
**VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 19 - 09

**AN ORDINANCE APPROVING ZONING VARIANCES FOR A
FRONT YARD PARKING PAD AND FENCE AT 6804 W. FOREST PRESERVE DRIVE**

Passed by the Board of Trustees, June 13, 2019

Printed and Published, June 13, 2019

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By Authority of the Village Board of Trustees

VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS

ARLENE C. JEZIERNY, MAYOR
MARCIA L. POLLOWY, VILLAGE CLERK

ANNETTE BRZEZNIAK VOLPE
ANNA BRZOSOWSKI WEGRECKI
ZBIGNIEW LEWANDOWSKI
THERESE SCHUEPFER
LAWRENCE STEINER
GIUSEPPE "JOE" ZERILLO

I hereby certify that this document was
properly published on the date stated above.


Village Clerk

**VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 19-09

**AN ORDINANCE APPROVING ZONING VARIANCES FOR A
FRONT YARD PARKING PAD AND FENCE AT 6804 W. FOREST PRESERVE DRIVE**

WHEREAS, the Village of Harwood Heights (the “Village”) is an Illinois municipal corporation organized and operating pursuant to authority granted by the Constitution and Laws of the State of Illinois; and

WHEREAS, Alberto Gomez (the “*Applicant*”), is the owner of a detached single-family residence at 6804 W. Forest Preserve Drive, Harwood Heights, Illinois 60706, bearing tax identification number 13-18-307-056-0000 and legally described as follows:

LOT 16 IN BLOCK 5 IN VOLK BROTHERS MONTROSE AND OAK PARK AVENUE SUBDIVISION BEING A SUBDIVISION OF THE SOUTH ½ OF SECTION 18, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE INDIAN BOUNDARY LINE LYING EAST OF THE WEST 2329.4 FEET (EXCEPT THE PART CONVEYED TO CHICAGO TERMINAL TRANSFER RAILROAD COMPANY BY WARRANTY DEED RECORDED MAY 16, 1898 AS DOCUMENT NUMBER 2696698 IN BOOK 6186 PAGE 303, IN COOK COUNTY, ILLINOIS.

(the “*Property*”); and

WHEREAS, the Applicant filed an application (the “*Application*”) requesting variances to allow the construction of a 30’ x 15’ concrete parking pad in the front yard of the Property and the replacement of an existing chain link fence with a solid wooden fence along the front and sides of the Property, as more particularly described in the Application (the “*Project*”); and

WHEREAS, the Property is subject to various regulations from which Applicant seeks relief in order to proceed with the Project, including:

- (i) Section 17.04.130(D), Table 17.04.130.1 and Section 17.28.130(A) of the Village Code, which only authorize open off-street parking spaces (other than driveways) in residential districts to be located within interior side and rear yards instead of the front yard as proposed;
- (ii) Section 17.40.040 of the Village Code, which only allows reconstruction of existing legally nonconforming front yard fences on properties with residential structures located at the rear of the property pursuant to a public hearing before Zoning Board of Appeals];
- (iii) Section 17.04.020(B) of the Village Code, which limits the location of solid fences to back and side yards and requires such fences to be at least five feet (5') from the nearest property line; and
- (iv) For such other and further relief as may be necessary to enable Applicant to construct the Project on the Property.

WHEREAS, a properly noticed public hearing to consider the variance Application was conducted by the Zoning Board of Appeals (“**ZBA**”) on June 3, 2019; and

WHEREAS, at the conclusion of the public hearing, the ZBA voted 6-0 to recommend approval of the required variances from the Village of Harwood Heights Zoning Code, as described in the ZBA’s “Report of Findings of Fact and Recommendation to the Village Board of Trustees to Grant Variances,” (“**ZBA Recommendation**”) a true and correct copy of which is attached hereto as *Exhibit A*; and

WHEREAS, the President and Board of Trustees of the Village of Harwood Heights (the “**Corporate Authorities**”) have reviewed and considered the Application and associated supporting materials, the ZBA Recommendation, and the legal standards and criteria by which the requested variances are to be judged as set forth in the Village Code; and

WHEREAS, the Corporate Authorities find and determine that Petitioner has demonstrated satisfaction of each of the evaluative criteria set forth in Section 17.56.220 of the Village Code for each of the requested variances; and

WHEREAS, except as otherwise noted herein, the Village Board concurs with the factual findings and legal conclusions rendered by the ZBA and substantially agrees with the recommendations made by that body as set forth in the ZBA Recommendation with respect to the requested variances, subject to and contingent upon the conditions set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Harwood Heights, Cook County, Illinois, as follows:

SECTION 1. RECITALS. The above-stated recitals are incorporated into this Ordinance by reference.

