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This instrument was prepared
by and after recording, return to:

Joan S. Cherry, Esq.
Johnson and Colmar
300 S. Wacker Dr., Suite 1000
Chicago, Illinois 60606

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VILLAGE OF LINCOLNWOOD

ORDINANCE NO. Z2003-225

AN ORDINANCE APPROVING A SITE PLAN AND A PARKING STALL SIZE
VARIATION FOR THE PROPERTY LOCATED AT 3933-43 TOUHY AVENUE IN THE
VILLAGE OF LINCOLNWOOD, COOK COUNTY, ILLINOIS

ADOPTED BY THE
PRESIDENT AND BOARD OF
TRUSTEES OF THE
VILLAGE OF LINCOLNWOOD
THIS 20TH DAY OF NOVEMBER, 2003.

PIN 10-35-100-035

Published in pamphlet form by
the authority of the President
and Board of Trustees of the
Village of Lincolnwood, Cook
County, Illinois, this 4th
day of December, 2003.

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DATE 12-17-03 COPIES 6
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ORDINANCE NO. Z2003-225

AN ORDINANCE APPROVING A SITE PLAN AND A PARKING STALL SIZE VARIATION FOR THE PROPERTY LOCATED AT 3933-43 TOUHY AVENUE IN THE VILLAGE OF LINCOLNWOOD, COOK COUNTY, ILLINOIS

WHEREAS, the Village of Lincolnwood ("**Village**"), as a home rule municipality, in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, is enacting this Ordinance pursuant to its authority as a home rule unit and pursuant to the Village of Lincolnwood Code of Ordinances ("**Code**") including the Lincolnwood Zoning Ordinance ("**Zoning Ordinance**") which is Chapter 16 of the Code; and

WHEREAS, application ("**Application**") has been made by owner Bok Nim Heo ("**Applicant**") for a variation to reduce the required number of off-street parking spaces from seventy-five (75) to twenty-four (24) spaces ("**Parking Space Reduction Variation**"), a parking stall size variation ("**Parking Stall Size Variation**"), and site plan approval in a B-1 Restricted Business District as required by Article IX, 1, f for a parcel of land located at 3933-43 Touhy Avenue (legally described in **Exhibit "A"** attached hereto and made a part hereof ("**Property**"); and

WHEREAS, the Property is a currently operating retail/commercial development which has experienced a chronic parking shortage due to limited common parking area for the types of retail uses currently and historically located on the Property; and

WHEREAS, the Property is required to contain seventy-five (75) off-street parking spaces to comply with the requirements of the Zoning Ordinance; and

WHEREAS, the Property has never been in compliance with the Zoning Ordinance requirement of seventy-five (75) off-street parking spaces and there are no variations in place for the Property permitting reduction of the number of required off-street parking spaces; and

WHEREAS, Applicant has requested the Parking Space Reduction Variation because of the requirements of the Zoning Ordinance, and the configuration of the Property and the uses currently occupying the Property, have exacerbated the existing deficiency in the required number of off-street parking spaces; and

WHEREAS, Applicant desired the Parking Space Reduction Variation to enable it to continue to use its off-street parking area without further review by the Village; and

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WHEREAS, in addition to the above noted deficiencies in the number of off-street parking spaces for the Property, seven (7) of the twenty-six (26) existing off-street parking spaces on the Property are improperly located on the public right-of-way; and

WHEREAS, Applicant has acknowledged the necessity of removing those off-street parking spaces currently on the public right-of-way, from the public right-of-way; and

WHEREAS, there have been issues in the past concerning the maintenance of the Property; and

WHEREAS, the Property will continue to be primarily utilized for retail/commercial businesses; and

WHEREAS, to remove all off-street parking spaces from the public right-of-way, ameliorate the parking shortage at the Property, and sufficiently maintain the Property Applicant has proposed changes and upgrades to the Property and the common off-street parking area on the Property, and has proposed the Parking Stall Size Variation to enable more efficient use to be made of the off-street parking area on the Property; and

WHEREAS, a public hearing held pursuant to proper notice (attached hereto as **Exhibit "B"** and made a part hereof), was held on the Application, which hearing took place before the Village's Plan Commission/Zoning Board of Appeals ("**PC/ZBA**") on October 8, 2003, all in conformance with the ordinances of the Village and the statutes of the State of Illinois; and

WHEREAS, on October 8, 2003, the PC/ZBA unanimously recommended adoption of the Parking Stall Size Variation and the Site Plan, imposed certain conditions that were agreed to by Applicant including property and landscape maintenance plans, and made certain findings; and

WHEREAS, on October 8, 2003, the PC/ZBA unanimously recommended against granting the Parking Space Reduction Variation because granting such a variation would eliminate further review of the Property by the Village on the issue of the deficiency in the number of off-street parking spaces; and

WHEREAS, the Village Board of Trustees ("**Village Board**") has considered the PC/ZBA's report of its meeting of October 8, 2003 and is prepared to approve the Parking Stall Size Variation and the Site Plan, and deny the requested Parking Space Reduction Variation; and

WHEREAS, adoption of Parking Stall Size Variation and the Site Plan will further

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WHEREAS, adoption of Parking Stall Size Variation and the Site Plan will further the health, safety, and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LINCOLNWOOD, COOK COUNTY, ILLINOIS, as follows:

SECTION ONE. *Preambles*. That the foregoing Preambles to this Ordinance are incorporated by reference into this Section One as if fully set forth herein.

