

April 21, 2025 (*Revised May 20, 2025*)

Subject Property:

225 Elm Ct.

Russ and Cara Benes are seeking a vote from the Village Zoning Board of Appeals to allow a variation to increase the maximum permitted lot coverage from 45% to 49.1% to come into compliance with the Village regarding impervious surfaces

The impervious surfaces of the existing conditions are currently 50.46%. The proposed plan includes removing various sections of pavers that are installed around the driveway. By removing certain impervious surfaces on the property, we can reduce the total Impervious rate to 49.1%.

There are no new impervious surfaces being proposed on the property.

It is unfortunate that the Benes's purchased their home without the knowledge that it was non-conforming to current village standards. They had no reason to believe that their home was non-conforming as the existing impervious surfaces were present at the time of purchase in 2023. When they purchased the home, the hardscape surfaces appeared old and out of alignment and in need of Re-leveling and cleaning.

Aerial photographs of the property from 2006 show the various hardscape elements that are on the property today. The developer sold the property in 2007, therefore, it is believed that the developer made the improvements that are there today. Drawings provided by the Village Building Dept were of Preliminary Site Plans. We have not seen any "As Built" drawings from the Building Dept.

The Benes's wish to continue to make quality improvements to their property while working with the Village to correct a wrong that was committed many years prior by another party.

It is not without precedence that a lot coverage variation be granted by this board. Of the past approvals listed by the Review Committee, 66% included impervious outdoor surfaces such as patios, decks, driveways, walkways and the like.

We are making our request from the foundation of a reasonableness standard. Quality landscaping in the Libertyville community is very common, nearly ubiquitous, and the hardscape elements that the Benes's wish to preserve on their property are all very ordinary and functional.

The Benes's would like to proceed with updating their home knowing that their property is following the Village standards and get there without hardship. The Village would undoubtedly like to clear up all non-conforming properties, and any future owners of the property should not be left to deal with this. We believe that obtaining a variation is the best path forward. Quality improvements can be made to the home while at the same time, bringing the property into compliance.

STANDARDS FOR VARIATIONS
(Revised May 20, 2025)

- a. General Standard. No variation shall be granted pursuant to this Section 16-8 unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Section 16-8.7.

Response To a. General Standard

Carrying out the strict letter of the provisions of a 45% impervious surface area would create a particular hardship by causing the removal of ordinary property improvements with hardscape surfaces such as small patio space, entrance walkway, egress window well, and soil retention.

- b. Unique Physical Condition. The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including the presence of an existing use, structure, fence or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot or its existing development rather than the personal situation of the current owner of the lot.

Response To b. Unique Physical Condition

The subject lot is exceptional due to its existing development. At some point in time, the current house and landscape were constructed by a professional builder. It is believed that all impervious surfaces were constructed at the time of the initial property development. There seems to have been grading and drainage issues that the builder resolved with 8” wide soil retention walls in front and back. The current patio was constructed as an extension of the driveway. The entire driveway extension available for use as a patio is a mere 177 square feet. There is also an egress window well with washed gravel in the bottom that is essential to keeping the drain clean. No alterations have been made or are being proposed for the footprint of the house itself, nor do the proposed improvements increase the current impervious surface area. The existing retaining walls are necessary to control excessive run-off onto neighboring properties, and the patio and walkway are necessary to maintain consistent building standards with the surrounding homes.

- c. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title, other than the construction of structures that were lawful at the time of such construction, and existed at the time of the enactment of the provisions from which a variation is sought or was created by as a result of natural forces or governmental action, other than the adoption of this Code.

Response To c. Not Self-Created

The house and landscape were constructed by a professional builder. It is believed that all impervious surfaces were constructed at the time of the initial property development. It is not known how the impervious surface ratio was accounted for by the Village Building Dept. at that time.

