

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, August 6, 2007 7:30 p.m. (Recessed until Monday, August 20, 2007)

Monday, August 20, 2007 5:00 p.m. (Recessed until Monday, August 27, 2007)

Monday, August 27, 2007 5:00 p.m. (Recessed until Wednesday, August 29, 2007)

Wednesday, August 29, 2007 5:00 p.m.

The Village of Silver Lake Council met in a regular session on Monday, August 6, 2007, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio.

With President of Council, Mrs. Carol Steiner, presiding, the meeting was called to order at 7:30 p.m.

Mrs. Steiner led the Pledge of Allegiance.

The following members were present and responded to roll call: Mr. Christopher Scott, Mr. Adrian Achtermann, Mrs. Carol Steiner, Mr. William Church, Mr. Don Alexander, and Mrs. Karen Fuller.

Roll call of Council – 6 members present

Mrs. Fuller made a motion to excuse Mr. Gerald Jones from this evening's Council meeting, seconded by Mr. Church, and all of Council agreed. (Happy Anniversary, Mr. Jones)

Mrs. Steiner asked if there were any additions or corrections to the minutes of the July 16, 2007, Council meeting.

There being none, the minutes were approved as sent out.

Mrs. Steiner asked if there were any additions or corrections to the minutes of the July 23, 2007, Special Council meeting.

Mr. Scott stated on Page 1 the 7th paragraph, *Mr.* Steiner should be changed to *Mrs.*

Mayor Hovey asked Mr. Paul Theiss, 2960 Millboro Road, to step forward.

Mayor Hovey presented Mr. Theiss with a proclamation for the outstanding and tireless work he performs on behalf of the Village on a volunteer basis.

Mayor stated Mr. Theiss brought two "camps" to the Village this summer, the Recycle Camp and the Rocket Camp. Both camps were a huge success.

Mr. Theiss thanked Mayor Hovey for the proclamation and said there are more camps in the works for next year.

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Mrs. Steiner asked Mrs. Teresa Spohn, Clerk-Treasurer, for the reading of any pending legislation that is up for a first reading.

RESOLUTION NO.: 63-2007 A RESOLUTION TO MAKE ADDITIONAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF SILVER LAKE DURING THE FISCAL YEAR ENDING DECEMBER 31, 2007, AND DECLARING AN EMERGENCY.

Mrs. Steiner assigned Resolution No.: 63-2007 to the Finance and Appropriations Committee.

RESOLUTION NO.: 64-2007 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CTI ENVIRONMENTAL, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES DURING THE CONSTRUCTION PHASE OF THE SILVER LAKE HEIGHTS SEWER REHABILITATION PROJECT, AND DECLARING AN EMERGENCY.

Mrs. Steiner assigned Resolution No.: 64-2007 to the Public Improvements Committee.

RESOLUTION NO.: 65-2007 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH H.M. MILLER CONSTRUCTION COMPANY FOR THE INSTALLATION OF A MANHOLE ON CHURCH STREET IN THE VILLAGE OF SILVER LAKE, AND DECLARING AN EMERGENCY.

Mrs. Steiner assigned Resolution No.: 65-2007 to the Public Improvements Committee.

RESOLUTION NO.: 66-2007 A RESOLUTION AUTHORIZING THE PAYMENT OF CERTAIN CLAIMS. \$109,823.99

Mrs. Steiner assigned Resolution No.: 66-2007 to the Finance and Appropriations Committee.

Mrs. Steiner asked for the reading of any pending legislation that is up for a second reading.

Second Reading:

ORDINANCE NO.: 61-2007 AN ORDINANCE AMENDING SECTION 1357.05 OF THE HOUSING MAINTENANCE CODE OF THE VILLAGE OF SILVER LAKE, OHIO, TO

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PROVIDE FOR TIMELY APPEAL TO THE MAYOR OF ANY CITED VIOLATIONS, AND DECLARING AN EMERGENCY.

ORDINANCE NO.: 62-2007 AN ORDINANCE AMENDING SECTION 543.08 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF SILVER LAKE, OHIO, TO PROVIDE NOTICE TO PREMISES OWNERS OF THE CUTTING OF NOXIOUS WEEDS AND SIX-INCH GRASS BY THE VILLAGE ON THE PREMISES, AND DECLARING AN EMERGENCY.

Mrs. Steiner previously assigned Ordinance No.: 61-2007 and Ordinance No.: 62-2007 to the Planning, Zoning and Insurance Committee.

Mrs. Steiner asked if there were any questions from the audience regarding pending legislation.

Mr. Rick Motz, 2986 Millboro Road, asked Mr. Fenwick, in reference to installing the manhole on Church Street, how he makes the decision to hire a contractor to do work as opposed to our Service Department doing the work.

Mr. Fenwick stated the Village’s shoring equipment is limited to a depth of 8 to 9 feet. The Church Street manhole will have to be dug at least 13 feet.

REPORTS OF COUNCIL STANDING COMMITTEES

Finance and Appropriations Committee – Mr. William Church, Chairman

Mr. Church stated Resolution No.: 63-2007 was discussed in committee earlier this evening and is ready for adoption.

Mr. Church moved to suspend the rule that legislation be read at three meetings for Resolution No.: 63-2007, seconded by Mr. Scott.