SECTION 2. ENACTMENT.

A. Incorporation of ZBA Recommendation. The ZBA Recommendation and the findings of fact and conclusions set forth therein are hereby adopted by reference to the same effect as if fully recited herein at length. All references in the ZBA Recommendation are made the references of the President and Board of Trustees of the Village of Harwood Heights.

B. Incorporation of Exhibits. Exhibit A is attached to this Ordinance is, by this reference, incorporated in, and made a part of this Ordinance.

C. Approval of Variances. The following variances are hereby granted from the Village of Harwood Heights Zoning Ordinance to authorize the Project on the Property, subject to the conditions set forth in Section 3 of this Ordinance:

- (i) Section 17.04.130(D), Table 17.04.130.1 and Section 17.28.130(A) of the Village Code (prohibiting non-driveway open off-street parking within front yards in R-1 Single Family Residential zoning district);
- (ii) Section 17.40.020(B) of the Village Code (prohibiting solid front yard fences in residential districts);
- (iii) Section 17.40.040 of the Village Code (only allowing reconstruction of legal non-conforming front yard fences where residential structure is located at rear of property pursuant to a public hearing before ZBA); and
- (iv) Section 17.40.020(A) of the Village Code, requiring a 5' setback from the nearest property line for permitted front yard fences, to allow the construction of a fence along the front property line of the Property.

SECTION 3. CONDITIONS. The approval of the variances in Section 2 is conditioned upon and limited by the following requirements, conditions, and restrictions, the violation of any of which shall, in the sole discretion of the President and Board of Trustees, invalidate the variance approval:

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 this Ordinance unless and until all conditions precedent to such work have been fulfilled, including without limitation the Village Building Department's final approval of the proposed crushed-stone paving material and other authorizations for such work in accordance with applicable law.

B. **COMPLIANCE WITH LAWS.** The Zoning Code, the Subdivision Code, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property shall comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

C. **COMPLIANCE WITH PLANS.** The construction, maintenance, and operation of the proposed improvements on the Property will be in substantial compliance with the Application and the plans submitted to the Village for review and approval with the Application, except for minor changes and site work approved by Village staff (for matters within their authority) in accordance with all applicable Village rules, regulations, and ordinances.

D. **EXPIRATION OF VARIANCES.** The variances shall run with the land and not be personal to the Applicant, but said variances shall expire and become null and void two (2) years from the date of this Ordinance unless any and all permits required for the construction of the proposed improvements on the Property have been issued by the Village by said date.

E. **IDOT CURB-CUT PERMIT.** No work on any driveway or parking pad on the Property shall commence and no Village permits shall issue unless and until Applicant obtains and evidences to the Village's satisfaction all necessary approvals from the Illinois Department of Transportation (IDOT) for the proposed curb-cut on Forest Preserve Drive in connection with the proposed driveway on the Property and, thereafter, all such work shall be in strict compliance with such IDOT approvals.

F. **PAVING MATERIALS.** Prior to the commencement of any work and issuance of any permits, Applicant shall identify the proposed paving materials for the driveway and parking pad that comply with the standards set forth in Section 17.28.100(C) of the Village Code.

G. **SURFACE DRAINAGE COMPLIANCE.** Prior to the commencement of any work, Applicant shall have a civil engineer prepare and submit grading and surface drainage plans for approval, unless such requirement is waived in writing by the Village's Building and Zoning Official.

SECTION 4. RESOLUTION OF CONFLICTS.