SECTION TWO. *Development to Conform to Plans*. That the development of the Property shall conform to the following plans, which the Village Board hereby approves:

1. *Site Plan*. The site plan ("**Site Plan**") prepared by Han and Architects, Inc., 75 Gaylord Street, Elk Grove, Village, IL 60007, consisting of two (2) pages, page 1 being the site plan for the Property, and page 2 being the building elevations, and bearing a most recent revision date of September 9, 2003, attached hereto as **Exhibit "C"** and made a part hereof, subject to the following.
 - a. Applicant shall relocate the dumpster enclosure area further to the east as determined by the Building Commissioner to create more space between the building and the enclosure so as to provide a wider path of egress to the rear of the building.
 - b. Landscaping shall be as shown on the Site Plan with the following exception: Applicant to revise Site Plan to include landscaped area and landscaping materials south of the existing water meter vault adjacent to the Touhy Avenue lot line of the Property.
 - c. All revisions to the Site Plan shall be subject to the final review and approval of the Building Commissioner.
2. *Exterior Maintenance Plan*. An Exterior Maintenance Plan is attached hereto as **Exhibit "D"**, and made a part hereof.

All revisions to the Exterior Maintenance Plan shall be subject to the final review and approval of the Building Commissioner.

3. *Landscape Maintenance Plan*. A Landscape Maintenance Plan is attached hereto as **Exhibit "E"**, and made a part hereof.

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All revisions to the Landscape Maintenance Plan shall be subject to the final review and approval of the Building Commissioner.

SECTION FOUR. *Site Plan Conditions*. That the Parking Stall Size Variation and Site Plan approval are hereby granted be subject to the following terms and conditions:

1. *Correct Code Deficiencies*. Applicant shall fully correct all code deficiencies identified by the Village since January 1, 1999, no later than 180 days after the effective date of this Ordinance, subject to an extension for inclement weather preventing the installation of landscaping, with the following enumerated code violations to be corrected according to the following time frames ("**Benchmark Dates**"):
 - A. Immediately:
 - (1) Section Four, "Hours of Occupancy for Preparation in Food Establishments"; Item 2 below;
 - (2) Section Four, Item "Health and Sanitation", 3 a, b, and c. below;
 - (3) Section Four, "Exterior Maintenance Agreement", Item 5 below.
 - B. No Later than 90 Days After the Effective Date of this Ordinance:
 - (1) Section Four, "Structural Improvements", Item 4c, below;
 - (2) Section Four, "Health and Sanitation", Item 3d, below.
2. *Hours of Occupancy for Preparation in Food Establishments*. Employees of any food establishment located on the Property shall not occupy any unit for the purpose of preparing food between the hours of 11:00 p.m. and 7:00 a.m. seven days a week.
3. *Health and Sanitation*.
 - a. Applicant shall clear the entire rear area of the Property of all materials and all miscellaneous items shall be removed from the Property.

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- b. Applicant shall immediately implement a rodent eradication and odor control program to be approved and directed by the Village and Cook County Health Department.
- c. All trash and grease containers shall be located in the trash enclosure area. Applicant shall establish a trash pickup schedule which is sufficient to keep the area free from garbage and shall provide periodic cleaning of the trash enclosure area to ensure that it is maintained in a clean condition. Applicant's submitted program for trash removal and maintenance of the trash enclosure area shall be reviewed and approved by the Building Commissioner.
- d. Applicant shall install odor control or filtering devices on any exhausts from food establishments located on the Property. All exhaust fans shall discharge above the roof. No discharge shall be directed to the south toward neighboring residential properties.

4. *Structural Improvements.*

- a. Applicant shall ensure that the brick columns supporting the canopy on the Property shall be reinforced so as to have a solid concrete base of 30 inches above ground to protect against damage from cars striking the columns.
- b. Brick used to construct the new brick trash enclosure shall match as closely as possible the color and type of brick of the existing building.
- c. Applicant shall install cover panels for the rooftop mechanical equipment on each piece of equipment that is missing a cover. All rooftop mechanical equipment shall have screening materials installed completely around each unit.
- d. The new trash enclosure shall be located in such a manner to allow easy access to the rear of the Property for deliveries. The exterior of the new trash enclosure shall be constructed of brick to match the building with the interior of the enclosure to be constructed of concrete block.

- 5. *Exterior Maintenance Plan.* Applicant shall agree to the Exterior Maintenance Plan attached hereto as **Exhibit "D"**. Applicant shall keep a log as part of the Exterior Maintenance Plan to keep track of all maintenance items. The log shall clearly detail the frequency of

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maintenance and who is responsible to perform the required maintenance. The log shall be subject to the review and approval of the Building Commissioner. The Exterior Maintenance Plan shall also include penalty provisions to be administered by the Building Commissioner to assure compliance.

6. *Landscape Improvements on the Property.*
 - a. Applicant shall incorporate additional plantings in all landscape areas so designated on page one of the Site Plan. Applicant shall incorporate perennials in planting beds to add interest and contrast to these areas. Plantings resistant to salt shall be planted in all detailed landscape areas.
 - b. A 6-inch continuous, poured-in-place concrete curb shall separate and surround all interior landscape areas.
 - c. Applicant shall add landscaping materials the area south of the existing water meter vault.
7. *Landscape Maintenance Plan.* Applicant shall agree to a Landscape Maintenance Plan attached hereto as **Exhibit "E"**, and made a part hereof.
8. *Public Improvements.*
 - a. Applicant shall replace the public sidewalk to the north of the area containing nine off-street parking spaces along the Touhy Avenue frontage as shown on page one of the Site Plan, at its own cost and expense. The sidewalk shall be constructed as directed by the Building Commissioner.
 - b. All asphalt and concrete surfaces currently located in parkway area, with the exception of the public sidewalk, must be removed and replaced with sod as part of this project as required by the Village Parkway Landscaping Ordinance. Applicant shall bear the sole cost and expense of restoring the public parkway area. All plans for parkway restoration and parkway restoration construction are subject to the review and approval of the Building Commissioner.
 - c. Applicant, at its sole cost and expense, shall plant four (4) parkway trees in the newly created parkway planting area per the

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requirements of the Village Parkway Landscape Ordinance. Applicant shall obtain the approval of the Village Arborist prior to the planting of any trees located on the Village Parkway.

