and considered the testimony by all those attending the public hearing who wished to testify, made the following findings:

1. The Property is located within the R-1 Residential District under the Long Grove Zoning Code;
2. The Owner proposes to construct the Garage on the northeastern portion of the Property, which Garage would be located within the required 100-foot front yard setback and the required 50-foot eastern side yard setback;
3. The evidence presented indicates that requiring the Garage to be constructed in compliance with the Zoning Code will create a hardship due to: (i) the existing condition of the Residence, including its location and encroachment into the required front yard; (ii) the Property’s unusual configuration and access limitations due to its significant setback from Old McHenry Road and reliance on a private easement to obtain access to the public street; (iii) the designation of significant portions of the Property as conservation areas subject to development restrictions, and (iv) the number and location of trees on the Property;
4. The evidence presented demonstrates that the proposed location for the Garage is the most logical location on the Property to serve the needs of the Residence’s occupants

while minimizing impacts to the conservation areas and existing protected trees;

5. The evidence presented indicates that construction of the Garage in the proposed location on the Property is consistent with the character of the surrounding neighborhood, in particular because the Property and surrounding properties are larger lots with rural character and are not located within a subdivision, the Property is significantly setback from any public street, and large areas of protected open space are located on the Property and on adjacent lots under common ownership. For such reasons, construction of the Garage will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood, and will not result in other detrimental effects to the area of the Property;
6. The evidence presented indicates that the hardship and practical difficulties relating to Owner's request for a variation are based on the existing conditions of the Property (including mature trees and significant protected open space provided thereon) that are unique in light of the existing conditions, development on, and environs of the Property, and is not motivated by a desire to make more money out of the Property;
7. The evidence presented indicates that the construction of the Garage, if undertaken in conformity with the recommended conditions, will promote the public interest, will not alter the essential character of the Property and its environs, and will otherwise satisfy all of the requirements for a variation under Section 5-11-15 of the Long Grove Zoning Code;

and recommended that the Village Board of Trustees grant the requested variations, subject to certain conditions and limitations; and

WHEREAS, in addition to the Garage's encroachment into the required yards, it appears based on available records that the Garage encroaches on an existing 40-foot ingress, egress, and utilities easement as generally depicted on the Plans (the "**Easement**"), the ownership of which Easement is uncertain; and

WHEREAS, the Owner has submitted to the Village letters of support for the Requested Variations from all adjacent property owners and letters of non-objection to construction of the Garage from public utility company that service the area; and

WHEREAS, the Village's approval of the Requested Variations shall be subject to the Easement and shall not waive or release, any rights that the Village may have in the Easement as set forth in this Ordinance; and

WHEREAS, the President and Board of Trustees, having considered the Owner's application for the Requested Variations to permit the construction of the Garage on the Property, and the findings and recommendations of the PCZBA, have determined that it is in the best interests of the Village and its residents to grant Owner the Requested Variations subject to the terms and conditions of this Ordinance as hereinafter set forth;

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

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

SECTION TWO: Approval of Variation. Pursuant to Section 5-11-15 of the Long Grove Zoning Code, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, the Board of Trustees does hereby grant variations from the minimum front and side yard setbacks required by Section 5-3-12 of the Long Grove Zoning Code to reduce the Property's required front (north) yard from 100 feet to 6 feet and to reduce the required side (east) yard from 50 feet to 20 feet in order to permit construction of the Garage on the Property as depicted on the Plans.

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

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of

any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance except only after building permits and all other permits, approvals, and authorizations required for such work have been properly applied for, paid for, and granted in accordance with applicable law.