All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

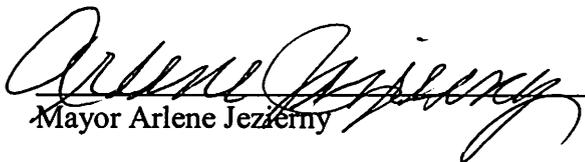
SECTION 5. SAVING CLAUSE.

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance, which are hereby declared to be separable.

SECTION 6. EFFECTIVE DATE.

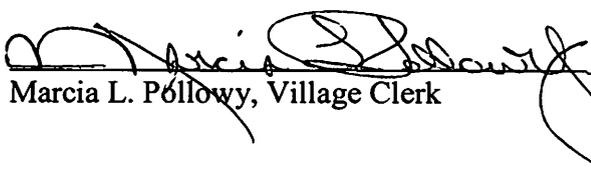
This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Passed and Approved this 13th day of June, 2019.



Mayor Arlene Jezerny

ATTEST:



Marcia L. Pollowy, Village Clerk

VOTES

AYES: Trustee Schuepfer, Steiner, Brzezniak-Volpe, Brzozowski-Wegrecki, Zerillo, Lewandowski

NAYS:

ABSENT:

ABSTAIN:

EXHIBIT A

**ZBA Report of Findings of Fact and Recommendation to the
Village Board of Trustees to Grant Variances**

(appended on following pages)

4813-0642-0021, v. 1

**VILLAGE OF HARWOOD HEIGHTS, COOK COUNTY, ILLINOIS
ZONING BOARD OF APPEALS**

In Re the Matter of:)
Petition of ALBERTO GOMEZ)
for Variances to Enable Replacement of a) **ZBA Hearing No. 19-01**
Front Yard Fence and Construction of a)
Driveway and Parking Pad at)
6804 W. Forest Preserve Drive)

REPORT OF FINDINGS OF FACT AND RECOMMENDATION
TO THE VILLAGE BOARD OF TRUSTEES
TO GRANT VARIANCES

I. BACKGROUND

ALBERTO GOMEZ (“Applicant”), owns a detached single-family residence at 6804 W. Forest Preserve Drive, Harwood Heights, Illinois 60706, bearing tax identification number 13-18-307-056-0000 and legally described as follows:

LOT 16 IN BLOCK 5 IN VOLK BROTHERS MONTROSE AND OAK PARK AVENUE SUBDIVISION BEING A SUBDIVISION OF THE SOUTH ½ OF SECTION 18, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE INDIAN BOUNDARY LINE LYING EAST OF THE WEST 2329.4 FEET (EXCEPT THE PART CONVEYED TO CHICAGO TERMINAL TRANSFER RAILROAD COMPANY BY WARRANTY DEED RECORDED MAY 16, 1898 AS DOCUMENT NUMBER 2696698 IN BOOK 6186 PAGE 303, IN COOK COUNTY, ILLINOIS.

(the “Property”).

The Property is zoned R-1 Single Family Residential and is improved by a single family home located at the rear of the lot. Due to the location of the house at the rear of the lot, absence of a driveway, and existence of a detached, single-stall garage off of the alley, Applicant has only one off-street parking space serving the Property. Street parking is limited by snow-accumulation parking restrictions and is compromised by the busy thoroughfare. Applicant testified that the parking is insufficient for his family, which owns and utilizes multiple vehicles. As such, Applicant proposes to construct a driveway and 30’ x 15’ concrete parking pad in the front yard of the Property, which would allow sufficient turning radius to enable vehicles to execute a three-point turn on the pad and exit onto busy Forest Preserve Drive in a forward-facing direction to enhance safety. Applicant claims that front-facing egress from the Property will introduce significant safety advantages for themselves and for the traffic that they merge with upon exiting the Property, as well as improve traffic flow by allowing less interruption to traffic flow to accommodate a vehicle backing out of an adjacent driveway in order to merge with traffic.