9. *IDOT Permits.* Applicant shall obtain the necessary approval and permits from the Illinois Department of Transportation ("**IDOT**") for the removal of the parkway pavement and the parkway restoration. A copy of the IDOT permit(s) shall be submitted to the Building Department prior to commencing work on the pavement removal and rehabilitation of the parkway area on Touhy Avenue.

SECTION FIVE. *Changes in Tenant Occupancy or Use Will Require Site Plan Review.* Applicant acknowledges that based on the uses currently located on the Property to wit: Donga Foods (retail food sales) 3933 Touhy Avenue; R.C. Oriental (retail food sales) 3935 Touhy Avenue; Vacant space, 3937 Touhy Avenue; Bhabi's Salon (Beauty Parlor) 3939 Touhy Avenue; Poochie's Deli (restaurant) 3941 Touhy Avenue; and Kiem Video (Rental and Sales of Videos) 3943 Touhy Avenue, that the required off-street parking area for the Property is deficient by a total of fifty-six (56) parking spaces. Following approval of the Site Plan and the Parking Stall Size Variation herein, a deficiency of fifty-one (51) off-street parking spaces from the required seventy-five (75) spaces will remain on the Property. Applicant agrees that each time there is a change in occupancy or use for any of the units located on the Property, Applicant shall notify the Village in writing and shall request that the PC/ZBA conduct a new site plan review of the Property to determine the impact any new use or occupancy will have on available off-street parking, and to determine if any zoning relief is necessary, appropriate, or warranted.

SECTION SIX. *Parking Stall Size Variation.* That the Village Board hereby grants Applicant a Parking Stall Size Variation from the Zoning Ordinance requirement (Section XI, F.4) that off-street parking spaces be nine (9) feet wide and twenty (20) feet in length so that the parking lot facilities for the Property can be constructed in the manner set forth on page one of the Site Plan. The Parking Stall Size Variation shall enable the Applicant to construct twenty-four spaces (24) which shall be 8-feet 6 inches x 19-feet, for the common off-street parking area as shown on the Site Plan. In granting the Parking Stall Size Variation the Village Board finds:

1. That the particular physical surroundings, to wit: the size and configuration of the Property would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of this comprehensive amendment to be carried out;
2. That the conditions upon which the Parking Stall Size Variation is based are not applicable generally to other property within the same district;

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3. That the Parking Stall Size Variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property but will enhance the traffic circulation around the Property, increase pedestrian and vehicular safety on the Property and when ingress and egressing the Property;
4. That the alleged difficulty or hardship has not been created by any person presently having an interest in the Property;
5. That the granting of the Parking Stall Size Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the Property is located; and
6. That the proposed Parking Stall Size Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

SECTION SEVEN. *No Approval of Tenant Zoning Request.* Village Board approval of the Site Plan and the Parking Stall Size Variation shall not constitute an approval of any expansion of RC Oriental Outlet Store which currently occupies the Property in the unit designated as 3935 Touhy Avenue, or any expansion within the Property by a current or future tenant.

SECTION EIGHT. *Abandonment of Parking Stall Size Variation.* That if the Parking Stall Size Variation is abandoned or discontinued for a continuous period of six (6) months, or the Property is redeveloped and the structure located thereon as of the effective date of this Ordinance is demolished, or more than sixty percent (60%) of the value of the structure located thereon as of the effective date of this Ordinance is destroyed or demolished, the Parking Stall Size Variation shall become void and shall not thereafter be reinstated unless a new Parking Stall Size Variation is obtained by the procedures required under the Zoning Ordinance.

SECTION NINE. *Breach of Site Plan Conditions, Parking Stall Size Variation.*

1. Applicant agrees that if it has not complied with the conditions set forth in Section Four by the Benchmark Dates, then the Site Plan review approval granted herein shall be null and void, unless the Corporate Authorities, on motion of the Applicant extend the time for Applicant to comply with such conditions.

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2. Once the conditions set forth in Section Four have been initially fulfilled as required herein, thereafter, if Applicant fails to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the Site Plan approved herein shall, at the sole discretion of the Village Board by ordinance duly adopted, be revoked and become null and void, provided however, that the Village Board shall not so revoke Site Plan approval unless it first provides Applicant with written notice of the reasons for revocation and a 30-day period in which to cure deficiencies. In the event Applicant fails to cure the deficiencies within that 30-day period, the Village Board shall give Applicant 30 days advance written notice and an opportunity to be heard at a regular meeting of the Village Board. In the event of the revocation of this Site Plan approval, the Village Attorney is hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. Applicant acknowledges that a public hearing pursuant to public notice has been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this paragraph and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notices to Applicant required by this paragraph are given, and such parties are afforded the right to cure hereinabove provided for.