Roll call on suspension: Yes 6 No 0

Motion to adopt by Mr. Church, seconded by Mr. Achtermann.

Roll call on adoption: Yes 6 No 0

Mr. Church stated Resolution No.: 66-2007 was discussed in committee earlier this evening and is ready for adoption.

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Motion to adopt by Mr. Church, seconded by Mr. Scott.

Roll call on adoption: Yes 6 No 0

Public Improvements Committee – Mr. William Church, Chairman

Mr. Church stated Resolution No.: 64-2007 was discussed in committee earlier this evening and is ready for adoption.

Mr. Church moved to suspend the rule that legislation be read at three meetings for Resolution No.: 64-2007, seconded by Mr. Achtermann.

Roll call on suspension: Yes 6 No 0

Motion to adopt by Mr. Church, seconded by Mr. Scott.

Roll call on adoption: Yes 6 No 0

Mr. Church stated Resolution No.: 65-2007 was discussed in committee earlier this evening and is ready for adoption.

Mr. Church moved to suspend the rule that legislation be read at three meetings for Resolution No.: 65-2007, seconded by Mr. Alexander.

Roll call on suspension: Yes 6 No 0

Motion to adopt by Mr. Church, seconded by Mr. Achtermann.

Roll call on adoption: Yes 6 No 0

Planning, Zoning and Insurance Committee – Mr. Don Alexander, Vice-Chairman

Mr. Alexander made a motion to amend Ordinance No.: 61-2007, seconded by Mr. Scott. (Amendments attached to original minutes.)

Roll call on the amendment: Yes 6

Ordinance No.: 61-2007 will be treated as a second reading.

Mr. Alexander made a motion to amend Ordinance No.: 62-2007, seconded by Mr. Church. (Amendments attached to original minutes.)

Roll call on the amendment: Yes 6

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Ordinance No.: 62-2007 will be treated as a second reading.

REPORTS OF VILLAGE OFFICIALS

Mayor Hovey reported at least 130 people attended the Ice Cream Social he and Mrs. Hovey sponsored. The movie Happy Feet started after 9 p.m. Everyone had a really good time.

Mayor reported he has had several meetings with the Cities of Stow and Munroe Falls reference the natural gas aggregation program. The Village will no longer employ Buckeye Energy as our consultants.

The Mayor did not feel Buckeye Energy was giving the Village good advice. Mr. Mark Burns, from Independent Energy Consultants, Inc., will be the new aggregation consultant for the Village.

The Village is still in discussion with the Mr. and Mrs. Sweitzer on Silverview Drive reference the stormwater project.

The Sweitzers asked for an assessment of the existing trees and how they would be affected by the proposed project.

Davey Tree assessed the trees and gave the Village a price of \$14,000.

Mr. Scott asked when this project will begin.

Mayor Hovey stated it was his hope that the project could still be done this year. The Sweitzers have not yet signed a work right agreement.

Mayor Hovey stated the State of Ohio Attorney General's Office is offering a free Ohio Public Records Law Training seminar on Wednesday, October 17, 2007, from 9:00 a.m. until 12 noon at the Akron-Summit County Public Library in downtown Akron.

Mayor Hovey said due to the passage of House Bill #9, ALL elected official MUST attend.

Mayor Hovey will check to see if there are any other seminars available to attend. Not all elected officials can attend a morning session. There is no fee.

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Mayor received literature from Summit County Rebuilding Together. Their mission is to help low-income elderly and disabled homeowners remain safe, warm and independent in their homes. A program application is available at Village Hall.

Mayor stated he met with the president of J&J Refuse. Overall trash pickup is going well. There are a few issues that still need to be worked out.

J&J Refuse has opened a new plant in Twinsburg, which should alleviate the time J&J is in the Village. Before they opened the Twinsburg facility, the trash had to be taken to Dover.

The Mary Martha Guild had their picnic luncheon at the new picnic shelter. They had sloppy joes and homemade ice cream. There were so many comments on how great the new picnic shelter is and how much they enjoyed the facility.

Chief Gary DeMoss reported on the health issue situation reference a residence on Vincent Road. The Health Department went through the house and worked with the homeowner on what problems were observed. The Health Department did a final inspection and all problems were resolved.

Mayor Hovey said he received a phone call from a neighbor to thank the Village for all their hard work on the matter.

Chief DeMoss said the Silver Lake Festival went very well.

Mr. Church said the Festival was absolutely fantastic.

Mr. Fenwick, Service Director, said the bids were opened for the Sanitary Sewer Relining Project in the Silver Lake Heights district. CTI Environmental, Inc., the Village's engineer on this project, will be reviewing the bids and the bidders and will give the Village their recommendation.

Mr. Fenwick said, due to the extensiveness of this project, he would recommend delaying the water tower repair and painting until spring or fall of 2008.

Mr. Scott asked about the manholes associated with the sewer project.

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Mr. Fenwick said the manholes may be done by the same company. He will advise Council at a later time.

The engineer's cost to redo the front entrance to Village Hall so that it is ADA compliant is approximately \$14,000.

Mr. Fenwick said in 1950, the Village had an American Legion Post. The flagpole was donated to the Village by the American Legion post. Mr. Bob Becker was the commander of that Post. Mr. Becker moved into the Village in 1932 but has since moved.