For privacy and safety reasons, Applicant additionally seeks to replace the existing chain-link fence enclosing the Property with a solid wooden fence along the front and sides of the Property. Neither of these actions are permissible without zoning relief. In order to make the requested improvements, Applicant is seeking the following variances pursuant to Section 17.56.220 of the Village Code:

- (i) Section 17.04.130(D), Table 17.04.130.1 and Section 17.28.130(A) of the Village Code, which only authorize open off-street parking spaces (other than driveways) in residential districts to be located within interior side and rear yards instead of the front yard as proposed;
- (ii) Section 17.40.040 of the Village Code, which only allows reconstruction of existing legally nonconforming front yard fences on properties with residential structures located at the rear of the property pursuant to a public hearing before Zoning Board of Appeals];
- (iii) Section 17.04.020(B) of the Village Code, which limits the location of solid fences to back and side yards and requires such fences to be at least five feet (5') from the nearest property line; and
- (iv) For such other and further relief as may be necessary to enable Applicant to construct the Project on the Property.

Applicant requires the above-noted variances in order to proceed with his proposed construction plans. Pursuant to Section 17.56.030(E)(2) of the Village Code, the ZBA is empowered to hear and recommend the approval, conditional approval, or rejection of Applicants' request for variances.

II. PUBLIC HEARING

After reviewing Applicant's application for a variance, site plans, photographs, and comments from the Village attorney, the ZBA conducted a properly noticed public hearing on June 3, 2019 to consider the Applicant's request for a variance. The Village published notice of the public hearing in the *Pioneer Press* between 15 and 30 days before the public hearing, mailed notice of the hearing to all property Applicants within 250 feet of the Property, and signage was posted on the Property. The notices were consistent with the requirements set forth in the Village Code.

At the public hearing, the ZBA listened to testimony presented by Applicant representing himself in support of the requested variances. Applicant called no witnesses. No Village residents submitted inquiries, objected to the granting of the variance, or otherwise offered testimony at the public hearing.

III. STANDARDS

Pursuant to Section 17.56.220 of the Village of Harwood Heights Zoning Code, the ZBA considered the following criteria in evaluating the proposed variances:

- 1) whether the Applicant demonstrated an undue hardship not generally applicable to other parcels in the R1 district, and that the Applicant did not create the undue hardship;
- 2) whether the Applicant is seeking a special privilege denied to other structures in the R1 district;
- 3) whether the literal interpretation the zoning regulations would deprive the Applicant of rights commonly enjoyed by other properties in the R1 District and would work unnecessary and undue hardship on the Applicant;
- 4) whether each requested variance is the minimum departure necessary from zoning regulations to enable reasonable use of the land;
- 5) whether granting each variance would result in reduced property values or otherwise harm neighbors or the public; and
- 6) whether granting the variance would conflict with the purposes of the Comprehensive Plan or Zoning Code.

IV. FINDINGS OF FACT & LEGAL CONCLUSIONS

After reviewing all application materials and a memorandum from legal counsel, and hearing testimony and receiving evidence at the public hearing held on June 3, 2019, the Harwood Heights Zoning Board of Appeals finds as follows:

1. The foregoing recitals set forth in Sections I – III shall be and are hereby incorporated into and made a part of the Findings of Fact & Legal Conclusions as if fully set forth herein.

A. PARKING PAD

2. The house on the Property is located at the rear of the lot.
3. A single-stall garage off of the alley provides the only off-street parking dedicated to the Property.
4. Without the construction of the driveway and parking pad, Applicant's single off-street parking space is insufficient for a family with multiple drivers and vehicles.
5. Snow restrictions and traffic conditions on Forest Preserve Drive limit opportunities for safe and consistently available street parking in the vicinity of the Property.

6. The proposed 15' x 30' size of the parking pad will enable vehicles to turn around on the Property and exit the premises in a forward-facing direction, thereby reducing the risk of vehicular accidents and lessening traffic congestion created by slow-moving merging vehicles along Forest Preserve Drive.

7. The Applicant does not intend to construct any physical structure to provide additional enclosed parking on the Property.

8. Applicant owns the Property and has no plans to sell the Property in the short-term following the construction of the proposed improvements.

9. Applicant's plans were not specific as to construction plans and materials for the driveway and parking pad surface, and the ZBA noted that Village staff would need to review additional specific details at the permitting stage to ensure that the proposed improvements allow sufficient surface drainage and are consistent with Village regulations.

