

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

SS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MAY 5, 2008  
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular Meeting of the Zoning Board of Appeals was held Monday May 5, 2008 at 7:00 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, NY 13039.

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

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

Liaison

ABSENT: Donald Stewart: Board Member  
Michael Stassi: 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. Rabbia, seconded by Mr. Wilcox, to approve the minutes of the April 7, 2008 Zoning Board of Appeals meeting.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Griola, 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. Rabbia:	Yes
Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE , DEFERRED FROM APRIL 7, 2008 MEETING, FOR WILLIAM BARRY, 8839 BEACH ROAD, TO ALLOW CONSTRUCTION OF A GARAGE 20 FEET FROM THE FRONT PROPERTY (30 FT. IS REQUIRED), 21 FEET FROM THE REAR (30 FT. IS REQUIRED), 21 FEET FROM THE REAR (30 FT. IS REQUIRED),AND SIDE SETBACKS OF 4 FT. ON THE WEST AND 5 FEET ON THE EAST (MINIMUM 6 FT. IS REQUIRED). (TOTAL OF 15 FT. IS REQUIRED).

Representative: William Barry

Mr. Barry: The D.E.C. says O have to be 21 ft. from the front property line and remove 12 feet of gravel. The D.E.C.misread the survey. The garage will be 24 ft. X 36 ft. I had the wetlands marked off. There is a discrepancy of 13 ft.

Mr. Rabbia: What is the stake with the pink ribbon?

Mr. Barry: It's the boundary line.

Mr. Rabbia: The D.E.C. wants the stone moved and to move it closer to the road. We don't want him any closer to the wetland. Did the surveyor give you 21 ft. of 24 ft. ?

Mr. Barry: 21 feet.

Mr. Rabbia: You are about 20 ft. from the road now.

Mr. Natali: Will the D.E.C. let you move back ?

(TAPE RECORDER MALFUNCTION)

Mr. Natali: We need an accurate survey. This will take another 90 days.

Mr. Barry: The garage will be to store my boat.

Motion was made by Mr. Natali, seconded by Mr. Wilcox, to defer until next month's meeting on June 2, 2008 or until Mr. Barry is prepared to come back.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE DEFERRED FROM 4/7/08 MEETING, FOR FABIAN & MARIA MICHALKOW, 9317 BEARSPRINGS RD., TO ALLOW CONSTRUCTION OF A STORAGE BUILDING ON A NON-CONFORMING LOT AND TO INTRUDE BEYOND THE REQUIRED REAR SETBACK. THE LOT IS APPROXIMATELY 3/4 ACRE WHERE 1 ACRE IS REQUIRED. THE REAR SETBACK REQUESTED IS 5 FEET WHERE 35 FEET IS REQUIRED.

Representative: Thomas Cerio, Attorney for Mr. & Mrs. Michalkow.

Mr. Cerio: There was confusion about the rear setback. A 35 ft. rear setback is not a problem but a 20 ft. setback would be good.

The public hearing was opened at 7:14 p.m.

FOR: NONE

AGAINST: NONE

The hearing was closed at 7.15 p.m.

Motion was made by Mr. Rabbia, seconded by Mr. Stanton, to approve the Area Variance for Fabian & Maria Michalkow, to allow the construction of a storage building on a non-conforming lot and to intrude beyond the required rear setback. It is to be no closer than 20 ft. from the rear line and 10 ft from the side line.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR THOMAS CARROLL, 9651 BREWERTON ROAD, TO ALLOW EXPANSION OF A NON-CONFORMING BUSINESS. THE FRONT SETBACK IS 25.1 FEET WHERE 50 FEET IS REQUIRED AND THE SIDE SETBACK IS 7.84 FEET WHERE 15 FEET IS REQUIRED.

Representative: Dr. Thomas Carroll.

Dr. Carroll: I would like to put an addition on my Dental Office.

( TAPE RECORDER MALFUNCTION )

Mr. Rabbia: How many parking spots do you have? Are you going to do anything with the parking area?

Dr. Carrol: I will add 3 or 4 parking spaces.

The public hearing was opened at 7:24 p.m.

FOR: NONE

AGAINST: NONE

Hearing was closed at 7:25 p.m.

