

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF BUILDING DESIGN

Village Hall
196 Central Avenue
Lawrence, New York

November 2, 2009
7:20 p.m.

APPLICATION: Heller
10 Dogwood Lane
Lawrence, New York

P R E S E N T :

MR. BENJAMIN T. SPORN
Chairman

MR. BARRY POMERANTZ
Member

MS. RONNI BERMAN
Member

MS. EVA STAIMAN
Member

MS. BARBARA KUPFERSTEIN
Member

MR. RONALD GOLDMAN, ESQ.
Village Attorney

MS. GAIL DANIELS
Building Department

Mary Benci, RPR
Court Reporter

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1 MR. RIZZO: Mr. Chairman, I'd like to provide
2 proof of posting and publication for tonight's
3 public hearing (handing).

4 CHAIRMAN SPORN: October 16th, 2009: Please
5 be advised that the next meeting of the Board of
6 Building Design of the Incorporated Village of
7 Lawrence will be held Monday, November 2nd, 2009,
8 beginning at 7:15 p.m., at the Lawrence Village
9 Hall. Signed Tom Rizzo, Secretary.

10 MR. RIZZO: Mr. Chairman, there's one public
11 hearing tonight. I was wondering if you wanted to
12 make a motion to go right to the public hearing,
13 instead of dealing with the other cases, while the
14 applicant and the court reporter are here.

15 CHAIRMAN SPORN: I so move.

16 MR. RIZZO: Second?

17 MEMBER KUPFERSTEIN: I second.

18 MEMBER POMERANTZ: I second.

19 MR. RIZZO: Mr. Chairman, the public hearing
20 tonight is the application of Heller, 10 Dogwood
21 Lane. If their representative, Mr. or Mrs. Heller
22 or their representative is here, if they'd like to
23 step forward, and if you'd like to identify
24 yourself for the court reporter.

25 MR. BIENENFELD: I'm Richard Bienenfeld. I'm

1 the architect for the project. And with me is the
2 owner, Mrs. Heller. And we requested the public
3 hearing this evening because we wanted a chance to
4 give the Board a look, a three-dimensional look at
5 the perimeter wall that we were proposing for
6 Meadow Lane.

7 When the Board met in private session, they
8 only had two-dimensional drawings, and I believe
9 that we short-changed ourselves by not showing a
10 three-dimensional view.

11 MR. GOLDMAN: Could I just interrupt for a
12 moment just to clarify the record. The Board does
13 not meet in private session. The Board meets
14 publicly pursuant to the Open Meetings Law;
15 however, at that time neither the architect nor
16 Mrs. Heller chose to avail themselves because
17 there was no real reason to, albeit they were
18 invited, as is the entire public, but
19 notwithstanding that they were not there.

20 A decision was rendered publicly, they were
21 so advised, and now they're here to ask for an
22 opportunity to personally address the Board.

23 I only correct it so that there's no
24 appearance that there's no public meeting.

25 MR. BIENENFELD: I stand properly corrected.

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1 Thank you.

2 So I did bring some visual aids with me which
3 shows, you know, a three-dimensional view, and if
4 I may, there are --

5 MR. GOLDMAN: How many copies?

6 MR. BIENENFELD: I have at least seven copies
7 (handing).

8 MR. GOLDMAN: Mr. Chairman, with the Board's
9 permission, we're making Applicant's number 1 --
10 collectively, there are, one, two, three, four
11 sheets stapled together. We're making one copy a
12 part of the record, and the record should reflect
13 that we're handing up, one, two, three, four, five
14 copies for the members of the Board.

15 There is an alternate who is present as well,
16 and we note for the record an alternate,
17 Mrs. Breitman, who's here in the capacity of an
18 alternate; won't be voting insofar as there is a
19 full quorum of the Board present. Although
20 Mrs. Breitman did, in fact, participate in the
21 consideration and, therefore, will be joining the
22 Board, though not necessarily voting, but with the
23 Chair's permission would be permitting them to
24 avail themselves of her insights into the earlier
25 discussions.