10. The Applicant may not construct and maintain the proposed front yard parking pad on the Property without obtaining variances from the Village as set forth herein.

11. Applicant testified, and the ZBA credited said testimony, that the proposed parking pad would improve the safety of Applicants, neighbors, motorists and pedestrians along Forest Preserve Drive in the vicinity of the Property.

12. The Applicant demonstrated an undue hardship not generally applicable to other parcels in the R1 district based on the location of his home on the rear portion of the parcel, limiting the ingress and egress to the Property to the front yard driveway entrance along Forest Preserve Avenue. The Applicant did not create the undue hardship.

13. The Applicant is not seeking a special privilege denied to other structures in the R1 district because many properties along Forest Preserve Drive have vehicular access to an alley at the rear of their properties. In addition, the ZBA has recommended and the Village Board has granted a previous application for a neighboring property to construct a front-yard parking pad to accommodate off-street parking.

14. The literal interpretation the zoning regulations would prevent the parking pad in the proposed front yard location on the Property and create unnecessary and undue hardship on the Applicant by forcing them to continue utilizing street parking on a busy thoroughfare, which can compromise safety, slow traffic, and interfere with the Village's snow-removal operations.

15. The requested variances are the minimum departures necessary from zoning regulations to enable reasonable and safe use of and access to the Property.

16. The ZBA finds no evidence in the record that the requested variances would result in reduced property values or otherwise harm neighbors or the public and notes that no opposition to Applicants' plans was presented by neighboring property owners.

17. Granting the requested variance would be not be inconsistent with the Comprehensive Plan and would support the Village's goals of facilitating safe and efficient traffic movements for motorists within the Village.

18. Despite providing notice of the public hearing in conformance with the Village Code, no neighbors submitted comments objecting to the requested parking pad-related variances.

B. REPLACING FRONT YARD FENCE

19. Applicant has an existing chain-link fence ringing the perimeter of the Property, including but not limited to the front-yard.

20. Due to the location of the house at the rear of the lot, all of the outdoor recreational area on the Property is located in the front yard.

21. The proposed solid, wooden front-yard fence would afford Applicant's family, young children, and dog enhanced privacy and further safeguard them from traffic and pedestrians, as well as offering pedestrians increased protection from the family dog.

22. As presented, the Applicant's proposed replacement fence does not conform to the Village's prohibition on front yard fences, including Section 17.04.020(B) of the Village Code's limitation of solid fences to back and side yards only.

23. Applicant's replacement fence is proposed to run along the property line boundaries of the Property, despite Section 17.04.020(B)'s requirement that such fences to be located at least five feet (5') from the nearest property line.

24. Section 17.40.040 of the Village Code allows reconstruction of existing legally nonconforming front yard fences on properties with residential structures located at the rear of the property only pursuant to a public hearing before the ZBA.

25. The Applicant may not construct and maintain the proposed fence on the Property without obtaining variances from the Village.

26. Applicant testified, and the ZBA credited said testimony, that many neighboring properties have existing front-yard fences, that the fence would provide security to his family, and that the construction of the fence would enhance the aesthetic appeal of the neighborhood.

27. The fence would have an electronic sliding mechanism, allowing the fence to retract from the driveway to accommodate vehicular ingress and egress.

28. The Applicant demonstrated an undue hardship not generally applicable to other parcels in the R1 district based on the high pedestrian and vehicular traffic along Forest Preserve Drive. The Applicant did not create the undue hardship.

29. The Applicant is not seeking a special privilege denied to other structures in the R1 district because many properties along Forest Preserve Drive have front yard fences (including his own), and the proposed fence would improve the appearance of the fence wall along this street and constitute an aesthetic improvement over the existing chain link fence.

30. The literal interpretation the zoning regulations would deprive the Applicant of the ability to maintain a front yard fence on the Property. The literal interpretation of the Village's fence regulations would work unnecessary and undue hardship on the Applicant because it would deprive the Village and its residents of the opportunity to maintain an attractive fence wall along this section of Forest Preserve Drive and protect his children and pets from danger.