Motion was made by Mr. Wilcox, seconded by Mr. Griola, to approve the Area Variance for Dr. Thomas Carroll, 9651 Brewerton Rd., to allow expansion on a non-conforming business. The front setback is 25.1 feet where 50 ft. is required and the side setback is 7.84 ft. where 15 ft. is required.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR DEAN BOYD , 5334 CONSTOCK ROAD, TO ALLOW CONSTRUCTION OF A GARAGE ON A NON-CONFORMING LOT. THE LOT IS ZONED AGRICULTURAL AND REQUIRES A ONE ACRE LOT. THE LOT IS APPROXIMATELY 3/4 OF ONE ACRE.

Representative: Dean Boyd.

Mr. Boyd: I want to build a 20 ft. X 22 ft. garage. It will be 6 feet from the existing structure.

Mr. Rabbia: Is the "pie-shape" your property ?

Mr. Boyd: Yes

Mr. Wilcox: Is it one story ?

Mr. Boyd: Yes. The County owns the property to the north. The driveway will be off of Constock Rd. and will be 10 ft. 6 in. wider.

The public hearing was opened at 7:30 p.m.

FOR: NONE

AGAINST: NONE

Hearing closed at 7:31 P.M.

Motion was made by Mr. Rabbia, seconded by Mr. Stanton, to approve the Area Variance for Dean Boyd, 5334 Comstock Rd., to allow construction of a garage on a non-conforming lot. The lot is zoned Agricultural and required a one acre lot. The lot is approximately 3/4 of one acre.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA & USE VARIANCE FOR RICHARD WRIGHT, 6530 E. TAFT ROAD, TO ALLOW CONSTRUCTION OF A ACCESSORY BUILDING AT HIS RESIDENCE THAT IS ZONED INDUSTRIAL. THE SIDE SETBACK IS 16.6 FT. WHERE 30 FT. IS REQUIRED AND THE REAR SETBACK WOULD BE 8 FT. WHERE 25 FT. IS REQUIRED.

Representative: Richard Wright.

Mr. Wright: I wanted to put a 16 ft. X 24 ft. shed on my property. I'm buying it from Duro Shed in Cicero and would like to put it on a slab.

(TAPE RECORDER MALFUNCTION)

Mr. Wilcox: Does it have a second floor?

Mr. Wright: Yes, for storage.

Mr. Griola: Asked Mr. Wright about the placement of the shed so far back on the property.

Mr. Wright: Just for convenience.

Mr. Rabbia discussed the rear setback and that he would like to see it more than 8 feet.

Mr. Natali asked about the maple tree.

Mr. Wright: Would 10 ft. off the back line be better?

Mr. Rabbia: Yes.

Mr. Wright: I'd like to keep most of the back lawn for the kids to play on.

The public hearing was opened at 7:40 p.m.

FOR: NONE

AGAINST: NONE

Hearing was closed at 7:41 p.m..

Mr. Rabbia's and Mr. Natali's comments:  
(TAPE RECORDER MALFUNCTIONED)

Motion was made by Mr. Rabbia, seconded by Mr. Griola, to approve the Area Variance for Richard Wright, 6530 E. Taft Rd., to allow construction of an accessory/shed building at his residence that is zoned Industrial, with a 10 ft. rear setback where 25 ft is required and a 16.6 ft where 30 ft. side setback is required.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali made a motion to add approval of the Use Variance for Richard Wright, 6530 E. Taft Rd., for the shed building, which is allowed in an Industrial Zone. Motion was seconded by Mr. Rabbia.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Griola:	Yes
Mr. Wilcox:	Yes
Mr. Stanton:	Yes

Mr. Natali: Yes

Motion duly carried.

AREA VARIANCE FOR MIKE CAHILL, 9182 BEACH ROAD, TO ALLOW CONSTRUCTION OF A GARAGE ON A NON-CONFORMING LOT AND TO DECREASE THE REQUIRED SETBACKS. THE R-10 ZONING REQUIRES A 75 FT. BUILDING LINE AND THE LOT IS 74 FT. WIDE. THE FRONT SETBACK IS APPROXIMATELY 3 FEET WHERE 30 FT. IS REQUIRED.

Representatives: Owners, Karen and Mike Cahill.

Mrs. Cahill: We would like to build a garage 13 ft. from the edge of the road.

Mr. Rabbia: How far is it from the edge of the pavement to the garage?

Mrs. Cahill: 17 feet.

Mr. Rabbia: Are you going to side load this garage?

Mrs. Cahill: That's the only way we can get the boat, trailer and truck into the garage.