- B. Compliance with Laws. The Zoning Code, the Subdivision Code, the Building Code, and all other applicable ordinances and regulations of the Village shall continue to apply to the Property, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction. The design and construction of the Garage shall comply with the Long Grove Zoning Code, Building Code, and all other applicable laws.
- C. Compliance with Plans. The Garage must be constructed on the Property in substantial compliance with the Plans attached hereto as **Exhibit B**, subject to such minor modifications as may be approved by the Village Engineer to address compliance with this Ordinance, regulatory compliance, or site conditions.
- D. Village Easement Rights. The construction of the Garage shall be subject to the Easement and any and all rights that the Village may have therein, including any rights to use or improve the Easement for right-of-way, public utility, or drainage purposes. By granting the approvals provided in Section 2 of this Ordinance, the Village shall not be deemed to have waived or released any right to the Easement, nor to have consented to the construction or use of the Garage in any manner that interferes with or impairs any such Village right.
- E. Fees and Costs. The Owner shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Long Grove Zoning Code. In addition, the Owner shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or successful enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate.

SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall, in the discretion of the Village Board of Trustees, be of no force or effect if Owner has not (i) executed and (ii) thereafter filed with the

Village Clerk within 30 days following the passage of this Ordinance, the unconditional agreement and consent, in the form attached hereto as **Exhibit C** and by this reference made a part hereof, to accept and abide by each and all of the terms, conditions, and limitations set forth herein. The Village Clerk is hereby directed to record this Ordinance and such agreement and consent with the Recorder of Deeds of Lake County.

PASSED THIS _____ DAY OF JULY, 2020.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS _____ DAY OF JULY, 2020.

Village President

ATTEST:

Village Clerk

EXHIBIT A

Legal Description of the Property

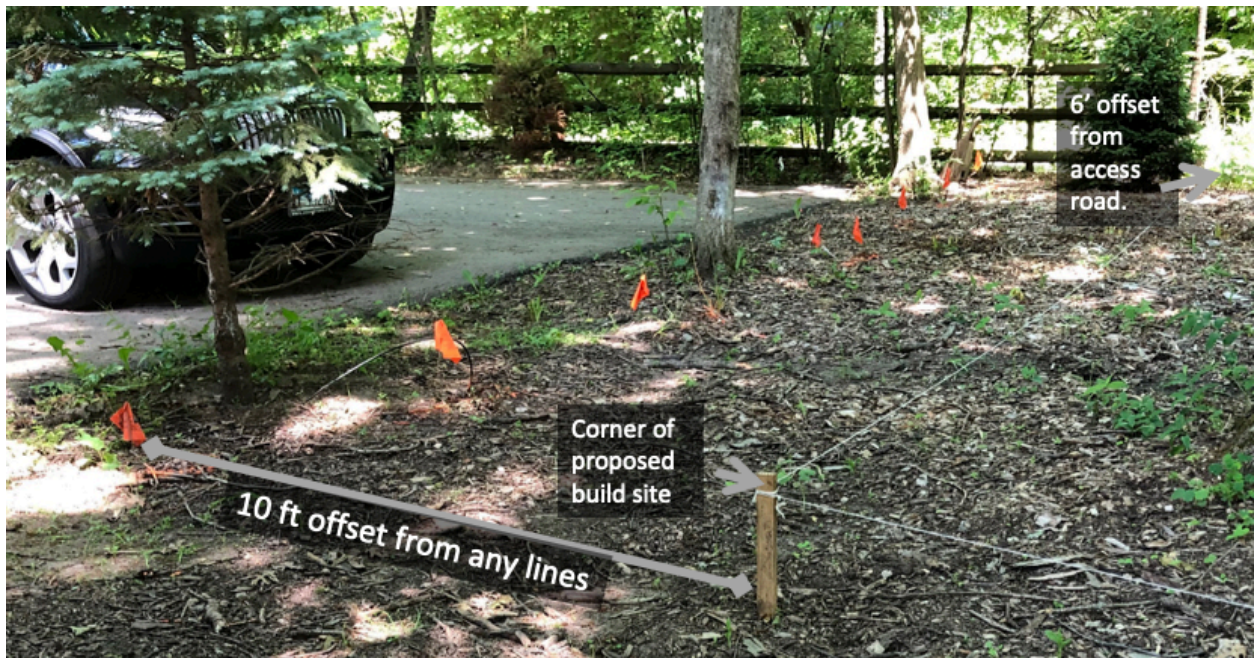
The North 500 ft. of the South 714.5 ft.(except the West 388 ft. thereof and except the East 560 ft. thereof) of the Southeast quarter of the Northeast quarter of Section 24, Township 43 North, Range 10, East of the Third Principal Meridian, in Lake County, Illinois, together with easements for ingress and egress and for utilities over the North 40 ft. of the properties immediately adjacent thereto on the East and on the West.