Mr. Fenwick went on to say that Mr. Becker would like to donate a plaque to be placed by the flagpole that indicates the flag was donated to the Village by the American Legion Post, Commander Bob Becker.

Mr. Fenwick stated there was a water main break on Sunday, August 5, at the corner of Kent Road and Thomas Drive. Unfortunately, the water for the entire allotment had to be shut off.

Mrs. Spohn, Clerk-Treasurer, said she handed out a spreadsheet that indicates the revenues and expenditures for 2008.

Mrs. Spohn said there is a Statement of Cash Position for the Village of Silver Lake. In accordance with the audit, Council needs to affirm the Statement of Cash Position.

Council signified their acceptance by saying aye.

Mr. Church said the Falls News Press wrote a very good article reference the Village's recent audit.

Mr. Church thanked Mrs. Spohn for all her hard work.

Mr. Heydorn, Village Solicitor, reminded Council about the appeal for a service driveway at 3011 Oakridge Drive that is on the agenda for this evening.

Due to time constraints, this evening's Council meeting will not be adjourned in the normal way, but will be recessed and continued on Monday, August 20, 2007, at 5:00 p.m.

Mrs. Steiner asked if there were any questions or comments from anyone in the audience.

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Mrs. Schulz, 2931 Vincent Road, asked Mr. Fenwick if he could do something about the large ruts on the sides of the roadway. The worst rut is on the corner of Hastings and Vincent Roads. There is standing water that is a very putrid green.

Mr. Fenwick said he knew the rut Mrs. Schulz was talking about.

Mr. Fenwick stated he has spoken to the homeowner and they do not want to take responsibility for the rut because she is not creating the rut. Vincent Road does not have curbs and sidewalks; therefore, people think they can pull off into the right-of-way, which creates ruts.

Mr. Fenwick said he will take a look at it tomorrow.

Mr. Rick Motz, 2986 Millboro Road, asked if Council's agendas could be posted on the website before the next scheduled Council meeting.

Mrs. Lipan, Administrative Assistant, said the agenda's will be posted on the website the Friday before the next scheduled Council meetings.

Mr. Steiner asked if there was any further business.

There being none, Mr. Church made a motion to recess tonight's Council meeting until 5:00 p.m. August 20, 2007, to consider the appeal of the service driveway at 3011 Oakridge Drive, seconded by Mrs. Fuller.

Roll call of Council: Yes 6 No 0

Mrs. Steiner stated the next regularly scheduled Council meeting will be held on Monday, August 20, 2007, at 7:30 p.m.

This meeting recessed at 8:30 p.m. until Monday, August 20, 2007, at 5:00 p.m.

Monday, August 20, 2007 5:00 p.m. Continued from the August 6, 2007, Council Meeting

Mrs. Steiner reconvened the August 6, 2007, Council meeting at 5:00 p.m. on Monday, August 20, 2007.

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The following members were present and responded to roll call: Mr. Christopher Scott, Mr. Adrian Achtermann, Mrs. Carol Steiner, Mr. William Church, Mr. Gerald Jones, and Mrs. Karen Fuller.

Roll call of Council – 6 members present

Mr. Church made a motion to excuse Mr. Don Alexander from this evening's Council meeting, seconded by Mr. Jones, and all of Council agreed.

Mrs. Steiner stated Council will hear Mr. and Mrs. Keith Ruffner's, 3009 Oakridge Drive, appeal of the Architectural Review approval for a service driveway at 3011 Oakridge Drive.

Mr. Heydorn said Council is here tonight pursuant to Section 1151.07 APPEALS of the Silver Lake Codified Ordinances which deals with architectural review. Section 1151.07 APPEALS states the following:

An appeal to Council may be taken by any person aggrieved, or by any officer of the Municipality affected, by any decision of the Planning Commission which applies or interprets these architectural regulations. Such appeal shall be taken within ten days after the decision has been filed with the Clerk of Council, by filing with the Clerk and with the Planning Commission, a notice of appeal specifying the grounds therefore. The Secretary of the Planning Commission shall forthwith transmit to the Clerk all papers constituting the record upon which the action appealed was taken. Council shall consider the appeal at the meeting next following receipt of the appeal by the Clerk.

Mr. Heydorn asked the Secretary of the Planning Commission, Mrs. Suzanne Lipan, if all the relevant papers have been forwarded to the Clerk of Council.

Mrs. Lipan said yes, all relevant papers have been forwarded to the Clerk of Council.

Mr. Heydorn said tonight's appeal is a hearing that by its nature is quasi judicial. Council is taking on a different role from their normal legislative role and will act as if they are a panel of judges.

What has transpired at the Planning and Zoning Commission, acting as the Architectural Review Board, on the application of Mr. and Mrs. Sal (Jan) Dimiceli, 3011 Oakridge Drive, has been

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appealed by Mr. and Mrs. Keith (Amanda) Ruffner, 3009 Oakridge Drive. This appeal reaches Council to decide if the decision of the Planning Commission is to be affirmed or reversed. Council may make this decision based on the record as it has been submitted, additional argument and testimony.