3. If Applicant uses the Property in a manner inconsistent with the Parking Stall Size Variation, then the Parking Stall Size Variation shall be deemed null and void. Applicant shall not thereafter use the Property in the manner described in the Parking Stall Size Variation and shall be required to resume the zoning regulations applicable to the Property for the zoning district in which the Property is located.

SECTION TEN. *Non-Waiver.* That nothing herein shall be deemed to waive any other covenants and conditions which are applicable to the Site Plan and Parking Stall Size Variations herein being granted.

SECTION ELEVEN. *Amendments.* That amendments to this Ordinance shall be considered pursuant to the procedures, standards and limitations established therefor in the Zoning Ordinance.

SECTION TWELVE. *Village Ordinances.* The development of the Property shall be subject to, and nothing herein shall be deemed or construed to relieve Applicant from, all terms and conditions of applicable Village ordinances and regulations, and as they exist and as they may be amended from time to time, including, without limitation, zoning ordinances, building and safety codes, property maintenance codes, subdivision regulations, and the Village's Sign Ordinance (Code 12-2-1 *et seq.*).

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SECTION THIRTEEN. *Penalties.* That any person (person here includes, without limitation, a corporation, partnership, limited liability company or other legal entity) who having first been provided notice, and is found to be in violation of the terms and conditions of this Ordinance, shall be subject to a penalty of not to exceed One Thousand Dollars (\$1000.00) for each and every day that the violation of this Ordinance is allowed to remain in effect, with each day's violation being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. That any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees incurred by the Village in bringing any enforcement action.

SECTION FOURTEEN. *Successors and Assigns.* That the terms of this Ordinance shall inure to the benefit of and be binding on Applicant, and her respective successors and assigns and upon successor grantees of the Property.

SECTION FIFTEEN. *Partial Invalidity.* That if any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be deemed stricken from this Ordinance but such action shall not affect the ongoing validity or enforceability of any other provision of this Ordinance.

SECTION SIXTEEN. *Effective Date.* That this Ordinance shall be in full force and effect commencing from and after its passage, approval and publication in pamphlet form, as provided by law, provided a true and correct copy of this Ordinance is executed by Applicant consenting and agreeing to be bound by the terms and conditions of this Ordinance and such executed copy is delivered to the Village within 30 days of the passage and approval of this Ordinance, or within such extension of time as may be granted by the Corporate Authorities by motion.

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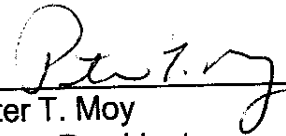
PASSED this 20th day of November, 2003.

AYES: Trustees Lebowitz, Saltz, Leftaker, Turry and Spriggs-Monahan

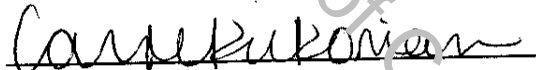
NAYS: None

ABSENT: Trustee Elster

APPROVED this 4th day of December, 2003.


Peter T. Moy
Village President

ATTESTED AND FILED IN MY OFFICE:


Carol Krikorian
Village Clerk

Property of Cook County Clerk's Office

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Bok Nim Heo, being the beneficiary of rights granted by Village ordinance Z2003-225 and the owner of the Property that is the subject of this Ordinance, and having the authority to execute this Ordinance, hereby assumes the obligations imposed upon her herein, and consents and agrees to be bound by the terms and conditions of this Ordinance.

Bok Nim Heo

Bok Nim Heo

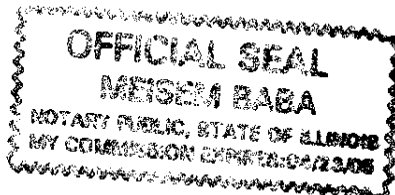
Dated: 12.5.2003, 2003

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Bok Nim Heo, personally known to me to be the same person whose name is subscribed to the foregoing Ordinance, appeared before me this day in person and acknowledged that she signed and delivered said Ordinance pursuant to her authority as owner of the Property described herein, as her free and voluntary act for the purposes therein set forth.

Given under my hand and official seal, this 5 day of DECEMBER, 2003.

Meisem Baba
Notary Public



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EXHIBIT A LEGAL DESCRIPTION OF THE PROPERTY

The West 150.00 feet of Lot 16 together with all of the vacated alley South of and adjoining the West 150.00 feet of said Lot 16 in 8th Addition to Lincoln Avenue Garden, being a Subdivision of parts of Lots 1 and 4 and part of vacated alley adjoining said lots in the subdivision of the North 10 acres of the West ½ of the Northwest ¼ of Section 35, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois commonly known as 3933-43 Touhy.

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EXHIBIT B LEGAL NOTICE

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NOTICE IS HEREBY GIVEN THAT A Public Hearing will be held by the Plan Commission/Zoning Board of Appeals of the Village of Lincolnwood, Cook County, Illinois on the 8th day of October 2003, at the hour of 7:30 p.m., in the Lincolnwood Village Hall, 6900 North Lincoln Avenue, Lincolnwood, Illinois for the purpose of considering the following:

1. Request by Petitioner, Renata Heiberg, on behalf of owner Renata Mackowiak, for a Variance in an R-2 Residential District under Article VIII, Section C, Paragraph 7 to reduce the required 25-foot front yard setback by 0.21-feet to the existing 24.79-feet; and a Variance under Article VIII, Section C, Paragraph 9 to reduce the required 33.5-foot rear yard setback by 4.11-feet to the existing 29.39-feet, to construct a first and second floor addition. Legal Description: Lot 13 and southwesterly ½ of Lot 14 in Block 1 in Gubbins and McConell's Edgebrook Golf Addition being a subdivision of Lot 29 and parts of Lots 22, 30, 37 and 38 in Bronson's part of Caldwell Preserves in Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois **commonly known as 6503 LeMai.**
2. Request by Petitioners Luke and Gina O'Donnell, owners, for a Variance in an R-1 Residential District under Article VII, Section H, Paragraph 4 to allow installation of air conditioning units in the southwest interior side yard setback. Legal Description: Lot 4 in Block 8 in Lincolnwood Towers Third Addition being a subdivision of part of the Southeast Fractional ¼ of the Fractional Section 33, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois **commonly known as 6626 Nokomis.**
3. Request by Petitioner Janice Nham, owner, for a Variance in an R-3 Residential District under Article VIII, Section D, Paragraph 3(a) for a reduction of 1,297 square feet from the required 5,400 square feet to the existing 4,103 square feet and a Variance under Article VII, Section F, Paragraph 5, to increase the allowed 30% rear yard coverage by an accessory building by 1.89% to construct a 20-ft. x 22-ft. detached garage. Legal Description: Lot 25 in Block 2 in Crawford Touhy Prairie Road Subdivision of the South ½ of the South ½ of the West ½ of the Southwest ¼ of Section 26, Township 41, North, Range 13, East of the Third Principal Meridian in Cook County, Illinois **commonly known as 3800 Jarlath.**
4. Request by Petitioners George Oommen and Sheela George, owners, for a Variance under Article VIII, Section D, Paragraph 8(a) to reduce the required 6-ft. interior side yard setback by 1.05-feet to the existing 4-feet, 9-1/2-inches to construct an addition to the rear of the existing home. Legal Description: The Northwesterly 40.0 feet of Lot 8 and Lot 9 (except the Northwesterly 40.0 feet thereof) in Lincolnwood Glen Subdivision, being a subdivision of Lots 9 and 16 and part pf Lots 7, 10 and 15 in James Clark's Subdivision of the East ½ of the Northwest ¼ and the Southwest ¼ of the Northwest ¼ of Section 34, Township 41 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois, **commonly known as 6948 Kilbourn.**

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5. Request by Petitioner Andrew Venamore, Airoom, on behalf of Elias Abou-Mourad, owner, for a Variance under Article VIII, Section D, Paragraph 9, to reduce the required 30-ft. rear yard setback by 5-feet to the existing 25-foot and a Variance under Article VIII, Section D, Paragraph 8 to reduce the required interior side yard setback of 6.6-feet by 1.23-feet to the existing 5.37-feet for the north interior side yard, and to reduce the required interior side yard setback of 6.6-feet by 1.25-feet to the existing 5.35-feet on the south interior side yard to remodel the existing home and enclose an existing porch. Legal Description: Lots 11 and 12 in Warton's Subdivision of the South 20 acres of the Northeast ¼ of Section 34, Township 41 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, **commonly known as 7020 Kedvale.**
6. Request by Petitioner George Svoboda, architect, on behalf of Steven H. Sahary, owner, for a Variance under Article VIII, Section B, Paragraph 7, to reduce the required 25-ft. front yard setback by 0.15-feet to the existing 24.85-feet; a Variance under Article VIII, Section B, Paragraph 8(a) to reduce the required north interior side yard setback of 10.0-feet by 3.34-feet to the existing 4.59-feet; and a Variance under Article VIII, Section B, Paragraph 9 to reduce the required 33.5-ft. rear yard setback by 28.53ft to the existing 4.97-feet to construct a second floor addition over the existing house. Legal Description: Lot 5 in Block 11 in Lincolnwood Towers 4th addition being a subdivision of part of the East fractional ½ of the Southeast ¼ of Section 33, Township 41 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded September 15, 1953, as Document 1571597, in Cook County, Illinois **commonly known as 6635 Longmeadow.**
7. Request by Bok Nim Heo, owner, for a Variance in a B-1 Restricted Business District under Article XI, Section F, Paragraph 4 to reduce the size of the parking spaces from the required 9-ft x 20-ft to 8-ft. 6-in. x 20-ft., and a Variance under Article XI, Section F, Paragraph d to reduce the required number of off-street parking spaces; and Site Plan Approval per requirement of Section A, (1), (e). Legal Description: The West 150.00 feet of Lot 16 together with all of the vacated alley South of and adjoining the West 150.00 feet of said Lot 16 in 8th Addition to Lincoln Avenue Garden, being a Subdivision of parts of Lots 1 and 4 and part of vacated alley adjoining said lots in the subdivision of the North 10 acres of the West ½ of the Northwest ¼ of Section 35, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois **commonly known as 3933-43 Touhy.**
8. Request by Petitioners Ivan John Kosir and Silvia Kosir, owners, for a Variance in a R-3 Residential District for a Variance under Article VIII, Section D, Paragraph 8(a) to reduce the required north interior side yard setback by 0.96-feet from the required 5-feet to the existing 4.04-feet

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to construct a one-story addition to the existing home. Legal
Description: Lot 22 and the North Half of Lot 21 in Block
1 in Devon-McCormick Boulevard Addition to Rogers Park, in Section
35, Township 41 North, Range 13, East of the Third Principal Meridian
in Cook County, Illinois, **commonly known as 6519 Christiana.**

All persons interested in the foregoing matters are requested to appear at said Public
Hearing and will be given an opportunity to be heard.

Paul Eisterhold, Chairman
PLAN COMMISSION/ZONING BOARD OF APPEALS

Dated: 9/12/03

PUBLISHED: Lincolnwood Review

ON: 9/18/03

Property of Cook County Clerk's Office

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EXHIBIT D EXTERIOR MAINTENANCE PLAN

Applicant shall perpetually maintain the Property and any structures located on the Property in a first-class condition, at its sole cost and expense according to the conditions set forth in the Ordinance and Applicant shall be subject to the following:

1. Maintain repair, replace, clean, clear and maintain the off-street parking area, and drive aisles including without limitation: cleaning, snow removal, striping, lighting, drainage, curb and gutter maintenance, resurfacing and landscaping, when and as required;
2. Repair, replace, clean and relamp all internally lit exterior signs and lighting fixtures;
3. Repair, replace, renew and clean all signs, entrance monuments and markers in accordance with the Village's Sign Ordinance;
4. Periodically throughout the operating hours of the businesses located on the Property, and at the close of business each day, remove all paper, litter, refuse and debris from parking and landscaped areas of the Property;
5. All trash and grease containers shall be located in the trash enclosure area. A trash pickup schedule sufficient to keep the area free from garbage shall be established. The trash enclosure shall be cleaned periodically and maintained in a clean condition;
6. Applicant shall keep a log tracking all maintenance items. The log shall clearly detail the frequency of maintenance and who is responsible to perform the required maintenance;
7. Violations of the Exterior Maintenance Agreement shall be subject to the provisions set forth in Section Nine and other applicable provisions of this Ordinance;
8. All odor control and filtering devices shall be kept properly maintained and in a fully operational condition; and
9. All rooftop mechanical equipment must be kept properly maintained, properly screened and in a fully operational condition.

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EXHIBIT E LANDSCAPE MAINTENANCE PLAN

Applicant shall perpetually maintain all landscaping on the Property in a first-class condition, at its sole cost and expense in accordance with the Ordinance and Applicant shall be subject to the following:

1. Mow, water, fertilize, weed, edge, trim, cultivate, replant and replace all landscaping consistent with commonly accepted horticultural and arboricultural practices;
2. Promptly remove any diseased or dead plant material such as flowers, vegetation, trees or shrubs and install an equal number of replacement landscaping materials of the same or very closely related species at a size to be approved by the Village; and
3. To ensure continued compliance with the landscaping requirements approved on the Site Plan, once annually during the growing season, the Village shall inspect the Property to ensure that all landscaping is being maintained as required by this Ordinance and this Landscape Maintenance Plan. The Village shall issue a written report to Applicant noting any deficiencies or variance from the landscaping requirements under this Ordinance. Applicant shall cure any noted deficiencies or variances therefrom within 30 days of such notice, weather permitting. Applicant shall not be required to cure such deficiencies from November through March and such time to comply may be further extended by the Village in extreme or unusual situations of prolonged inclement weather.

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3933-43 Touhy Avenue

Bok Nim Heo, Owner, 4814 W. Gunnison, Chicago, and Mr. Han, architect of Han and Architects, 75 Gaylord Street, Elk Grove Village, appeared and were sworn in by Chairman Eisterhold. All proper notifications had been made by the petitioner.

This is a request seeking variances to reduce the size of the off-street parking spaces from the required 9 feet x 20 feet to the proposed 8 feet 6 inches x 19 feet; to reduce the required number of off-street parking spaces from the required 75 spaces to the proposed 24 spaces; and site Plan Approval per requirements of Village of Lincolnwood Zoning Ordinance.

Building Commissioner Lebegue explained that the variation request to reduce the size of the off-street parking spaces is being sought in order to increase the number of legal off-street parking spaces for a property that is significantly short of available off-street parking spaces. Currently, the seven parking spaces located along Touhy Avenue obstruct the public right-of-way and are not counted as legal off-street parking spaces.

The reduction in the width and depth of the off-street parking spaces coupled with more efficient parking lot layout will result in the creation of legal parking spaces that will no longer obstruct the public right-of-way. Building Commissioner Lebegue further explained that the proposed parking space size of 8'6" x 19" is consistent with the parking space width that was recently approved for the Airoom Plaza at 6829-49 Lincoln Ave.

Building Commissioner Lebegue then explained that the petitioner is also seeking a variation to reduce the number of required off-street parking spaces for the entire property at 3933-43 Touhy Avenue. Even with the addition of the legal parking spaces along Touhy Avenue, a deficiency of 49 off-street parking spaces exists at the property at 3933-43 Touhy Avenue. Building Department staff feels that it is inappropriate to grant a blanket parking space variation for the property at 3933-43 Avenue. In the opinion of staff, every change in occupancy at the property at 3933-43 Touhy Avenue should require a Site Plan Review before the PC/ZBA to determine the impact the use will have on available parking and if any zoning relief is necessary.

Building Commissioner Lebegue continued by outlining 6 other items relating to site landscaping and design that could be considered as conditions should any zoning relief be granted.

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Extensive discussion then took place among the members of the PC/ZBA regarding the variation and Site Plan Review requests. Commissioner Klint asked if the utility poles detailed on the plat of survey were going to be moved as part of the site improvements. Building Commissioner Lebegue answered that the utility poles were not being moved.

Chairman Eisterhold then expressed concerns regarding the masonry columns that supported the improved canopy. Chairman Eisterhold explained that the lower 30 inches of the columns should be constructed of solid concrete to strengthen the columns in the event the columns are struck by a vehicle.

Commissioner Klint then suggested that the dumpster enclosure area be shifted slightly to the east to create more space between the building and the enclosure to provide a wider path of egress to the rear of the building. Mr. Han, architect, stated that the owner had no problem with moving the trash enclosure to the east.

Chairman Eisterhold then called for public comments. Sanford and Barb Alper of 3930 Fitch Ave., Lincolnwood, and Drago Koscak of 3934 Fitch Ave., Lincolnwood, came forward and were sworn in by Chairman Eisterhold. Mrs. Alper explained that since Mrs. Heo has owned the property of 3933-43 Touhy Avenue, the property has not been maintained in a very sanitary manner and has been a constant nuisance to the residential properties to the south. Mrs. Alper further stated that rats and other rodents are now present on their property due to the open dumpsters and overflowing garbage located at 3933-43 Touhy Avenue.

Sanford Alper then stated that the garbage enclosure area is the main source of the sanitation problems. Mr. Alper explained that the area is never washed down and garbage is allowed to sit on the ground. Mr. Alper further stated that the odors generated by the cooking is also very offensive and has smelled it as early as 3:00 a.m. Mr. Alper ended by stating that he and the other neighbors wanted some guarantee that the property will be cleaned up and maintained in a sanitary manner.

Drago Koscak of 3934 Fitch Ave. then came forward and stated that he too found the smell being generated at 3933-43 Touhy Avenue offensive, but also expressed concern about the noise generated by the mechanical equipment. Mr. Koscak explained that the rooftop mechanical equipment ran constantly and was very noisy and unsightly due to missing covers and the lack of screening. Mr. Koscak further stated that the exhaust fans located in the building at 3933-43 Touhy Avenue discharged directly to the south, creating a nuisance for the residential properties to the south.

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Further discussion took place among the members of the PC/ZBA recording means to assure that the property at 3933-43 Touhy Avenue is maintained in a sanitary manner and does not pose a nuisance to neighboring residential properties.

Chairman Eisterhold then stated that he concurred with staff and felt that any change in use and occupancy of the units in the building shall require a Site Plan Review by the PC/ZBA to determine the impact on parking.

Motion was made by Commissioner Klint, seconded Commissioner Yohanna, to recommend denial of the requested variation to reduce the number of required off-street parking spaces for the property of 3933-43 Touhy Avenue. (Commissioner Yohanna left the meeting before a vote was taken.) Ayes: Klint, Eisterhold, Couzin, Auerbach. Carried unanimously. To Village Board or Trustees on November 6, 2003.

Motion was made by Commissioner Klint, seconded by Commissioner Yohanna (Commissioner Yohanna left after seconding the motion and did not vote), to recommend approval of the variation request to reduce the size of the off-street parking spaces and Site Plan Approval subject to the following conditions:

- 1.) That all relevant Village inspection deficiencies identified since 1999 be fully corrected.
- 2.) Entire rear of property be cleared of all materials and miscellaneous items be removed from the property.
- 3.) Implement a rat and odor control program to be approved by the Village and Cook County Health Department.
- 4.) This approval is not an approval of any expansion of RC Oriental.
- 5.) The brick columns that support the canopy to have a solid concrete base of 30 inches above ground to protect against damage from cars striking the columns.
- 6.) That any change in business use or occupancy of any of the units will require return to the PC/ZBA for a Site Plan Review to determine the impact the proposed use or occupancy will have in available parking.
- 7.) The six recommendations of staff detailed in Staff Report be included as presented.
- 8.) The cover panels for the rooftop mechanical equipment must be installed on all the units that are missing covers. All rooftop mechanical must have screening materials installed completely around each unit.

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- 9.) A Landscape Maintenance Agreement shall be submitted by the petitioner for the review and approval of the Village Attorney.
- 10.) The new brick and block trash enclosure must be located in such a manner to allow easy access to the rear of the property for deliveries. New trash enclosure shall be constructed in such a manner that the exterior be constructed of brick to match the building with the interior of the enclosure constructed of block.
- 11.) All trash and grease containers shall be located in the trash enclosure area. A program must be instituted by the property owner to establish a trash pickup schedule and periodic cleaning of the trash enclosure area. Submitted program will be reviewed and approved by the Village Attorney.
- 12.) Odor control or filtering devices shall be installed on any exhausts from food establishments located on the property. All exhaust fans shall discharge above the roof, with no discharge directed to the south toward neighboring residential properties.
- 13.) An Exterior Maintenance Agreement shall be submitted by the property owner for approval by the Village Attorney. The submitted Exterior Maintenance Agreement shall have a log provision to keep track of all maintenance items clearly detailing the frequency of maintenance and who will be responsible to perform the required maintenance. The Exterior Maintenance Agreement shall also include penalty provisions to be administered by the Building Commissioner to assure compliance.
- 14.) No building occupancy may be conducted by employees of the food establishments located on the property to prepare food between the hours of 11:00 p.m. and 7:00 a.m.

Chairman Eisterhold then asked Mr. Han, architect and Bok Nim Heo, owner, if they fully understood and agreed with all of the outlined conditions. Mr. Han and Mrs. Heo answered that they understood and agreed with all of the conditions. Chairman Eisterhold then called for a vote. Ayes: Klint, Eisterhold, Couzin, Auerbach. Carried unanimously. To the Village Board of Trustees on November 6, 2003.

~~III. Building Commissioner Status Report~~

~~Building Commissioner Lebegue explained that a workshop is being scheduled for October 22, 2003 to meet with representatives of Centrum Properties to discuss the redevelopment of the Silo property at 6734 N. Lincoln Avenue and the possible rezoning of two residential properties. John Lebegue further explained that a workshop on the proposed Bulk~~

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PLAN COMMISSION/ZONING BOARD OF APPEALS BUILDING DEPARTMENT REVIEW AND RECOMMENDATIONS

ADDRESS: 3933-43 Touhy

AGENDA NO.: V-H

NATURE OF REQUEST:

This is a request by owner Bok Nim Heo for:

- 1) Variation to reduce the size of the off-street parking spaces from the required 9-feet x 20-feet to 8-feet 6-inches by 19-feet.
- 2) Variation to reduce the required number of off-street parking spaces from the required 75 spaces to the proposed 24 spaces.
- 3) Site Plan Approval per requirements of Article IX, Section A, (1) (f) of the Village of Lincolnwood Zoning Ordinance.

SUMMARY:

The variation request to reduce the size of off-street parking spaces from the required 9-ft x 20-ft to 8-ft 6-in x 19-ft is being sought in order to increase the number of available off-street parking spaces for a property that is significantly short of the required number of off-street parking spaces. Currently, the seven parking spaces located along Touhy Avenue obstruct the public parkway and are not counted as legal off-street parking spaces. The reduced parking space size, coupled with a more efficient parking lot layout, has resulted in the creation of additional off-street parking spaces that can count to meet off-street parking requirements. The proposed parking space size of 8'6" x 19' is consistent with the parking space width that was recently approved for the Airoom Plaza at 6829-49 Lincoln Avenue.

A variation to reduce the number of required off-street parking spaces is also being sought for the entire property at 3933-43 Touhy Avenue. The property at 3933-43 Touhy Avenue does not possess the required number of off-street parking spaces for the uses that currently exist at the property. As the attached parking analysis indicates, a deficiency of 49 off-street parking spaces exists even with the addition

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3933-43 Touhy Avenue

of new legal parking spaces. Building Department staff feels that it is inappropriate to grant a blanket parking space variation for the property at 3933-43 West Touhy Avenue because such broad zoning relief would reduce Village control over the uses that occupy the property. Any variation in the number of required off-street parking spaces should be determined, taking into account uses present on the property and be determined on an individual basis. It is the opinion of Building Department staff that, with every change in occupancy at the property at 3933-43 Touhy Avenue, a site plan review should be performed to determine if any zoning relief is needed and how the proposed use will impact the number of available off-street parking spaces. The site plan review requirement is predicated on the gross deficiency in the number of off-street parking spaces that exist on the property and the need for careful consideration of all uses that will occupy the property.

In regard to the Site Plan that has been submitted for Site Plan Review, the following items were identified during staff review:

- 1) Additional plantings should be incorporated in all landscape areas. The incorporation of perennials would add interest and contrast to the areas. Also, plantings resistant to salt should be planted in all detailed landscape areas.
- 2) A 6-inch continuous, poured-in-place concrete curb shall separate and surround all interior landscape areas.
- 3) Landscaping materials should be added to the area south of the existing water meter vault.
- 4) The public sidewalk to the north of the nine off-street parking spaces shall be replaced as part of this project.
- 5) In accordance with the Village Parkway Landscaping Ordinance, all asphalt and concrete currently located in parkway area, with the exception of the public sidewalk, must be removed and replaced with sod as part of this project. Currently, the parking spaces along Touhy Avenue obstruct the parkway area and extend all the way to the curb. The submitted Site Plan shows that the parking spaces have been moved out of the parkway area and a new planting area installed along Touhy Avenue. In the opinion of the Building Department staff, the petitioner should bear the cost of restoring the parkway area as detailed in the Site Plan, and additionally

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3933-43 Touhy

should plant four parkway trees in the newly created parkway planting area per the requirements of the Village Parkway Landscape Ordinance.

- 6) Brick used to construct the new brick trash enclosure should match the brick of the existing building.

STAFF RECOMMENDATION:

Building Department staff recommends approval of the variation to reduce the width and length of the parking spaces from the required 9'x20' to 8'6" x 19'. The reduction in width will provide additional legal off-street parking spaces and will not adversely impact the utility of the parking areas. The creation of angled parking spaces, with a one-way traffic flow, will improve traffic safety on the property and all parking spaces will be located entirely on the subject property, not obstructing the public parkway.

Staff recommends denial of the request to reduce the number of off-street parking spaces for the entire property at 3933-43 Touhy Avenue.

Lastly, staff recommends approval of the Site Plan, subject to the suggested conditions.

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VILLAGE OF LINCOLNWOOD BUILDING DEPARTMENT

PARKING ANALYSIS FOR 3933-43 TOUHY AVENUE

ADDRESS	BUSINESS	AREA IN SQ. FT.	PARKING PER CODE	TOTAL SPACES
3933 Touhy	Donga Foods	1368	1 space/300 s.f.	5
3935 Touhy	R.C. Outlet	1368	1 space/300 s.f.	5
3937 Touhy	Vacant	1368	1 space/300 s.f.	5
3939 Touhy	Bhabi's Salon	1368	1 space/100 s.f.	14
3941 Touhy	Poochie's Deli	1368	3 spaces/100 s.f.	41
3943 Touhy	Kiem Video	1368	1 space/300 s.f.	5

Total Number of Required Off-Street Parking Spaces for Existing and Proposed Uses	75
Existing Legal Off-Street Parking Spaces	19
Deficiency in required spaces	56

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DOCUMENT**

WITH THIS EXHIBIT

EXHIBIT

ATTACHED TO

DOCUMENT

WITH THIS EXHIBIT

DOCUMENT

SEE PLAT INDEX

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