1 CHAIRMAN SPORN: We appreciate
2 Mrs. Breitman's coming, and we can ask her to give
3 us her insights.

4 MR. GOLDMAN: Thank you. And we're providing
5 a copy of that which was submitted for
6 Mrs. Breitman's review.

7 MR. BIENENFELD: If I may explain sheet by
8 sheet what you're looking at. The top sheet is an
9 artist's rendering of what Meadow Lane would look
10 like once the perimeter wall and its accompanying
11 planting is installed and put in place, planted
12 and built along Meadow Lane.

13 What you're looking at in the foreground is a
14 low three-foot-high retaining wall. For those of
15 you who are not fully aware of the site condition,
16 Meadow Lane is kind of on the low side of the
17 property. The high side of the property faces
18 Dogwood Lane and, in fact, the house fronts on
19 Dogwood Lane. Meadow Lane is the rear of the
20 home. Dogwood Lane is about 10 feet higher in
21 elevation than Meadow Lane. So there's quite a
22 slope that goes down from Dogwood Lane down to
23 Meadow Lane. And to, you know, manage that change
24 in elevation, there are a series of, you know,
25 terraces and retaining walls on the property.

1 Right along Meadow Lane we're showing a
2 three-foot-high retaining wall to help manage this
3 change in elevation. Then about five or six feet
4 back from that low retaining wall there is a
5 planter which we're showing in our rendering
6 filled about 14-foot-high arborvitae. And these
7 14-foot-high arborvitae provide an opaque green
8 wall for the rear of the property, and they
9 obscure a six-foot-high wall which is placed
10 behind them.

11 So in this rendering you can only see a very
12 small portion of that six-foot-high wall as it
13 proceeds back towards the -- towards the vanishing
14 point of this perspective. What we are trying to
15 show is that there really isn't a single wall
16 which is very high. There's a low retaining wall,
17 and then there is a planter which is fully planted
18 and that is truly the barrier, and then behind
19 that there is a six-foot wall.

20 Now, the visual screening is provided almost
21 exclusively by the vegetation. The purpose of the
22 walls is really for safety. On the other side of
23 that wall is, you know, the outdoor living space
24 for the Dogwood Lane property where the Hellers
25 are going to live and enjoy, where their children

1 and their grandchildren are going to be playing.

2 There is a tremendous amount of fast traffic
3 on Meadow Lane, and this would provide, you know,
4 not just a screen for noise and a screen for
5 privacy, but you know, God forbid, in the event of
6 an errant car that would veer off of Meadow Lane
7 on that curve it would not be able to penetrate
8 the property and, God forbid, cause any damage or
9 loss of life. This is a very, very important
10 consideration, I think, to everyone who lives, you
11 know, backing up onto Meadow Lane.

12 I do have here some pictures of Meadow Lane
13 which I brought. If I may also show the Board
14 these pictures.

15 MR. GOLDMAN: This is collectively
16 Applicant's 1. And this is collectively --

17 MR. BIENENFELD: These are pictures which I'd
18 like -- they just, you know, help to further
19 explain the conditions that are there now on
20 Meadow Lane and how we're managing them.

21 MR. GOLDMAN: The record should reflect that
22 submitted as Applicant's 2, and made part of the
23 record and now passed up for the Board's
24 consideration, are a collection of one, two,
25 three, four photos, one of which includes a very

1 lovely photo of the architect.

2 MR. BIENENFELD: On the top sheet of the
3 photos is a photo taken at approximately the same
4 place that our rendering is made, a slightly
5 different angle, but basically the same, the same
6 look down Meadow Lane the way it is now.