Council will be guided by Section 1151.04 REVIEW PROCEDURES of the Codified Ordinances which are as follows:

1151.04 REVIEW PROCEDURES; LOOK-ALIKE STRUCTURES.

(a) No residential, or commercial building permit shall be issued unless the applicant establishes for the Commission that:

- (1) The applicant has complied with Sections 1151.04 and 1151.05 and the proposed structure is in compliance with subsection (b) thereof;
- (2) The exterior architectural character and functional plan of the proposed structure, when erected, will not be at such variance with existing structures, or structures currently being built, in the immediate neighborhood or zoning district as to cause substantial depreciation in property values of existing structures or structures currently being built;
- (3) The side utilization and orientation of the proposed structure are reasonably integrated with existing roads, drives, vehicular traffic patterns and pedestrian walkways abutting the property upon which the proposed structure is to be built; and
- (4) The proposed structure does not violate the “look-alike” provisions of subsection (b) hereof.

Council is also to be guided by Section 1151.01 PURPOSES (b) Item 1 through 6 which states the following:

(b) Preservation of Property Values and General Welfare of the Village. Council hereby finds and determines that the establishment of restrictions on the construction, erection, alteration, removal, moving or demolition of buildings and structures is vital to the preservation of the educational, cultural, historic, economic, and general welfare of the Municipality and of its residents. Council further finds and determines on the basis of its own observation and knowledge that the establishment of architectural regulations will promote the following goals;

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- (1) Protection and enhancement of the attractiveness of the Municipality as it relates to residents and visitors, serving as a support and stimulant to the economic well being of the Village, and thereby strengthening the economy of the Municipality and its residents;
- (2) Stabilization and increase of property values within the Municipality;
- (3) Compatibility of any and all construction of new improvements and buildings or modifications of existing structures with the architectural character of the Village;
- (4) Enhancement of the visual and aesthetic character, diversity and interests of the Village;
- (5) Preservation and further enhancement of civic pride of the residents of the Village the beauty of the Municipality and in the notable accomplishments of the past; and
- (6) Protection of the property rights of all owners.

Mr. Heydorn said the question before Council is whether or not this application passes or does not pass the standards provided for passage in the Codified Ordinances as they deal with Architectural Review.

The usual format of the hearings of this nature is that the person(s) who have appealed the decision of the Planning Commission are given an opportunity first to present their case, which may contain both argument and testimony on evidence.

Additional evidence can be presented. It is asked of the applicant to not duplicate evidence that is already part of the record.

Mr. Heydorn stated as each person comes forward to speak, he will administer the oath to them.

A record of this proceeding will be kept for purposes of further appeal. The record is being taken by tape and if an appeal is taken from this proceeding, the tape, upon request, and upon payment of an administrative fee, will be reproduced, certified and sent to the reviewing authority.

If there is an appeal of the decision of Council, it will be to the Summit County Common Pleas Court under Ohio Revised Code Section 2506.01.

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From the time Council does issue a final order, which is finding of facts and conclusions of law, under ORC 2506.01, from that point forward, there is a period of 30 days in which someone aggrieved by the order can appeal to the Common Pleas Court.

In addition, any deliberation by Council can be done in Executive Session because it is a quasi judicial proceeding. A motion will need to be made to adjourn into Executive Session and a roll call vote taken.

Any voting on the outcome will be done in an open meeting.

Findings of fact and conclusions of law will be produced. The vote will not be implemented until Council has approved and issued the findings of fact and conclusions of law. At that point, begins the 30 days in which a person may appeal.

Mr. Heydorn said each side is entitled to present their case provided it is not to the extent of being duplicated. The appellants (the Ruffners) should go first.

After each side has rested their case, Council can make the decision to adjourn into Executive Session.

Mrs. Steiner called on Mrs. Amanda Ruffner.

Mrs. Ruffner stood and was sworn in by Solicitor Heydorn.

Mrs. Ruffner said she and her husband have lived at 3009 Oakridge Drive for over 25 years. We have a five bedroom house. Our family and our extended family live in Silver Lake. We have lived in peace with all of our neighbors. We have never had any problems until late in October of 2005 when the Dimicelis removed trees, at first believed to be on the boundary lines but since determined the trees were on the Dimiceli's property. We can't do anything about that but we can do something when a neighbor is proposing to do something on their property that directly impacts the value of our home and our enjoyment of our home.

Mrs. Ruffner stated Mr. Bill Monbeck was in attendance at one of the Planning and Zoning meetings. He did testify that the service driveway would negatively impact the value of our home. Mr. Monbeck is a licensed appraiser.

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Mrs. Ruffner went on to say that her home is not air conditioned. It was built so that air should be able to go through with the trees, etc. We still have not installed air conditioning in our home. We spend about 60 percent of our time in the summer on our side porch (same side as the proposed service driveway). We entertain there. We eat there. We read there. We have conversations with our college age kids there. We do everything there. It is the most comfortable part of our home.

One of the problems with the proposed service driveway and turn around is the visual situation that it would give us [at this point Mrs. Ruffner gave Council a picture that was taken this morning of a service truck that was parked on the grass area where the proposed service driveway would be].

Mrs. Ruffner said the six foot fence that she had installed does not do much to block the view. The fence was installed when we thought their house was unsightly. It was not put up because of the proposed driveway situation.