Common address: 3378 Old McHenry Road, Long Grove, Illinois 60047

PIN 14-24-200-027

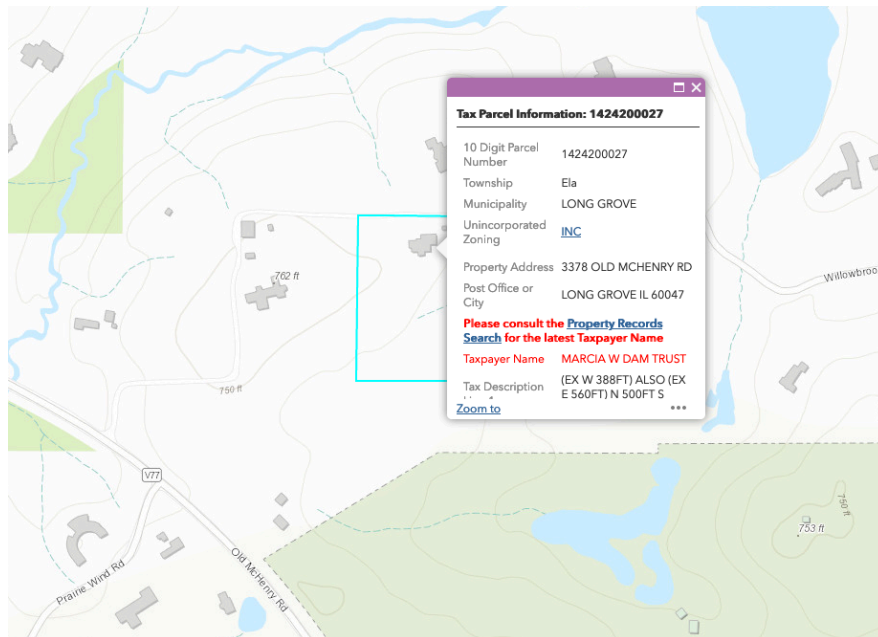
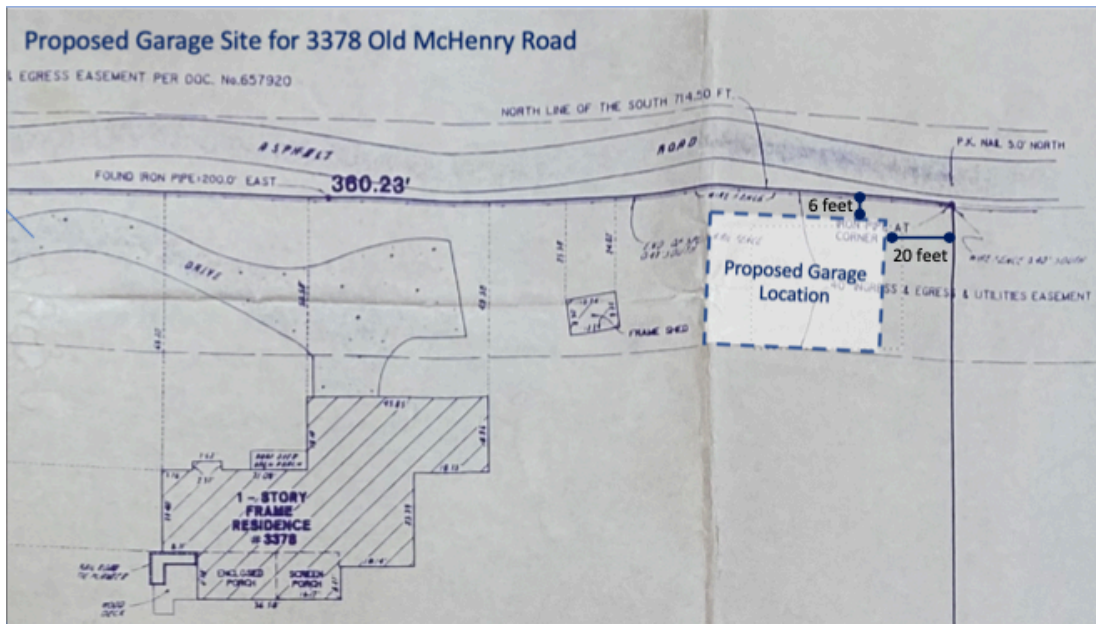
EXHIBIT B