31. The requested variance is the minimum departure necessary from zoning regulations to enable reasonable use of the Property for the requested fence.

32. The ZBA finds no evidence in the record that the requested variance would result in reduced property values or otherwise harm neighbors or the public. In fact, an attractive fence may increase property values in the Village, and increase public safety by keeping pedestrian traffic along Forest Preserve Drive off of private property.

33. Granting the requested fence-related variances would be not be inconsistent with the Comprehensive Plan.

34. Granting the requested variances would be consistent with the purpose of the R1 District, to "provide regulations which will maintain the character and stability of single-family residential neighborhoods in the village." (Code § 17.12.010(A)).

35. Despite providing notice of the public hearing in conformance with the Village Code, no neighbors submitted comments objecting to the requested variances.

V. RECOMMENDATION

NOW THEREFORE, following a public hearing conducted by the Village of Harwood Heights Zoning Board of Appeals on June 3, 2019, and based on the foregoing findings of fact and legal conclusions, by a unanimous 6–0 vote of those in attendance, the Zoning Board of Appeals recommends that the Village Board conditionally grant the Applicant's requested variances from the following provisions of the Village Code:

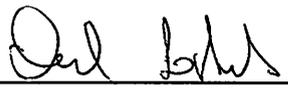
- (i) Section 17.04.130(D), Table 17.04.130.1 and Section 17.28.130(A) of the Village Code, which only authorize open off-street parking spaces (other than driveways) in residential districts to be located within interior side and rear yards instead of the front yard as proposed;**

- (ii) Section 17.40.040 of the Village Code, which only allows reconstruction of existing legally nonconforming front yard fences on properties with residential structures located at the rear of the property pursuant to a public hearing before Zoning Board of Appeals];
- (iii) Section 17.04.020(B) of the Village Code, which limits the location of solid fences to back and side yards and requires such fences to be at least five feet (5') from the nearest property line; and
- (iv) For such other and further relief as may be necessary to enable Applicant to construct the Project on the Property.

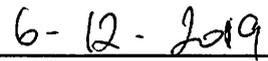
conditioned upon the fulfillment of the following conditions:

- (a) Applicant shall obtain all necessary approvals from the Illinois Department of Transportation (IDOT) for the proposed curb-cut on Forest Preserve Drive in connection with the proposed driveway on the Property and, thereafter, all such work shall be in strict compliance with such IDOT approvals;
- (b) Applicant shall identify the proposed paving materials for the driveway and parking pad that comply with the standards set forth in Section 17.28.100(C) of the Village Code; and
- (c) Applicant shall obtain Village approvals for grading and surface drainage associated with the proposed improvements.

By:



Tony Lostumbo, Zoning Board of Appeals Chair



Date

STATE OF ILLINOIS

COUNTY OF COOK

CERTIFICATION

I, Marcia L. Pollowy, do hereby certify that I am the duly elected and acting Clerk of the Village of Harwood Heights, County of Cook, State of Illinois.

I do further certify that the foregoing Ordinance 19-09 entitled:

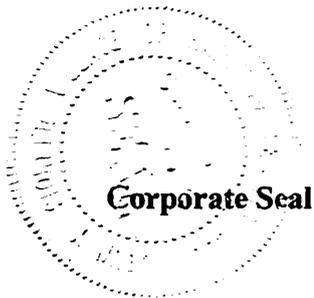
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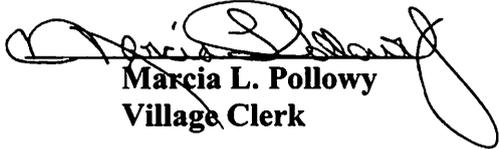
Is true and correct copy of an Ordinance adopted by the Board of Trustees of the Village of Harwood Heights at a meeting held on the 13th day of June, 2019.

I do further certify that the original of which the foregoing is a true copy is entrusted to my care and safekeeping, and that I am keeper of the same.

I do further certify that I am the keeper of the records, ordinances, and resolutions of said Village of Harwood Heights, Cook County, Illinois.

In witness whereof I have hereunto set my official hand and seal this 14th day of June, 2019.




Marcia L. Pollowy
Village Clerk