Mrs. Ruffner pointed out Section 1151.01 (b) 1 through 6 of the Silver Lake Codified Ordinances as follows:

- (1) Protection and enhancement of the attractiveness of the Municipality as it relates to residents and visitors, serving as a support and stimulant to the economic well being of the Village, and thereby strengthening the economy of the Municipality and its residents.

A service driveway, an alley, next to our home that will give parking spots for cars will definitely not protect or enhance the attractiveness of our home or our entire neighborhood.

- (2) Stabilization and increase of property values within the Municipality.

It will not stabilize or increase property value. In fact, the testimony has shown our value would go down.

- (3) Compatibility of any and all construction of new improvements and buildings or modifications of existing structures with the architectural character of the Village.

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The Village has allowed circular driveways. If the Village starts to allow these parking areas, the impact will be tremendous on the beauty of the Village. If this goes in, all residence will then be able to put one in. To put two driveways in will be detrimental to the character of the Village.

- (4) Enhancement of the visual and aesthetic character, diversity and interests of the Village.

Allowing two driveways will be detrimental to the visual character of the Village.

- (5) Preservation and further enhancement of civic pride of the residents of the Village the beauty of the Municipality and in the notable accomplishments of the past.

The impact on the beauty on our Village will be tremendous. Already people can't believe that this is a situation that might happen in our Village.

- (6) Protection of the property rights of all owners.

We have enough problems with the real estate prices right now. There are many, many homes up for sale in the Village right now. My point to Council is that allowing this service driveway will not help any of our property values.

Mrs. Steiner called on Mr. Ruffner.

Mr. Ruffner stood and was sworn in by Solicitor Heydorn.

Mr. Ruffner handed out to Council his points of discussion in a three page document entitled *Architectural Review Appeal*. These will be noted as Exhibit "A" and incorporated into the original minutes.

The following are other comments made by Mr. Ruffner aside from Exhibit A.

Mr. Ruffner said the key sections of discussion are 1151.01 which is the chapter on Architectural Review.

Mr. Ruffner stated 1133.04 specifically specifies "a" driveway. "A" is singular. "A" is not plural. It doesn't say driveways. If the drafters of these ordinances had meant this to be plural, they would have drafted it to be plural.

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“A” driveway is the norm. If something is not normal it is either provided for in the conditional use section of the ordinances or you need to go to the Board of Zoning Appeals for a variance. A variance has not been asked for in this case.

Mr. Ruffner said he is very skeptical that a variance would have been granted because the standards to receive a variance are very difficult.

If something is in conflict with the ordinances, because it doesn't fall into the limited section of conditional uses, a variance should be applied for. As said, this hasn't been done.

There are other ways to access the other side of the Dimiceli's property without doubling the concrete. Those alternatives have not been explored. The ordinances require that alternatives be explored.

Mr. Ruffner pointed out that the word *shall* is used in many sections of the ordinances. *Shall* is a mandatory requirement. If it says *shall* and you don't like it, you have to change it as legislators so that it is a new law. You cannot elect on a case by case basis to say we are not going to apply *shall* in this particular situation.

Mr. Ruffner said he feels approval of the service driveway will devalue his property. It interferes with the quite enjoyment of his home.

If your neighbors move tomorrow and a family moves here from Philadelphia, New York City or from California where the environment is a much more urbanized environment, they have a completely different frame of reference. What they bring into the Village in terms of their habits and behavior may be totally normal for where they came from, so it may be completely different from the green space, the quiet, and the things that we are used to around here. They may wonder why you are so upset that about for.

We are one family that will be definitely impacted. Council will have to determine what the total impact on the Village will be if this becomes a precedent.

It is up to Council to decide if we are justifiably aggrieved or if this is a diminimus issue and should be allowed for any or everyone to do.

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Mr. Ruffner closed by saying the very first sentence of the Architectural Review Chapter talks about the impairment or destruction of value. I think the record is full of evidence that indicates that there will be a devaluation of our property.

We respectfully request Council enforces the code by granting our appeal and overturn the Planning and Zoning Commission's decision.

Mrs. Steiner called on Mrs. Gayle Snyder.

Mrs. Gayle Snyder, 2931 Millboro, stood and was sworn in by Solicitor Heydorn.

Mrs. Snyder stated she has lived in the Village since 1983. This is not just about the property at 3009 Oakridge Drive, this is about every lot in the Village of Silver Lake.

Mrs. Snyder said her house is similar to the Dimiceli's house and her next door neighbor's house is similar to the Ruffner's house. Her kitchen is on the north side of the house and the driveway is on the south side of the house. To come into my kitchen, I have to pull in the driveway, go up some steps through the mudroom cross the family room to get to the kitchen on the north side of the house.

Having a service driveway right up to her kitchen door would be very convenient; however it would ruin my yard and ruin the character of Millboro Road. Trees would have to be removed. The neighbors would be very upset by this. The neighbors have enjoyed the quietness of their screened in porch and their beautiful landscaping.

Mrs. Snyder stated she feels her neighbors would be devastated if a service driveway were to be installed on her property.

If the proposed service driveway would be approved, residents might give serious thought to having a service driveway somewhere on their property.

If this door is opened to allow service driveways, there are many, many people in our lazy world today who would want things closer, paved, more convenient, and so on. This is a door that would not be wise to open.

Mrs. Snyder stated Council would be setting a dangerous precedent in allowing a service driveway. The testimony has been made that the ordinance states "a" driveway. She knows of

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no other city that would allow two driveways per home. It would look bad. It would add to the fumes and the water runoff.

If a resident's house is not everything they want it to be, please do not disrupt an entire Village, please don't set a precedent that is going to effect every resident of the Village just because what is being proposed is more convenient for you.

Mrs. Steiner called on Mrs. Barb Lubinski, 2925 Circle Drive.

Mrs. Lubinski stood and was sworn in by Solicitor Heydorn.

Mrs. Lubinski stated she has a circular driveway in front of her house.

Mrs. Lubinski asked if a nice circular driveway had been proposed rather than a service driveway that would look like an alley.

Mrs. Lubinski stated she does not know the Dimicelis or why they bought their house on the corner of Oakridge Drive and Harriett Road but obviously they are unhappy with the fact that they have no privacy because they have a corner lot and they want it all in this one area. She can understand and appreciate their dilemma, but it isn't always possible to have everything that you want. Maybe a circular driveway would be a better option.

Mrs. Steiner called on Mrs. Jan Dimiceli, 3009 Oakridge Drive.

Mrs. Dimiceli stood and was sworn in by Solicitor Heydorn.

Mrs. Dimiceli stated first and foremost their intent was never to decrease the value of anyone's property, the Ruffners or anyone in the Village.

There will not be trash pickup on the service driveway. The trash will be picked up, as always, on the Harriett Road side of the house.

The service vehicle that is in their yard now has broken down. The truck was there because trees were being taken down.

The proposed driveway will be a drop-off/pickup point only. Vehicles will not be parked there overnight.

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The service driveway will be minimally invasive.

To install a circular driveway in front of the house would be simpler but much more expensive. A circular driveway will not give us access to our kitchen. It would access the front of the house, which is not accessed.

We have tried to minimize the impact in this area with a smaller driveway and turnaround as well as the landscaping that would be installed.

Mr. Heydorn said anyone of the parties who have testified that may have any questions of anyone who has testified may ask them directly.

Hearing none, Mr. Heydorn instructed Council members if they have any questions about any presentation or testimony, questions may be asked now.

Mr. Jones asked Mrs. Dimiceli once items are off loaded will the vehicle(s) then be driven back down the service driveway and parked in the other driveway.

Mrs. Dimiceli said that is correct.

Mr. Jones asked if Mrs. Dimiceli had given any thought if she moved and someone else moved in, couldn't they start parking in the service driveway.

Mrs. Dimiceli said she is sure they could.

Mr. Jones asked Mrs. Dimiceli what other reasons does she have for needing this service driveway.

Mrs. Dimiceli stated her mother has cancer and it would be easier for her to come in and out of the house without using the stairs.

Mr. Jones asked if her parents lived with her.

Mrs. Dimiceli said no.

Mrs. Steiner asked Mrs. Dimiceli where her front door was.

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Mrs. Dimiceli said the front door faces Oakridge Drive. If you pull in her driveway on the Harriet Road side, you would have to go up the steps to the left to get to the front door. Steps to the right lead to the back door.

Mr. Church asked Mrs. Dimiceli how many cars would be using this driveway during the course of the day.

Mrs. Dimiceli said possibly one car per day. When her parents come over for dinner three or four times a week, her father would drop off her mother on this side, then back out and park in the Harriett Road driveway.

Mr. Church asked if it is fair to say at least two vehicles would be accessing this driveway every day.

Mrs. Dimiceli said yes that is true.

Mr. Church asked the Ruffners what their thoughts were on the number of cars utilizing this driveway per day.

Mr. Ruffner said he is anticipating 10 to 12 cars a day, given the fact the children would be driving in the future.

Mr. Church asked what if there were two or three a day trips per day. Would this still be offensive?

Mr. Ruffner said yes it is still an inconvenience since he is use to looking at squirrels, not trucks and cars.

Mrs. Ruffner said her entire living room filled up with exhaust fumes when the service truck parked at the Dimicelis was trying to get started.

Mrs. Ruffner said she didn't feel, even with the addition of the 6 foot trees, this would help the situation. We are not only talking about noise and sight we are also talking about fumes.

Mr. Church asked if anyone can render any alternatives at this time.

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Mrs. Ruffner stated they have done so. The rear door could be accessed. A driveway coming off of the existing driveway to the rear door would be less invasive.

Mr. Church asked Mrs. Dimiceli if this has been considered at all.

Mrs. Dimiceli said due to the grade of the yard, the driveway would go uphill. This would be a problem in the winter with snow and ice and during a rain event, would create a large amount of water cascading down Harriett Road from the concrete.

Mr. Church asked if anyone has considered the honeycomb driveway, with the centers of the bricks and the grass that is planted right over them so that they look like a yard but is actually a driveway.

There was no response from either side.

Mr. Church asked Mr. Ruffner why does he suppose the Architectural Board voted four to one to allow this to happen.