Mr. Wilcox: Can you move the garage back further?

Mr. Stanton: That would be premature until the wetlands are measured.

Mrs. Cahill: I work for the D.E.C. so that won't be a problem.

Mr. Cahill: You asked if it can be moved back. That would cause difficulty to side-load the boat.

Mr. Wilcox: I understand that it is hard to back a boat into a garage.

Mr. Cahill: It would be a challenge if I move the garage.

Mr. Stanton: Let's wait until you get the D.E.C. Permit, then maybe you can change it.

Mr. Cahill's comment about the D.E.C. :  
(TAPE RECORDER MALFUNCTION)

Mr. Stanton: We need a new survey with the wetlands laid out on it and a copy of the permit so we can see what the setback from the wetland is.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to defer this matter until the Cahill's have the D.E.C. information.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE 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.

Representatives: Brian Hastings , Owner  
Ronald Sharpe, Attorney for Mr. & Mrs. Hastings

Mr. Sharpe: This is an application for an Area Variance. The Hastings bought this lot in 2006. At the time, there was an old cottage and garage on the lot. They received their demolition permit from the Town on 8/10/06. Mr. Hastings brought a set of the house plans to the Codes Enforcement Officer in February 2007. On 3/21/07, a building permit was issued for the house. On 8/20/07, a building permit was issued for a pole barn. We would call it a garage. At the time the Hastings purchased the property, no one said anything to them about the zoning. Neither did the Real Estate Agent nor the lawyer for the purchase. On the survey, it indicated there was a right-of-way behind the structure. Apparently, long ago, this was a R.O.W. as distinguished from a public road. Certain things were written on the deed indicating they had the right to use that R.O.W., which long since has been a public road.

At the time that Mr. Hastings brought in the house plans for the building application, no one said anything to him about the R-10 Zoning category. When he came to get the building permit for the garage, there was no conversation about the R-10 Zoning category. The Zoning Ordinance, for an R-10, has certain dimensional requirements. The minimum lot area per unit is 10,000 sq. ft. The minimum building line is 75 ft., the minimum depth is 125 ft., the front setback is 30 ft. , the rear setback 30 ft. and the side setback is a total of 15 ft. , with the minimum of 6 ft. on one side and 9 ft. on the other. The maximum coverage is 25 % and the maximum height is 35 ft. The lot the Hastings purchased is .43 of an acre and total area is 18,607 sq. ft., shown on

the survey map.. The Board has a copy of that. The long line of the lot is 373 ft. in depth from the road to the lake. The short line is 368 ft. The lot is 50 ft. wide, at both Long Point Rd. and Oneida Lake. The fact is that this lot is 50 ft. wide and 75 ft. width is required in an R-10 Zone. No one said anything about that to Mr. & Mrs. Hastings until about 3 or 4 weeks ago, when apparently a group of the neighbors complained to the Town and said that you're letting this man build a house on a non-conforming lot. At that time, Mr. Hastings was informed that he had to make an application for a variance because of the non-conforming lot. I called Wayne Dean, as soon as I was retained, and said to him that I didn't understand how a building permit for a house could be issued and a permit for a garage can be issued on an R-10 lot, when it 's apparent from the survey, that the lot is only 50 ft. wide . I was informed by Mr. Dean that it was the policy in the Zoning Office, if non-conforming lots could meet the other dimensional requirements, ie: the setbacks, the rear line, the side line and all those dimensions, then the Building Office did not require an application for a non-conforming lot. I asked Mr. Dean how long he had been employed by the Town and he told me about 4 1/2 years and that he was Deputy to Jay Seitz. I asked where that policy came from. Mr. Dean said when he was hired, Jay Seitz told him, if an application was made for a building on a non-conforming lot, that could meet the dimensional requirements, then we don't require them to go to the Zoning Board of Appeals. Consequently, we arrive here tonight with a house that's practically complete and a garage that is practically complete, asking for a non-conforming lot variance. Had we been here in February or March of 2007, after the former cottage and garage had been removed, it would not have been much of a discussion. It's much like the previous cases you have considered this evening. I've gone out and taken a look at the neighborhood and I understand this Board's members have looked at it also. I've also looked at the Tax Map. There's more that 20 other 50 ft. wide lots located on Long Point Road, in the highlighted area. That doesn't include the area going out to the very end, where there appears to be several more 50 ft. wide lots. I'm well aware of the requirements of Section 267 of the Zoning and Planning Law of the State of New York. We can take them up singly or discuss them in general.