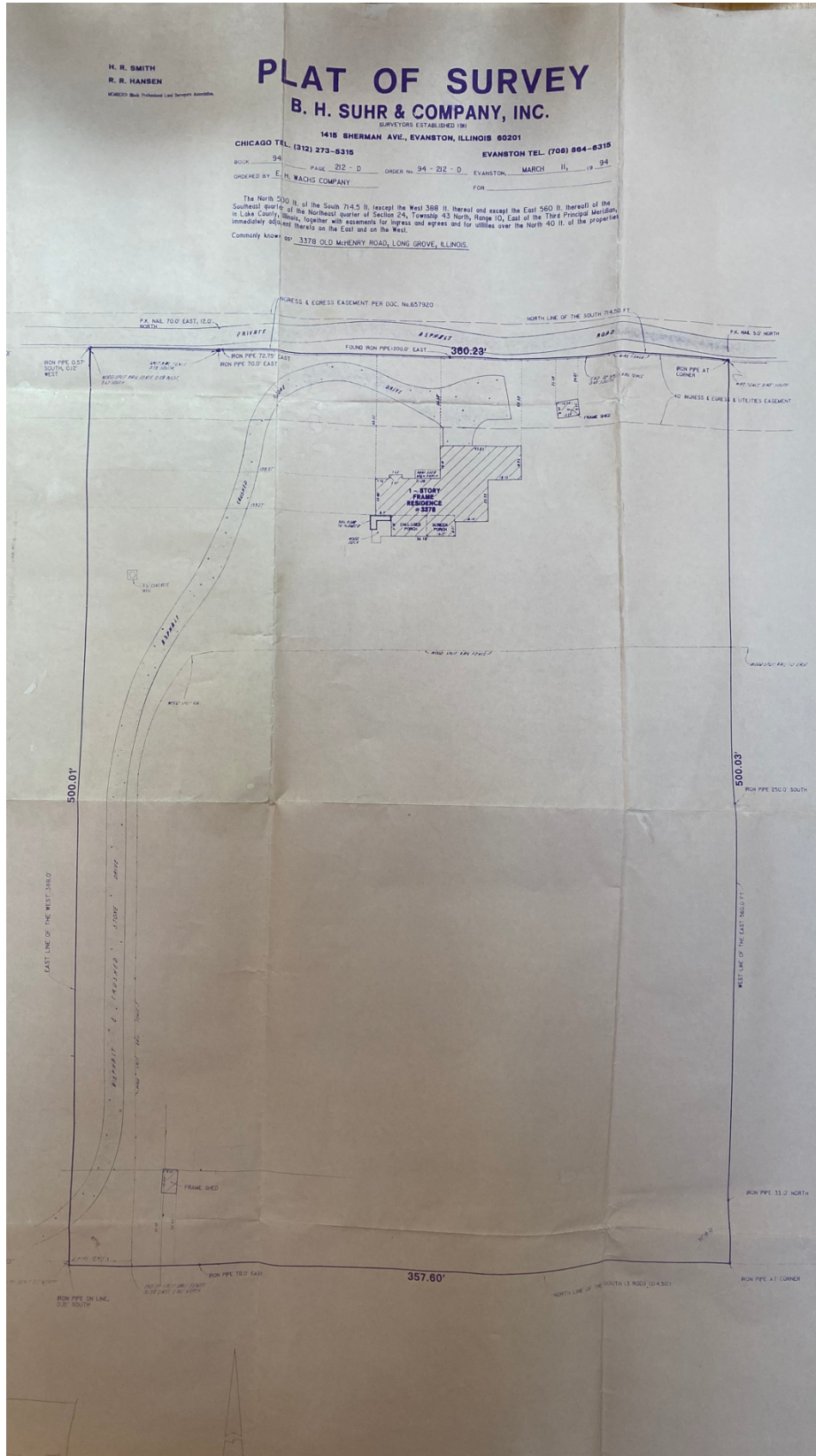
Plans



Property Legal Description:

THE NORTH 500 FT. OF THE SOUTH 714.5 FT. (EXCEPT THE WEST 388 FT. THEREOF AND EXCEPT THE EAST 560 FT. THEREOF) OF SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS, TOGETHER WITH EASEMENTS FOR INGRESS AND EGRESSES AND FOR UTILITIES OVER THE NORTH 40 FT. OF THE PROPERTIES IMMEDIATELY ADJACENT THERETO ON THE EAST AND ON THE WEST.





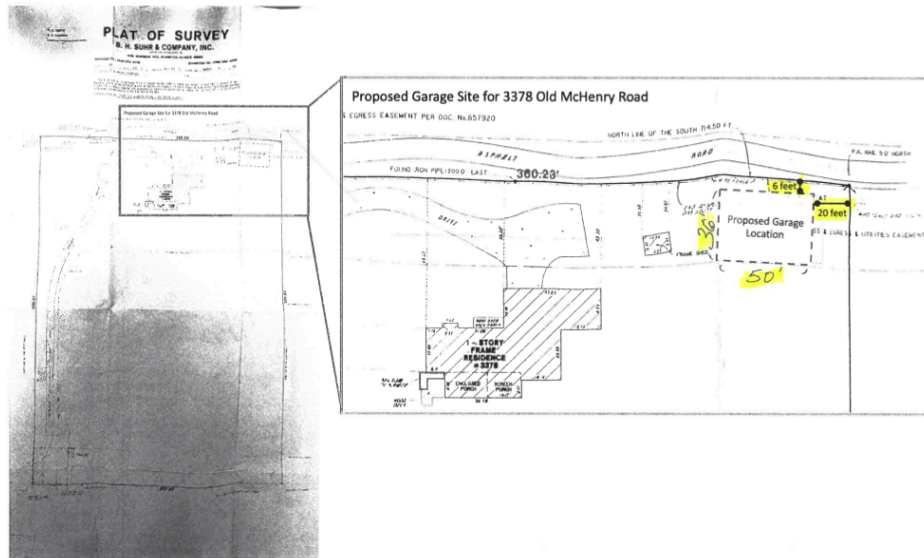


EXHIBIT C

Unconditional Agreement and Consent

Pursuant to Section Four of Long Grove Ordinance No. 2020-O-____, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledge for themselves and their successors and assigns in title to the Property that they:

1. have read, understand, and acknowledge all of the terms and provisions of Ordinance No. 2020-O-____;
2. hereby unconditionally agree to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Long Grove Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time;
4. acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance;
5. agree to and do hereby hold harmless, defend, and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties with respect to the Property and the Village's adoption of the Ordinance or granting the approvals to the Owner pursuant to the Ordinance; and
6. represent and acknowledge that the persons signing this Unconditional Agreement and Consent are duly authorized to do so on behalf of the Owner(s) of the Property.

MARCIA W. DAM TRUST

By: _____

Its: _____

ATTEST:
