

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

SS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MAY 21, 2008
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Special Meeting of the Zoning Board of Appeals was held Wednesday May 21, 2008 at 7:00 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, NY 13039.

MEMBERS PRESENT: Gary Natali: Board Chairman
Richard Griola: Board Member
Charles Stanton: Board Member
Robert Wilcox: Board Member, AdHoc

OTHERS PRESENT: Melissa DelGuercio: Attorney
Nancy G. Morgan: Secretary
Vernon Conway: Councilman, Town Board Liaison
Wayne Dean: Director of Planning & Development

ABSENT: Mark Rabbia: Board Member
Michael Stassi: Board Member
Donald Stewart: Board Member

In as much as there was a quorum present, the meeting opened at 7:00 p.m.

Mr. Natali pointed out the fire exits and requested that pagers and cell phones be turned off. He then read the following statement: The Cicero Town Board acknowledges the importance of full participation in public meetings, and therefore, urges all that wish to address those in attendance to utilize the microphones in the front of the room.

Motion was made by Mr. Griola, seconded by Mr. Wilcox, to approve the minutes of the regular May 5, 2008 Zoning Board of Appeals meeting.

Motion was put to a vote, resulting as follows:

Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Stanton, that all actions taken tonight are Type II Unlisted Actions and have a negative impact on the environment, unless otherwise indicated.

Motion was put to a vote, resulting as follows:

Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE DEFERRED FROM MAY 5, 2008 FOR BRIAN HASTINGS, 6404 LONG POINT ROAD, TO ALLOW CONSTRUCTION OF A HOUSE AND A POLE BARN ON A NON-CONFORMING LOT. THE LOT IS ZONED R-10 WHICH REQUIRES A 75 FT. WIDE LOT AND THE LOT IS 50 FT. WIDE. THE ALLOWABLE COVERAGE OF 25 % IS ALSO EXCEEDED.

Mr. Natali: I would like to remind everyone that we have closed the public meeting and we will have an opportunity when we discuss the Coverage Variance for any additional input. I have discussed with your representatives, that we allow the minutes and the exhibits that were presented at the May 5th meeting to be the same for the Coverage Variance. We would also ask that if there is anything additional you want to add, that has not been said at the last meeting. We have a deferment from the May 5th meeting. At this point, I'm going to ask the Board if they have any additional questions that they would like to ask either of the Attorneys that represent their respective clients.

Mr. Natali opened the meeting to the public at 7:05 P.M.

Mr. Natali: I have a question for Mr. Sharpe. Is Mr. Hastings a licensed electrician?

Mr. Sharpe: No.

Mr. Natali asked Mr. Hastings what type of projects he usually works on. You mentioned some residential. Do you work on commercial projects?

Mr. Hastings: Very little commercial, mostly new homes. I don't have a license in the City of Syracuse but I am certified with New York State and I'm also registered in Albany.

Mr. Natali: So you can work on homes and developments anywhere, right?

Mr. Hastings: Yes, except in the City of Syracuse.

Mr. Stanton: You said you were going to possibly store some video games in the pole barn--or arcade games. Would you be using the games in the winter so that you would have to heat the pole barn?

Mr. Hastings: We don't use the games in the winter.

Mr. Stanton: What's the purpose of the other drain on the side of the garage--the actual drain tile? When I was out to the site yesterday, it looked like it was just installed on top of the stone.

Mr. Hastings: The area is pretty low right there between the two properties so we went to the lowest point to pick up the water. We're actually going to cover that with stone or something. That one drain is a little high in the middle where the electrical service is and the contractor I hired to do that has not been back yet, although he will be. The ground was a little moist. He had other obligations at the moment but it will be taken care of soon.

Mr. Stanton: You're also aware the drain tile on the west side of your property terminates right before your seawall? It really doesn't outlet anything. The one drainage pipe you have running from your house to the lake stops just at the seawall.