- d. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Response To d. Denied Substantial Rights

It is known that property improvements enjoyed by some owners of other lots in the neighborhood, subject to the same provision, have resulted in an increase of Impervious Surface allowance by the Village. Carrying out the strict letter of the provision would deny the owners of the subject property the ability to maintain the current hardscape features that were installed by the original builder, as well as denying them the ability to maintain similar quality building standards and values that many of the surrounding homes in the neighborhood enjoy.

- e. Not Merely Special Privilege. The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot; provided, however, that where the standards set out in this Section 16-8.7 are met, the existence of an economic hardship shall not be a prerequisite to the grant of a variation.

Response to e. Not Merely Special Privilege

The potential hardship to the owners of the subject lot is not an inability to enjoy a special privilege. Quality Landscape improvements are common features of homes in the subject neighborhood, and soil retention is essential to control run-off onto neighboring properties. We understand that given the existing conditions of 50.46% impervious surface, The owners of the subject lot do not seek to increase the impervious surface area, rather they wish to remove certain hard surfaces that do not impact their reasonable use of their property. The removal of certain hard surfaces will reduce the IS ratio to 49.1%.

- f. Code and Plan Purposes. The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

Response to f. Code and Plan Purposes

The variation, for the purpose of maintaining current hardscape features which are functional and reasonably used by the owners, would not result in a disharmonious use or development of the subject lot vis-a-vis the general and specific purposes of the 45% IS code. It would merely allow the owners to continue to use their property in a manner that is enjoyed by most residents in their neighborhood.

g. Essential Elements of the Area. The variation would not result in a use or development on the subject lot that:

- 1) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or

Response to g. 1)

The variation being requested for the subject home will not materially affect the public welfare, nor the various properties in the vicinity.

- 2) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or

Response to g. 2)

The variation being requested for the subject home will not affect the light or air to the various properties in the vicinity.

- 3) Would substantially increase congestion in the public streets due to traffic or parking; or

Response to g. 3)

The variation being requested for the subject home will not affect public street in any way.

- 4) Would unduly increase the danger of flood or fire; or

Response to g. 4)

The variation being requested for the subject home will not increase the danger of flood or fire.

- 5) Would unduly tax public utilities and facilities in the area; or

Response to g. 5)

The variation being requested for the subject home will not unduly tax public utilities and facilities in the area.

- 6) Would endanger the public health or safety.

Response to g. 6)

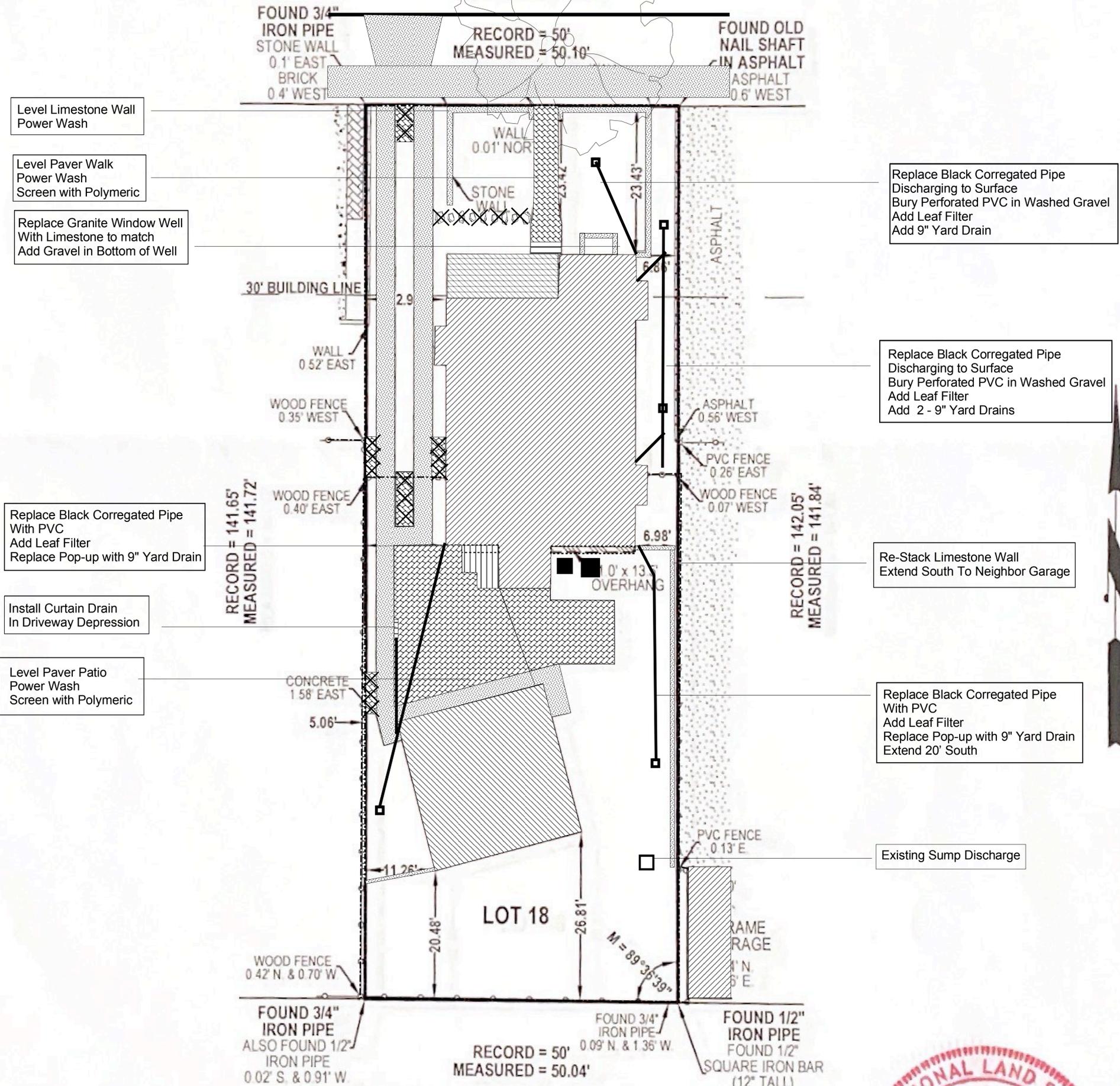
The variation being requested for the subject home will not endanger the public health or safety.

- h. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Response to h. No Other Remedy

After consultation with various members of the Village of Libertyville Building and Zoning Divisions, it has been determined that there is no means other than the requested variation to be able to continue to reasonably use the landscape environment in an ordinary manner without maintaining the current impervious surface area of the subject property, less 94.75 sf of surfaces that are proposed for removal.

ELM COURT
(50' RIGHT-OF-WAY)



Existing Conditions
 Stormwater - Zoning District R-6
 Maximum Impervious Surface - 45%
 Allowable Impervious Surface - 3200

Total Area - Survey	7,100
Driveway/Patio	1161
Extra Paver Aprons	76.75
Front Walkway	97
Steppers - 9 Total	18
Retaining Walls	91.75
Egress Window Well	19.8
A/C Pad #1	6.25
A/C Pad #2	9.0
House	1519
Garage	584

Total IS 3582.55
 Total IS Ratio 50.46%

Proposed Conditions
 Stormwater - Zoning District R-6
 Maximum Impervious Surface - 45%
 Allowable Impervious Surface - 3200

Total Area - Survey	7,100
Driveway/Patio	1161
Front Walkway	97
Retaining Walls	91.75
Egress Window Well	19.8
A/C Pad #1	6.25
A/C Pad #2	9.0
House	1519
Garage	584

Total IS 3487.8
 Total IS Ratio 49.1%

XXX - Proposed For Removal

1 INCH = 8 FEET

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LANDSCAPE PLAN REVISED

MAY 21, 2025