7 If you notice in the foreground there's a
8 beaten up sign which says, "Caution Hidden
9 Driveway." That is going to be a defunct
10 driveway; it's going to be closed off. That used
11 to be the entrance into a home on Meadow Lane
12 which was purchased by the Hellers, and it's going
13 to be made part of their property. So this
14 protective wall will actually continue across that
15 property, and there will no longer be a hidden
16 driveway on Meadow Lane.

17 But you could see that the perimeter of
18 Meadow Lane is very, very heavily vegetated in its
19 present condition. We're not introducing any new
20 level of screening. There's very, very thick
21 screening on Meadow Lane now. We're just kind of
22 improving the look of it, making it a little more
23 manicured and controlled, but we're maintaining
24 that heavy vegetative screening along Meadow Lane.

25 If you look at the next sheet, it's a picture

1 of me, and I'm standing in front of an existing
2 fence that's on Meadow Lane. That existing fence
3 -- my reach, when I reached my hand up in the air,
4 is about eight feet tall. So that fence is, oh,
5 eight-foot-six, eight-foot-eight inches tall
6 and what it is it's probably a six-and-a-half-
7 foot-high fence on a two-foot-high retaining wall
8 and it's the fence right on top of the wall, and
9 that exists typically on Meadow Lane on the
10 houses that are on Larch Hill Road that back up to
11 Meadow Lane.

12 If you look at the next sheet, you will see a
13 little further down Meadow Lane, that fence gets
14 really high. Again, I'm about six feet tall, and
15 I am really -- I look like a midget compared to
16 the height of that fence and that fence is very
17 high.

18 Again, these fences are obscured by all the
19 vegetation on Meadow Lane, but this is an existing
20 condition of the homes. Also, trying to provide
21 for themselves the safety and security from rapid
22 traffic on Meadow Lane.

23 MR. GOLDMAN: But if I might interrupt, but
24 you're suggesting that you would be in compliance,
25 whereas these are higher than six foot?

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1 MR. BIENENFELD: Right. These are higher
2 than compliant, but they are typical of what's
3 along Meadow Lane.

4 CHAIRMAN SPORN: Are these being replaced?

5 MR. BIENENFELD: No, they're not on our
6 property.

7 CHAIRMAN SPORN: Oh, they're not on your
8 property.

9 MR. BIENENFELD: These are not on our
10 property. I'm trying to show what the typical
11 height of the barriers are along Meadow Lane as
12 they exist now. They go anywhere from, you know,
13 seven, eight, ten, twelve feet high.

14 CHAIRMAN SPORN: I may have misunderstood
15 last time this came before the Board, but looking
16 at the last page of your first exhibit, is it, in
17 fact, that the wall behind the tree --

18 MR. BIENENFELD: Yes.

19 CHAIRMAN SPORN: -- the wall behind the tree
20 is spaced back from the front retaining wall. Do
21 you know roughly what distance?

22 MR. BIENENFELD: It's about five or six feet.
23 It varies.

24 CHAIRMAN SPORN: Okay. Next question:
25 Looking from Meadow Lane towards the tree, from

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1 the left to the right, the height of the retaining
2 wall is six feet from that point of view?

3 MR. BIENENFELD: From that retained earth,
4 yes, from that established grade.

5 CHAIRMAN SPORN: Which, as I understand it,
6 would comply with our zoning.

7 MR. GOLDMAN: Yes.

8 MEMBER STAIMAN: It's six foot. It's the
9 back of a house.

10 MR. GOLDMAN: Right. We've spoken about it
11 with the Building Department.

12 CHAIRMAN SPORN: You don't measure it only
13 when it's on top of the wall.

14 MR. GOLDMAN: You're on the record, correct,
15 Mr. Chairman?

16 CHAIRMAN SPORN: Please.

17 Well, it's my understanding that our zoning
18 says that the wall spaced back from a retaining
19 wall can be six feet.

20 MR. GOLDMAN: That's correct. Correct,
21 Mr. Rizzo?

22 CHAIRMAN SPORN: If it's on top of the
23 retaining wall, then you add the retaining wall
24 under the zoning to the total height.

25 MR. GOLDMAN: Correct.

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1 CHAIRMAN SPORN: So that what we're looking
2 at here under the zoning is considered a six-foot
3 wall.

4 MR. GOLDMAN: Yes.

5 CHAIRMAN SPORN: Okay. I just wanted to
6 clarify that.

7 MR. GOLDMAN: There was some confusion, and
8 the Chairman is correct.

9 MEMBER BERMAN: Perhaps clarify it for me as
10 well. This doesn't count (indicating).

11 CHAIRMAN SPORN: No, not under our zoning,
12 unless it's on top of it.

13 MEMBER BERMAN: Well, it is. It's behind it.

14 CHAIRMAN SPORN: It's five feet back.

15 MEMBER KUPFERSTEIN: The grade is higher at
16 the point where the second wall begins.

17 CHAIRMAN SPORN: The grade is higher.

18 MEMBER BERMAN: I have a question for you.
19 My objection is that I see this as a huge brick
20 edifice which, aesthetically, is not pleasing to
21 me. You have these high things. Why couldn't
22 they be in front of this as well, so that from the
23 street people wouldn't have to look at this huge
24 expanse of brick (indicating).

25 MR. BIENENFELD: Okay. If I may, Ms. Berman,

1 that wall to the right that has the lower planting
2 on it, that wall is six feet high, which is as of
3 right on the property line. And the reason why
4 that wall is six feet and it's not terraced like
5 the wall adjacent to it is because the land behind
6 that is basically flat.

7 As you proceed along Meadow, the land starts
8 to rise up rapidly, which is why there was a need
9 to terrace the wall both for the -- to control the
10 topography and, structurally, you could not put a
11 six-foot wall right on the property line further
12 down Meadow. And as you put that wall back it
13 goes up the hill.

14 And if you go along Meadow you'll see that a
15 lot of the houses have kind of like terraced
16 retaining walls just to, you know, maintain the
17 topography of the hill so the hill doesn't wash
18 away. So the wall that's in front on the steeper
19 part of the property is three feet high. Then
20 there's a planter, and then there's a
21 six-foot-high wall. But on the flatter part
22 there's just a six-foot-high wall. It's a single
23 wall. And you could see that from the -- we do
24 have a plan of the -- you know, a site plan which
25 kind of shows it.

1 MEMBER STAIMAN: You have it from the one
2 before.

3 MR. GOLDMAN: Right. You're referring to
4 your Applicant's 1?

5 MR. BIENENFELD: Yes.

6 MR. GOLDMAN: Second page? What page,
7 please?

8 MR. BIENENFELD: It's on the second page.
9 There is a -- there's a transition point where we
10 go from the double wall to the single wall, and we
11 have an arrow that says, "View from Meadow Lane,"
12 so the view that we chose to take was where we
13 transition from the single wall, which is a fully
14 compliant six-foot wall. And that wall then
15 transitions with the wall in front of it to have a
16 retaining wall of three feet backed up by the
17 planter and then backed up by a six-foot-high wall
18 which is further up the hill. So you know, that's
19 one way of dealing with that hill. I'm sure many
20 of us have seen, you know, retaining walls climb
21 their way up a grade.

22 MEMBER BERMAN: So there is no way of hiding
23 that wall?

24 CHAIRMAN SPORN: Which wall?

25 MEMBER BERMAN: And is this much higher than

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1 the wall?

2 MEMBER STAIMAN: Can I just --

3 MR. BIENENFELD: There is planting in front
4 of that wall.

5 MEMBER STAIMAN: That's what she wants to
6 know. She doesn't want to see so much brick. So
7 she's asking you will there be --

8 MR. BIENENFELD: Yes, absolutely.

9 MEMBER STAIMAN: -- trees in front of the
10 six-foot-high fence so she won't see it.

11 MR. BIENENFELD: Yes. If you look, there are
12 flowering bushes in front of that wall which at
13 the time that they're planted will be about three
14 or four feet high, but within a couple of years
15 they'll be the full six feet high. And you will
16 not see -- you will see a little bit of brick at
17 the top, but you know, this is the planting
18 between the Village and the County; this is the
19 planting that they requested. These are flowering
20 plants that will be planted and they are in the
21 picture. They are in the picture.

22 MEMBER BERMAN: No, I see that. But are they
23 going to grow as high as the wall?

24 MR. BIENENFELD: Eventually, yes.
25 Eventually, they will.

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1 MEMBER BERMAN: I'm assuming, because you
2 have a lot of arborvitae, I'm assuming that you
3 are aware, you're a landscaper in this area, we
4 don't have a lot of luck with arborvitae. They
5 seem to die all over the Village.

6 MR. BIENENFELD: Yes. First of all, I want
7 to say two things. Number one: The arborvitae
8 that we show is on our property.

9 MEMBER BERMAN: No, no, no, I understand
10 that. But did you ever see a brown arborvitae?

11 MR. BIENENFELD: Yes, yes.

12 MEMBER BERMAN: They are not attractive.

13 MR. BIENENFELD: Right. You know, I'm
14 relying on, you know, the expertise of our
15 landscape architect to choose the right -- to
16 choose the correct species, and he's chosen a
17 species that is called Green Giant Arborvitae, and
18 they're going to be 14 feet high at the time of
19 installation; they're going to have a guarantee.
20 We're purchasing them with a guarantee but, again,
21 that's on our property.

22 MR. GOLDMAN: Can I just interrupt. I think
23 that one of the concerns, perhaps, and it
24 sometimes come up at this Board, as well as the
25 Board of Zoning Appeals, is that in the event, God

1 forbid, that these arborvitaes were to die, that
2 they'd be replaced.

3 MR. BIENENFELD: Yes.

4 MR. GOLDMAN: And that we'd have assurances
5 from the homeowner that they'd be replaced, and so
6 that somebody doesn't say, well, ten years ago I
7 planted them, now they're dead and they're brown,
8 too bad. Do we have that assurance?

9 MR. BIENENFELD: I'm sure. I'm sure you can
10 have that assurance. That's number one.

11 Number two: The low flowering plants that
12 you see, these are the plants as suggested by the
13 County of Nassau, I do believe, and that is not on
14 our property. So because it's not on our
15 property, we were not able to plant the
16 arborvitae. If the -- you know, this is something
17 which is up to the County of Nassau, and we are
18 just complying with their request to plant on
19 their property. But again, that six-foot-high
20 portion of the wall on the right side of this
21 picture is right on the property line and it's six
22 feet high so it's fully compliant.

23 MEMBER BERMAN: So you are planting these at
24 the request of the County?

25 MR. BIENENFELD: Yes.

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1 MEMBER BERMAN: Will they be a substantial
2 size even though they will belong to the County?

3 MR. BIENENFELD: Yes. They're three or four
4 feet high and they flower and they will grow.

5 MR. GOLDMAN: And you would be responsible
6 for them as well? Even though they're being
7 planted on the County property, you would take
8 responsibility for them?

9 MR. BIENENFELD: Yes, yes, yes, yes.

10 CHAIRMAN SPORN: I think we should vote.

11 MEMBER POMERANTZ: I think I have one
12 comment. First of all, being on Meadow Lane,
13 Kenridge Street cuts across right into it, and I
14 think, unless you have a high, high wall, high
15 fence or high trees, cars driving down Kenridge
16 may see the lights of the home and detract from
17 the driving. So I think it's important that we
18 have a high fence at that location.

19 MEMBER BERMAN: That happens to be a very
20 good point. I have that problem on Longwood
21 Crossing. There is a house on the corner of
22 Longwood and Ocean which has a spotlight shining
23 on their house, which I am blind when I go to pull
24 out from my house. I cannot see. And I think it
25 might be a good idea to be aware when lighting is

1 placed around this house that it is not placed
2 where it will shine on the cars and obstruct
3 anybody's vision because Meadow Lane is such a
4 well-traveled road.

5 MR. BIENENFELD: Yes, yes, that's a very
6 important point.

7 MR. GOLDMAN: The Board should just ask
8 whether there's any --

9 CHAIRMAN SPORN: If there is no further
10 discussion --

11 MR. GOLDMAN: Well, just let the record
12 reflect there doesn't seem to be any opposition;
13 no one is here. There's no written correspondence
14 in opposition to this.

15 This was published, correct?

16 MR. RIZZO: Yes.

17 MR. GOLDMAN: Now, there's discussion among
18 the Board and I guess they can vote.

19 (Whereupon, a discussion was held off the
20 record.)

21 CHAIRMAN SPORN: I would suggest at this
22 point that unless there's further discussion that
23 we have a vote.

24 MEMBER POMERANTZ: I'm for it.

25 MR. GOLDMAN: Actually, you have to cite by

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1 names. Mr. Pomerantz is in the affirmative?

2 MEMBER POMERANTZ: Yes, I am.

3 CHAIRMAN SPORN: Miss Berman.

4 MEMBER BERMAN: As long as these low
5 plantings will grow and hide this wall, I don't
6 have a problem.

7 CHAIRMAN SPORN: I'll take that as a
8 conditional affirmative.

9 I vote in the affirmative.

10 MEMBER BERMAN: I have a question. In this
11 photograph it shows the edge of the wall
12 (indicating).

13 MR. BIENENFELD: Yes.

14 MEMBER BERMAN: Was that just for our
15 edification to show the height of the wall?

16 MR. BIENENFELD: No. There's a transition
17 from a -- there's a transition at that point from
18 a single wall to a double wall.

19 MEMBER BERMAN: I would like it if we don't
20 see that. In other words, where you don't see
21 that (indicating).

22 MR. BIENENFELD: In other words, should I
23 have another tree planted?

24 MEMBER BERMAN: Covered. I think, visually,
25 for me it would be better perhaps like another

1 something high.

2 MR. BIENENFELD: Okay. By the way, there are
3 ivy being planted in the planter that will grow up
4 the wall. The wall will be covered with ivy with
5 time.

6 MR. GOLDMAN: Actually, I hate to sound
7 pedantic. You have to have an affirmative, a
8 negative or an abstention.

9 CHAIRMAN SPORN: I vote in the affirmative.

10 MR. GOLDMAN: No, I mean Miss Berman.

11 CHAIRMAN SPORN: Do you vote in the
12 affirmative?

13 MR. GOLDMAN: Subject to the conditions as
14 noted.

15 MEMBER BERMAN: Yes, I do.

16 MR. GOLDMAN: So it's an affirmative for
17 Mrs. Berman.

18 MEMBER STAIMAN: I'm affirmative.

19 MEMBER KUPFERSTEIN: Also affirmative.

20 MR. GOLDMAN: Thank you.

21 MR. BIENENFELD: Thank you very much.

22 CHAIRMAN SPORN: Off the record.

23 (Whereupon, a discussion was held off the
24 record.)

25 MR. RIZZO: Mr. Chairman, just for the

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record, so that the conditions are noted that the low plantings will be maintained in front of the wall on the County land as per the plan, and that as per Mrs. Berman's request there will be additional landscaping to hide the transition to the higher wall section on the plan.

CHAIRMAN SPORN: Yes, sir. Thank you.

MR. BIENENFELD: Okay. Thank you very much, thank you.

MR. GOLDMAN: Good luck.

(Whereupon, the hearing concluded at 7:40 p.m.)

Certified that the foregoing is a true and accurate transcript of the original stenographic minutes in this case.

Mary Benci

MARY BENCI, RPR
Court Reporter