Mr. Ruffner said he thinks that the Planning and Zoning Commission is primarily made up of people in the business of trying to get things built. Mr. Lou Ciraldo is a commercial developer. Mr. Alex Alexander is in the lumber business. I think this is just a natural thing for them to be oriented towards. I think they thought they were trying to do their job, but I'm not sure that they actually did the "math". I think they looked at the single project and thought OK we can protect the Ruffners by requiring trees. I don't think they thought that if this is done 200 more times in the Village, there is an architectural impact. I think they were looking at the impact of just this particular situation.

Mr. Church said he went around and counted the number of homes that have two driveways and there are quite a few. He was surprised to see that.

Mrs. Fuller asked Mrs. Dimiceli if the tree barrier would still go in if the service driveway was denied.

Ms. Dimiceli said no.

Mrs. Fuller asked how many trees would go in.

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Mrs. Dimiceli said 23 Witchita Blue Junipers.

Mrs. Fuller said her neighbors installed a barrier between yards and it is very nice; however, these are full grown trees.

Mrs. Fuller asked if service trucks would be the standard for this driveway.

Mrs. Dimiceli said no.

Mrs. Steiner asked why this application did not go before the Board of Zoning Appeals.

Mr. Heydorn said there was not an application for a variance because the Planning Commission passed it as not needing a variance.

Mr. Heydorn said if the Planning and Zoning Commission would have found one of these ordinances to be violated, then the application would be referred to the Board of Zoning Appeals.

Mrs. Steiner asked if an application goes directly to the Board of Zoning Appeals.

Mrs. Lipan stated the application goes to the Planning and Zoning Commission first.

Mr. Scott asked if the current driveway and garage is eliminated, would the Dimicelis be able to put a driveway and garage on the north side.

Mrs. Dimiceli said that is her understanding.

Mr. Heydorn said that is assuming a lot of things.

Mr. Heydorn said the location and whatever other configurations as to what is being put in on the Oakridge Drive side, if existing as the only driveway, would be a permitted driveway. The chances are this could be done.

Mr. Heydorn said the problem there is what is the spatial requirements and if they were to move the driveway to the other side then you raise other architectural issues.

If you assume that all the spatial issues would be taken care of, if you assume the architectural change would be taken care of then you can establish a driveway on this side.

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Mrs. Fuller asked how often does the Planning and Zoning Commission turn down a proposal. Do they just rubber stamp everything.

Mrs. Lipan said the Planning and Zoning Commission has turned down applications. They do not rubber stamp everything.

Mr. Heydorn said this has no bearing on the issue before Council this evening.

Mr. Achtermann asked Mrs. Ruffner what kind of depreciation in property value were you talking about.

Mrs. Ruffner said when Mr. Monbeck came to the Planning and Zoning meeting he came as a licensed appraiser. Mr. Monbeck indicated to us that it would have a negative impact on our home. No dollar amount was stated.

Mr. Achtermann asked if the installation of the barrier trees were included in the negative impact of the driveway.

Mrs. Ruffner said yes.

Mr. Church asked the Ruffners if Mr. Monbeck and Mr. Dave Chervenik both stated to you the driveway would detract from the value of your home.

Mrs. Ruffner said yes.

Mrs. Ruffner said it would take 18 years for the proposed junipers to get to a meaningful height.

Mrs. Steiner asked about the fire hydrant that is in close proximity to the proposed driveway.

Mr. Scott said he spoke to Mr. Fenwick about this and Mr. Fenwick said there are other homes in the Village that have fire hydrants in close proximity. Mr. Fenwick prefers the hydrant being farther apart but has seen the proposal and would be ok with it.

Mr. Heydorn stated Council will be looking at Section 1151.04 (a) 1, 2, 3 and 4. Section 1151.01 (b) goes to what you, the legislature, look at as factors that effect property value, such that you are entitled to take into account 1151.01 (b) when you seek and answer to the question of number 2 in 1154.04 (a) (2) which is the exterior architectural character and functional plan of

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the proposed structure, when erected, will not be at such variance with existing structures, or structures currently being built, in the immediate neighborhood or zoning district as to cause substantial depreciation in the property values of existing structures currently being built.

Mr. Heydorn went on to say to decide if there is depreciation or substantial depreciation, Council is entitled to take into account any evidence that has been presented plus the applicability of Section 1151.01 (b) 1 through 6, which in your estimation, applies to this property.

Also, Section 1154.04 (a) 3 which says the site utilization and orientation of the proposed structure are reasonably integrated with existing roads, drives, vehicular traffic patterns and pedestrian walkways abutting the property upon which the proposed structure is to be built.

Mr. Heydorn stated Mr. Ruffner has also raised the argument that Section 1151.08 INTERPRETATION says that nothing about the Architectural Review Code is intended to annul or impair or interfere with any existing law such that if Council finds this project is aesthetically proper so as not to disturb property values and in doing so, does not run counter to the intended affect of the ordinance that says each prop should have a driveway

The effect on the aesthetics of the Village of this ordinance would be such that your conclusion here should be consistent with the effect of that statute. What is the aesthetic quality that that ordinance is intending to have for the Village.

Mr. William Church made a motion to adjourn into Executive Session to discuss the appeal by the Ruffners, seconded by Mr. Achtermann.

Roll Call: Yes 6 No 0

The meeting was adjourned into Executive Session at 6:07 p.m.

Mrs. Steiner reconvened the meeting at 7:02 p.m.

Mr. Church made a motion to recess this meeting for further deliberations and voting until 5:00 p.m. Monday, August 27, 2007, seconded by Mrs. Fuller.

Roll Call: Yes 6 No 0

This evening's meeting was recessed at 7:05 p.m.

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Monday, August 27, 2007 5:00 p.m. Continued from the August 6, 2007, and the August 20, 2007, Council Meetings

Mrs. Steiner reconvened the August 6, 2007, Council meeting at 5:00 p.m. Monday, August 27, 2007.

The following members were present and responded to roll call: Mr. Christopher Scott, Mr. Adrian Achtermann, Mrs. Carol Steiner, Mr. William Church, Mr. Gerald Jones, and Mrs. Karen Fuller.

Roll call of Council – 6 members present

Mr. Church made a motion to excuse Mr. Don Alexander from this evening’s Council meeting, seconded by Mr. Achtermann, and all of Council agreed.

Mrs. Fuller made a motion to adjourn into Executive Session to discuss Mr. and Mrs. Keith Ruffner’s appeal to Council reference the Architectural Board of Review’s approval of Mr. and Mrs. Sal Dimiceli’s application for a service driveway at 3011 Oakridge Drive, seconded by Mr. Church.

Roll call to adjourn into Executive Session. Yes 6 No 0

Council adjourned into Executive Session at 5:02 p.m.

Mrs. Steiner reconvened this evening’s meeting at 5:48 p.m.

Mr. Jones made a motion to reverse the approval of the Architectural Board of Review and therefore deny the proposed service driveway at 3011 Oakridge Drive based on Chapter 1151 Architectural Review, 1151.04 Review Procedures; Look-A-Like Structures. (a), seconded by Mr. Achtermann.

Roll call: Yes 6 No 0

Mrs. Steiner said the Council will meet on Wednesday, August 29, 2007, at 5:00 p.m. to review and approve Solicitor Heydorn’s findings of law and statement of facts reference Council’s decision.

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Mayor Hovey thanked Council for all their hard work and efforts on this issue.

Council recessed this meeting at 5:50 p.m. to be continued on Wednesday, August 29, 2007, at 5:00 p.m.

Wednesday, August 29, 2007 5:00 p.m. Continued from the August 6, 2007, August 20, 2007, and the August 27, 2007, Council Meeting

Mrs. Steiner reconvened the August 6, 2007, Council meeting at 5:00 p.m. Wednesday, August 29, 2007.

The following members were present and responded to roll call: Mr. Christopher Scott, Mr. Adrian Achtermann, Mrs. Carol Steiner, Mr. Gerald Jones, and Mrs. Karen Fuller.

Roll call of Council – 5 members present

Mr. Jones made a motion to excuse Mr. Don Alexander and Mr. William Church from this evening’s Council meeting, seconded by Mrs. Fuller, and all of Council agreed.

Mr. Jones made a motion to adjourn into Executive Session to review the findings and statement of facts reference the reversal of the determination of the Architectural Review for a service driveway at 3011 Oakridge Drive, seconded by Mr. Achtermann.

Roll call to adjourn into Executive Session: Yes 5 No 0

Council adjourned into Executive Session at 5:05 p.m.

Mrs. Steiner reconvened this evening’s meeting at 5:28 p.m.

Mrs. Steiner asked Mr. Heydorn to read Council’s proposed findings and statements of facts on the reversal of the Architectural Review Board’s decision.

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Mr. Heydorn read the following statement:

Findings of Fact

1. The service driveway proposed at 3011 Oakridge Drive does not connect to an existing drive. It does not lead to a garage or other structure to house an automobile. It is separated totally from the existing driveway, creating separate and entirely new traffic patterns, and unnecessarily doubling the impact of the structure upon adjoining structures.
2. The immediate neighborhood does not contain similar service driveways. Testimony from owners in the area indicated that such a service driveway would substantially depreciate their property. Such depreciation would increase if the concept of a separate service driveway is implemented on other properties in the area, based upon the precedent of this application.

Conclusions of Law

1. The service driveway application at 3011 Oakridge is not reasonably integrated with existing roads, drives, vehicular traffic patterns on and adjoining 3011 Oakridge Drive. Thus, the application does not meet the required architectural standard contained in Silver Lake Codified Ordinance Section 1151.04 (a) (3).
2. The architectural character and functional plan of the proposed service driveway is at such variance with the adjoining neighborhood and/or zoning district as would cause depreciation to existing structures setting a precedent which, if utilized generally, would cause an effect on property values substantial enough to warrant protection by regulation. The application does not meet the required architectural standard contained in Silver Lake Codified Ordinance, Section 1151.04 (a) (2).

Mr. Heydorn concluded by stating the application is denied based upon architectural regulations.

Mr. Jones made a motion to accept the findings of facts and conclusions of law as stated by Solicitor Heydorn, seconded by Mr. Achtermann.

Roll Call: Yes 5 No 0

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There being no further business before Council this evening, Mrs. Steiner adjourned the August 6, 2007, meeting at 5:32 p.m., Wednesday, August 29, 2007.

APPROVED:

Carol A. Steiner, President of Council

ATTEST:

Teresa M. Spohn, Clerk-Treasurer

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prepared by: suzanne lipan