Mr. Hastings: There's a lot of stone under that seawall. We actually dug it up and we saw that it goes right thru the stone. We dug them all up to make sure they were working.

Mr. Stanton: Are you aware that the one drain pipe on the east side of the property appears to be on you neighbor's property? It's hard to tell the division of property.

Mr. Hastings: We did put a pipe between the two seawalls. It was intended to take care of both properties.

Mr. Stanton: I noticed 2 pieces of rebar stuck in either end of the retaining wall, right on the line.

Mr. Hastings: That was just for us to keep a line. We came in 6 inches and we made sure the furthest point of rock was touching that line.

Mr. Stanton: You had your surveyor install those, right?

Mr. Hastings: The stakes for the rocks? No. We just measured from the building over. We stayed in 6 in. and ran a string line. Rocks aren't square--they stick out.

Mr. Natali: Do you plan on paving the stone along the pole barn up to your house?

Mr. Hastings: No.

Mr. Natali: How about paving in front of your garage?

Mr. Hastings: Thought about it but, no.

Mr. Natali: What is your thinking for not paving it?

Mr. Hastings: Honestly, I never wanted that driveway on the side of the garage. It would be OK if you needed to park the car up close to the house, so you can carry in groceries but it's not a very wide piece of property.

Mr. Natali: The drainage situation is a concern of ours and blacktopping that area would make the situation worse. We can't mandate that you not pave your driveway but certainly it would help the drainage if you didn't.

Mr. Hastings: I also have a pipe there for the gutters but we have not put the gutters on the garage at this point.

Mr. Natali: Have you been quoted a price on moving your hydrant?

Mr. Hastings: Yes, I have. It was \$3,000.00

Mr. Natali: Is it definite in your plans to move hydrant?

Mr. Hastings: Yes, I don't see any way around it. OCWA will not move it at their expense.

Mr. Natali: That affects the safety factor so that is a good idea and I hope you stick with your plans.

Mr. Wilcox: Where is that hydrant going to be located?

Mr. Hastings: On the property line, right where they put in the blue stake.

Mr. Wilcox: Is the drainage on the east side of the building complete or incomplete?

Mr. Hastings: It's incomplete at this time.

Mr. Wilcox: When will it be completed?

Mr. Hastings: We hope for it to be done in about 2 weeks.

Mr. Natali: Have you discussed, at any time, that your drain that goes to the lake is actually on your neighbor's property?

Mr. Hastings: I was unaware that it was on their property.

Mr. Natali: Have you ever had a discussion with them about it?

Mr. Hastings: No, I guess I can't say that I have.

Mr. Stanton to Mr. Smith: In your last letter to us and in the meeting minutes, you made an assertion that the lot size is more than 600 sq. ft. smaller than before. I was wondering where you got that lot size figure. Was it a mistake on your part?

Mr. Smith: The figures in the letter are taken from the measurements submitted on the Hastings application. In the application, it states that the lot is 370 ft. deep, 51 ft. on one side and 50 ft. on the other. The calculation of the area is based on that. I think the comment you are referring to is that one of Mr. Sharpe's statements during the meeting was that the area of the lot was smaller than what I had calculated, which would be better for my position. I think Mr. Sharpe, in his last letter, changed his plan. Does that help?

Mr. Stanton: Somewhat. You said at one point, the lot size being presented to the Board was 18,607 sq. ft., which is smaller than what was indicated in the letter. Then you also pulled out the 18,685 sq. ft. dimension, which is only around a 77 sq. ft. difference. What I'm trying to do here, just for the record, is make sure the 600 ft. that's stated here is correct or whether it is not.

Mr. Smith: I'm not a surveyor, I know what the area is and how I reached my number. The number in my letter is 18,685 sq. ft. That's the product of 370 X 50.5. There have been other numbers thrown around. I can not speak for how they were done.

Mr. Natali: I just want to remind everybody that during the motion, I expect everybody to act in good behavior, no outburst, no comments, no interruptions. If there is, I will ask that you leave or ask that you be escorted out.

Members of the Board, I am making a motion to approve this Area Variance for a non-conforming lot which requires a 75 ft. wide lot that that is 50 ft. wide. In order to minimize the adverse impact and undesirable change upon the character of the neighborhood, the neighborhood being the Long Point Road peninsula: the following three conditions are necessary:

1. The current 72 ft. X 30 ft. (2160 sq. ft.) pole construction metal building must be reduced to 56 ft X 30 ft. (1680 sq. ft.). This would be a reduction of 480 sq.ft., the 16 ft. length being reduced from the front street side. Hastings' and Camerota's garages would be approximately the same distance to the street.
2. The current height must be reduced from 14 ft. at the eaves to 11 ft. at the eaves, to accommodate a 10 ft. garage door instead of the current 12 ft. door.
3. The current 10 ft. side garage door is to be removed since a vehicle could not possibly make a turn into the garage from that side.

These three conditions are required to protect and preserve the character of the neighborhood by making the size of the garage smaller and more compatible with the largest comparable garage in the neighborhood.

The following factors and findings support the necessary conditions to grant this variance. The findings are based on my personal inspection of the property on four different occasions and the information supplied by the applicant in addition to the comments made at the public meeting.

1. Will the variance create an undesirable change to be produced in the character of the neighborhood or be a detriment to the nearby properties?

These are narrow lots in a lakeside community with the garages in the front yard (street side) and the fronts of the homes are on the lake side. The 2160 sq. ft. garage in the front yard is 2 times bigger than the 18 closest neighbors. The other properties (4 on each side of the Hastings lot and 8 across the road average 659 sq. ft. (One home @ 6391 Long Point Rd. doesn't have a garage and is not computed in this average). The Hastings' home and garage are both larger than the prior building footprints. The garage, in its current dimensions, is a visual distraction as testified by neighbors, along with others who spoke through their Attorney Brody Smith.. The closest size garage to Hastings is the Camerota property (2 properties away). The Camerota property at 6398 Long Point Rd. has two garages. (split because of overhead electrical wires) with a total of 1968 sq. ft. The difference between the Camerota and Hastings properties is that the Hastings garage is 30 ft wide on a 50 ft. lot (60%) and the Camerota garage is 24 ft. wide on a 75 ft. lot (32%) . The Hastings garage doors are 12 ft. high and the Camerota's garage doors are 10 ft. (20% difference). From a visual perspective, the contrast between these two garages are significant (see photo #1). Note that the Hastings property on the left is much larger than the Camerota's garage on the right even though the Hastings' garage is further away from the camera than the Camerota garage. (The neighbors have stated) the Hastings' garage has the potential to impact the neighboring property values due to its (garage) inappropriate size. The neighbors express concern that the Hastings garage, "represents an undesirable visual intrusion".

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an Area Variance?

In order for the landowners to achieve a reasonable alternative, they would have to purchase an additional 25 ft. of road front to bring this non-conforming lot up to code. No such property is available for purchase.

3. Is the variance substantial?

The non-conforming lot is 50 ft. wide and 75 ft. is required. The 25 ft. additional width is substantial. Twenty five feet represents 50% more frontage (width). A 50% variance in other setbacks may not , depending on the overall size of the lot , be substantial. A 50% variance for width is excessive.

4. Will the variance have an adverse impact on the physical and/or environmental conditions in the neighborhood and community?

The physical conditions include the safety factors of the fire hydrant currently in the middle of the garage next to the street (see photo). The Onondaga County Water Authority (OCWA) has been contacted by the Hastings and will be moved to the property line away from vehicles at the expense of the Hastings (as per Mr. Hastings). Two lines are currently touching the garage roof (not electrical) and will be corrected by the telephone and cable companies. The environmental concerns include drainage and runoff. While no excess water existed at Tuesday's 3:30 PM inspection(after a light rain), compliance with proper drainage and runoff is a critical impact. The effectiveness of drainage and runoff cannot be properly evaluated at this time. Drainage and run-off are the responsibility of the property owner and will be monitored by the Code Enforcement Office.

Was the difficulty self-created?

The Hastings' property was a "pre-existing, non-conforming" lot when purchased. Due diligence on the part of the buyer is required. Mr. Hastings should have known the status of the property as should his Real Estate representative, his lawyer, his surveyor and his architect. Since Mr. Hastings is an electrical contractor who works on major projects, he must be familiar with various town codes or at least know that property codes exist. Therefore, he created his own hardship. Instead, Mr. Hastings relied on the Town of Cicero Code Office for sole approval---which he received.

The Due Diligence Process required that in properly evaluating this variance involved inspecting all large garages from Comstock Drive in Brewerton to Tuttle Dr. in Bridgeport (Wayne Dean assisted me in this effort.) There are only 15 garages larger than 864 sq. ft. with the largest being 2310 sq.ft. for an average of 1208 sq.ft.(56% of Hastings garage). The major difference is that all fifteen garages were across the street from the home and not next to the home.

The standard that has been used is the weighing of the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood. The benefit to the applicant does not outweigh the detriment to the neighborhood. The three conditions necessary for the approval of this variance is essential to preserve and protect the character of the neighborhood including the health, safety and welfare of Long Point peninsula.

It should be noted that no variance for commercial use has been requested and that no such variance will be granted.

Motion was seconded by Mr. Griola.

Motion was put to a vote, resulting as follows:

Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes.

Motion duly carried.

Mr. Natali: We will entertain the Coverage Variance next. You might wonder why we need the Coverage Variance now since it's going to be a moot point. In the event that this is overturned in the future, by any reason, this may come up again. So, we will handle this as a separate variance. We will start by having Mr. Sharpe tell us what he is looking for. I have talked with both attorneys, Mr. Sharpe and Mr. Smith, and they have agreed that the minutes from the May 21st meeting will be used for us to make our basis.

Mr. Sharpe: The surveyor said that the lot was covered by 25.1%, as presently constructed and that shows up on the original survey. I noted that Mr. Smith's letter showed that the total lot area was 18,685 ft. I had erroneously included 18,607.3 ft. in my letter of May 16th and when I saw that on review Monday, I immediately took out the map to have a look at it, then I reviewed Mr. Smith's letter. I then took the survey as presented, and noted that one side of the lot is 373.73 ft, the other side is 368.32 ft. I was told you add those together, divide by 2, then multiply times the length. then you get a lot that's 18,740.55 ft. and take 25% of that, you get 4685 sq. ft. According to the calculations on the survey, they found it was 4680.8 sq. ft. of coverage. Nevertheless, his indication is that the coverage is 25.1%. Barring the earlier decision by the Board, I would suggest that one tenth of one percent of coverage, under the circumstances, given the size of the lot in terms of its overall size, would be an appropriate area variance for the density coverage.

Mr. Natali: I'm going to ask how many of you received this letter that I received today?

Mr. Griola: I received it at 6 PM today.

Mr. Stanton: I have not received it.

Mr. Wilcox: I received it.

Mr. Natali: My wife dropped the mail off at 5 PM. I wouldn't have looked at it but I was expecting an important purchase offer in the mail. I couldn't believe I was getting more letters from Mr. Sharpe. I have two options. The first is to go with the way you calculated this map and figure out how you evaluated a curve and you would come up with your numbers -- 24.97% -- three hundredths of 1%. So, we're talking about just squeaking under the bar or I can go with a licensed surveyor, who very neatly came up with 25.1%

Mr. Sharpe: And that is what I suggest you do.

Mr. Natali: So you are OK with the fact that some of the Board members did not receive your letter?

Mr. Sharpe: I'm perfectly OK with that. My primary purpose was to correct the error in the May 16th letter. His statement on the survey that it's 25.1%, I defer to that since he's the expert at calculating.

Mr. Natali: That's basically the reason we're considering a Coverage Variance.

Mr. Smith: I won't belabor that letter. I think it's important that a Coverage Variance be obtained. I would ask that my comments about the previous variance be included in the record, with regards to this variance. The only thing I would add is, the surveyor's 25.1% is calculated from the exterior walls of the building rather than the roof. We discussed the reasons why at the last meeting. The roof space is the key of the coverage issue because the purpose of having coverage requirements is to ensure the neighbors have access to light and air, that there's enough permeable ground to serve water so there's not flooding. That's exactly what happened here. That number is more. It's not just .1% over the coverage amount, it's more than that and in my original letter, I gave my calculations as to what I think it is, when you consider the roof space. I still point out, we're not just talking about .1%, we're talking about more than that if you calculate the roof.

Mr. Natali: Do you have a percentage? What does it bring it up to?

Mr. Smith: I have the architectural drawings that the roof area of the house is 2312 ft. The roof area of the barn is 2368 ft. You add those together and get 26%--total 4688 ft.--25 to 26%.

Mr. Natali: So, you're not basically going to gain much by doing that. We come up with 25.2%. You would gain 1/10 th of 1%. Even if we went that way , it's still not major. The Zoning Board Chairman that spent 27 years on the Board is Vern Conway. We discussed this and he has never seen it measured any other way than by the foot print, from the outside wall, the same as we do for the setbacks. Also, the Code Office has been doing it that way. Your thoughts about the drainage are very valid and I try to understand the rationale with that and where did 25 % come up. Here's a smaller lot with a bigger percentage. I started looking a soil. There's 5 categories of soil so would you have 25% for Class A? If that was the major reason, I think it would be very hard to come up with some standards that would be adequate. Quite honestly, since they've been doing this as far back as we can find out, that's the way our judgment is going to be. Are you comfortable with that?

Mr. Smith: I understand what you're saying. I still do believe the correct way to do it is roof space, in this particular instance, I do understand that isn't a big difference here since everybody agrees we're over 25%. I also understand your point, with regards to, if you took it to that level of detail and you had to take soil samples, I think we all understand that the Legislature has to draw lines. I don't think that changes the purpose of it, involving flooding, light and air. I think that's the reason they have such a rule. We all agree we're over 25%. The variance is required. The reason the neighbors are here today is because they oppose the granting of the last variance and they also oppose the granting of the Coverage Variance because of the 5 factors that were discuss in your previous decision. I will flag a couple of points that I think are important to consider. The aesthetic impact of this development is really the crux of this case. Coverage in affected by how large the barn is and that was dealt with in your last decision. The only issue that's still remaining, that should be discussed, is the flooding on the property line with Ensminger/Slivinski home. Right now, the conditions don't deal with that. As discussed, boulders have been placed next to the property line and fill has been placed beside the boulders, which places the Hastings home up on a hill so the water runs downhill onto their neighbor's lot. It is true that, in general, the Planning Board and Planning Office don't get into drainage issues but it is a factor that must be considered when considering whether or not to grant a variance. It's particularly important in the Coverage Variance because flooding is such an issue. I would respectfully submit to the Board a condition of the Coverage Variance should be the removal of these boulders and the removal of that fill because that has severely affected the flooding situation. I persist in my argument that flooding and coverage are connected. This is supported by the Rogers V. Baum case I cited in my last letter. In that case, a similar act was taken because of erosion and water was channeled onto the neighbor's property. The ZBA in that case considered that and decided that was a basis to deny the variance. I think something should be done about this situation that was created.

From the outside, looking in at the pictures, it's sort of a callous way--a way that shouldn't be tolerated. I think you've covered my other points. I would submit that this is a major impact. I would like to have seen the site plan approval stage to include a SEQR, but that didn't happen. I would have liked to have seen all these things addressed before the structure was erected so that things could have been considered, like this house blocking out most of the Ensminger's view of the lake but that didn't happen. I think the Board is doing it's best to evaluate the application and to take the steps necessary to remedy the flood issue, at least.

Mr. Griola: If Mr. Hastings accepts the conditions placed on the granting of the variance, we're not going to be anywhere near 25%. So this is moot.

Mr. Natali: You're requesting that Mr. Hastings remove the boulders. I was under the impression that they were put there to help drainage. Wasn't that your original purpose Mr. Hastings?

Mr. Hastings: Yes, that was my main purpose for that. I really don't think filling in the property reduces their view.

Mr. Natali : Mr. Hastings, what is your feeling about his request?

Mr. Hastings: We put those rocks there so the dirt wouldn't go down on their property. We put drainage right under those rocks so any water that would accumulate there would drain to the lake.

Mr. Natali: I'm sure that cost you quite a bit of money to do that. Is it better than it was?

Mr. Hastings: I believe so. I built that wall so the water would have a place to go towards the lake instead of to the side. That dirt does pitch towards the house.

Mr. Natali: No, I think the dirt pitches away from the house. That was one of my concerns. I thought it was built up too much. I would have had the rock above it with a little ledge and have the dirt below. Were you considering some shrinkage or settling?

Mr. Hastings: I hired a contractor to do that. I told him what I wanted. I wanted to cover my foundation because my house does stick up higher. You can see by those holes there, that's the bottom of the crawl space. I wanted to pitch the water away towards the lake. That was my idea. That's why I have 2 drains under there plus I figured to pitch it toward the lake.

I figured that was doing the job. Now I've got to do something to rectify it. I've got to cover my foundation. What I see in new homes, the dirt just comes over it then just drops down.

Mr. Natali: The ultimate responsibility is with you, it's not our jurisdiction to recommend how to do it or when to do it. That's purely up to you and it will be monitored by the Code Enforcement Officer.

Mr. Hastings: I've got no problem with pitching it towards the house and towards the lake. That's the way it's supposed to be.

Mr. Natali: Was that your intent?

Mr. Hastings: That was always my intent. I don't know how to stop the dirt from going over. I thought it looked nice.

Mr. Natali: Well, it's ineffective. As long as you agree that's not what you wanted, I suggest you pursue it with your contractor and then communicate with the Code Officer, so that if any of your neighbors want to know the status, they don't have to go to you--they can go to him. That is not within our authority to make any kind of demands on that.

Mr./ Natali to Mr. Smith: We agreed if anyone wanted to come forward concerning the coverage, not specifically the drainage, we know that it's his responsibility and has to be addressed immediately.

Mr. Natali opened the public meeting at 7:55 PM.

FOR: NONE
AGAINST: Mr. Natali: This is where we agreed we would use all of your minutes, your exhibits, any communications that we've already received, will be part of our decision tonight. We will allow anyone to speak that wants to add something new.

Michael Slivinski, 6400 Long Point Road: We had a meeting with Chet Dudzinski, Vern Conway and Wayne Dean. At that meeting. Mr. Griola, Mr. Coleman, Mr. Farrell and myself asked Mr. Dean about coverage. He said he did it by the foot print. Vern said "no, we've done it by the roof coverage" so there's witness to that.

Mr. Conway: I can explain that. The only time we did that was down on Beach Rd. with a 33 ft. lot.

Mr. Slivinski: So, it's been done before?

Mr. Conway: Right, it was done on a 33 ft. lot, not in the whole Town.

Mr. Slivinski: At the meeting, it wasn't mentioned that way.

Mr. Conway: We made exceptions down on Beach Road. We let them go 3 ft. and 6 ft. from the line so they could put up a 24 ft. house.

Mr. Slivinski: I'm not disputing you. I'm just disputing what you said. Also, we took a photograph today on Mud Mill Rd., where if you argue the point of coverage. We didn't get a chance to enlarge it, there is a barn with an overhead shed coming way out. What's to stop the Hastings or ourselves from expanding the roof coverage? If you're going by the footprint, you're saying it's OK to expand. If you're going by the footage, you're setting a precedent by saying "all the neighbors can just put a shed run off right up to the neighbor's line".

Mr. Slivinski and Mr. Conway discussed roofs with run off.

Mr. Slivinski: If you were in this position as ours, I don't think this would ever have happened. Mr. Hastings made a statement that we discussed it. What brought us to this point was part of the catalyst. I asked Mr. Hastings if I should be concerned about flooding and he said "I don't know--talk to the Town: Up to that point everything was fine. Also he said to my wife about the retaining wall--it wasn't mentioned that the retaining wall was not to be for flooding--it was to make the foundation look smaller. I don't remember the exact words but I thought it was strange.. He said at the meeting, "the drainage problem is taken care of". Maybe his flooding is taken care of. You've already addressed that. It sounds good but it's been shifted over to the neighbors. If it's not resolved, I'll probably have to raise my property. I've talked to my neighbor, Eugene, and if it does happen anyway, let's get together and talk about working the swale so we get the drainage like good neighbors do. That's how we'll address that.

Ruth Willis, 6406 Long Point Rd.: These people came in and told you these people took away their view of the lake. You guys have done nothing about that. You were told to act like that building wasn't there. You know as well as I do that if you did that, you would ask him to move that house back but you did not do that.

Mr. Natali: The front setback is well within the limit. You have to remember, I've stood on the property, I've walked the property. You're actually on a small point that curves so I can't imagine how much further back you would have to be for you to still have your 220 degree view. With that property being there, I would imagine both sides should have known that someday we're not going to have a 218.5 degree view--that basically we're going to have what's in front of us. That's a fact of life. That's why he purchased that property versus some other property. It's a beautiful piece of property. I realize the 2 houses set back pretty far. I'm not sure that doing that at this point, we would have made them move. Especially, since at that point, he didn't have a variance in for the garage so he would have complied in all these. Legally, how could we change that without authority?

Meeting was closed to the public at 8:04 P.M.

Members of the Board, I am making a motion to deny the Coverage Variance that exceeds the 25% requirement. Coverage is defined as: "That percentage of the lot area covered by the area of any building and shall include porches, verandas, carports and the like which have roofs".

The "foot print" has been used the 27 years that Vern Conway was on the Zoning Board and is the measurement used by the Code Office. In other words, the measurement is from the outside dimensions of the walls of all covered structures the same way set backs are measured. I have personally observed this practice of measuring coverage for the 13+ years that I have been on the Zoning Board.

In order to minimize the adverse impact and undesirable change upon the character of the neighborhood, the neighborhood being the Long Point Road peninsula; the following three conditions are necessary:

- 1, The current 72ft. X 30 ft. (2160 sq. ft.) pole construction metal building must be reduced to 56 ft. X 30 ft. (1680 sq. ft.). This would be a reduction of 480 sq. ft., the 16 ft. length being reduced from the front street side. Hastings and Camerota 's garages would be approximately the same distance to the street.

2. The current height must be reduced from 14 ft. at the eaves to 11 ft. at the eaves, to accommodate a 10 ft. garage door instead of the current 12 ft. door.
3. The current 10 ft. side garage door is to be removed since a vehicle could not possibly make a turn into the garage from that side.

These three conditions are required to protect and preserve the character of the neighborhood by making the size of the garage smaller and more compatible with the largest comparable garage in the neighborhood.

The following factors and findings support the necessary conditions to grant this variance. The findings are based on my personal inspection of the property on four different occasions and the information supplied by the applicant, in addition to the comments made at the public meeting on May 5, 2008.

1. Will the variance create an undesirable change be produced in the character of the neighborhood or be a detriment to the nearby properties?
These are narrow lots in a lakeside community with the garages in the front yard (street side) and the fronts of the homes are on the lake side. The 2160 sq. ft. garage in the front yard is 3.2 times larger than the 18 closest neighbors. The other properties (4 on each side of the Hastings lot and 8 across the road average 659 sq. ft. (one home @ 6391 Long Point Rd. doesn't have a garage and is not computed in this average). The Hastings' home and garage are both larger than the prior building foot prints. The garage, in its current dimensions, is a visual distraction as testified by neighbors, along with others who spoke through their Attorney Brody Smith. The closest size garage to Hastings is the Camerota property (2 properties away). The Camerota property at 6398 Long Point Rd. has two garages (split because of overhead wires) with a total of 1968 sq. ft. The difference between the Camerota and Hastings properties is that the Hastings garage is 30 ft. wide on a 50 ft. lot (60 %) and the Camerota's garage is a 24 ft. wide on a 75 ft. lot (32%). The Hastings garage doors are 12 ft. high and the Camerota's garage door is 10 ft. (20% difference). From a visual perspective, the contrast between these two garages is significant(see photo #1). Note that the Hastings property on the left is much larger than the Camerota's garage on the right even though the Hastings garage is further away from the camera than the Camerota garage. (The neighbors have stated) the Hastings' garage has the potential to impact the neighboring property values due to its(garage) inappropriate size.

The neighbors express concern that the Hastings garage, "represents an undesirable visual intrusion".

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Yes, a reasonable alternative is to reduce the size of the current garage to 56ft. X 30 ft. as a required condition making the coverage 22.6%.

3. Is the variance substantial?

No, the coverage is currently 25.1% (only 1/10 of 1 %).

4. Will the variance have an adverse impact on the physical and/or environmental conditions in the neighborhood and community?

The physical conditions include the safety factors of the fire hydrant currently in the middle of the front of the garage next to the street (see photo). The Onondaga County Water Authority (OCWA) has been contacted by the Hastings and will be moved to the property line away from vehicles at the expense of the Hastings (as per Mr. Hastings). Two lines are currently touching the garage roof (not electrical) and will be corrected by the telephone and cable companies. The environmental concerns include drainage and runoff. While no excess water existed at Tuesday's 3:30 P.M. inspection (after light rain), compliance with proper drainage and run off is a critical impact. The effectiveness of drainage and run off cannot be properly evaluated at this time. Drainage and run off are the responsibility of the owner and will be monitored by the Code Enforcement Office.

5. Was the difficulty self created?

The Hastings' property was a "pre-existing, non-conforming" lot when purchased. Due diligence on the part of the buyer is required. Mr. Hastings should have known the status of the property as should his Real Estate representative, his Lawyer, his Surveyor and his Architect. Since Mr. Hastings is an Electrical contractor who works on major projects, he must be familiar with various Town Codes or at least know that property codes exist. Therefore, he created his own hardship.

The Due Diligence Process required that in properly evaluating this variance involved inspecting all large garages from Comstock Rd. in Brewerton to Tuttle Rd. in Bridgeport (Wayne Dean assisted me in this effort).

There are only 15 garages larger than 864 sq. ft. with the largest being 2310 sq. ft. for an average of 1208 sq. ft. (56% of the Hastings garage). The major difference is that all fifteen garages were across the street from the home and not next to the home.

The standard that has been used is the weighing of the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood. The three conditions necessary for the approval of this variance are essential to preserve and protect the character of the neighborhood including the health, safety and welfare of Long Point peninsula.

It should be noted that no variance for commercial use has been requested and that no such variance will be granted.

Motion was seconded by Mr. Wilcox.

Motion was put to a vote, resulting as follows:

Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion and unanimous approval made to adjourn the meeting at 8:13 P.M.

I, Nancy G. Morgan, stenographer for the Zoning Board of Appeals of the Town of Cicero, Onondaga County, State of New York, and the person who attended a special meeting of the said Board of Appeals, held May 21, 2008 and who took minutes of the said meeting, do hereby certify that the foregoing is a true and correct transcript.