One of the easiest to deal with is: Was this a self-created hardship? Hardly, under the circumstances. Mr. & Mrs. Hastings had no idea that this was zoned R-10 and that it was a lot under the Cicero Zoning Ordinance. Had that been explained to them in the beginning, they probably would not have purchased the property. It's only after the fact, that they are told about this and I think under the circumstances , we can take a look at the five requirements. Is it going to change the character or nature of the neighborhood? Not. likely. This is a waterfront community and a drive or walk down Long Point Rd. discloses that there are numerous houses on 50 ft. lots, there many garages of various sizes all along the roadway. Two have 2 large trailers to accommodate

either a race car or a large boat inside them, that are parked on the property along with the garages. Many of the garages are what we now refer to as pole barns and they are tall. This is not a material change to the character of the neighborhood nor does it infringe on the environmental nature of the neighborhood. They have built a house, which is lovely, and I hope you've all had a chance to see it. They hope to move in after school is out. The area from the front of the house to the shore, clearly is well beyond 30 ft. required under the Zoning Ordinance. The side yard is the 6 ft. and 9 ft. on the house. There's 113 ft. between the rear of the house and the front of the garage. Between the side of the garage facing the road, there's 32.26 ft., which meets with 30 ft. rear yard requirement. Although, one could argue that that is the front yard requirement since that is the public street. On the waterfront, there's always the question, which is the front and which is the rear. The better thing is to call it the road side and the lake side, in this case.

Mr. Rabbia: There's another issue you haven't mentioned yet and that's the density or coverage.

Mr. Sharpe: According to what the surveyor tells us, the coverage is 25.1 %. That's disclosed at the bottom of the survey. The coverage in the Code is 25 %.

Mr. Natali: How was that determined? Was that from outside wall to outside wall or including the eaves?

Mr. Sharpe: It's my understanding that it did not include the eaves. It was a calculation based on the walls. The garage is 2160 and the house is 2520.8. The calculation includes the covered porches. #1- The 5 factors under the statute is, whether an undesirable change will be produced in the character of the neighborhood or a detriment to a nearby property will be created by the granting of the area variance.

I think we've already discussed that in terms of the nature of the neighborhood. It's a waterfront community and there's not a lot of storage there. I don't think there will be a character change in the neighborhood or a detriment to the nearby properties. #2- Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. The lot is 50 ft. wide. He never had an opportunity to buy any additional property to make it 75 feet. #3- Whether the requested Area Variance is substantial. I would contend that the Area Variance is not substantial. It is a reduction of one-third at the building line. But this particular lot is very generous in terms of its overall size because it meets every other dimension of the Code and where the Code requires a minimum of 10,000 ft,

this lot exceeds 18,000 ft. and there's a generous amount of space both in front of and behind the house, in front of the garage and behind the garage. And there's no side yard violations. #4- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. We don't think it will have any environmental impact. I know the assertion has been made that flooding has occurred as a result of the construction project. There are apparently photographs that have or will be shown, showing some water on the adjacent properties. That occurred before the drainage was constructed on this particular lot. We can't be responsible for what happens on the other lots so long as we're not contributing to what goes on the other lots. It's been set up so water will not leave this property but will stay there, then follow its natural course to the lake. I would also point out, about a week ago, one of the neighbors called the D.E.C. and filed a complaint concerning the activities of Brian Hastings. The allegation was made to the D.E.C. that he was dumping large stones in the lake. The Enforcement Officer came to the property last week. Brian was installing the stones along the one side to hold the dirt so that it doesn't leave the lot and they're being installed back from the actual property line. The Conservation Officer said "I don't see any stones being thrown into the lake. By the way, I noticed you got a permit for the seawall from the D.E.C. and for the other improvements we're concerned with. Do you mind if I go down and take a look at it? Brian said of course you can. So, he went down, looked it over and told him everything looked very good and that he had done an excellent job of building the seawall. Last year, the next door neighbor was interested in doing a similar improvement on their lot. Brian helped them dig it out and spread the gravel for it. They didn't get to have it poured last year. When it came time to pour it this year, Mr. Hastings graciously allowed the concrete truck to drive down his lot to reach the front.

The concrete was poured and the neighbors now have the same concrete platform on their seawall. I don't think there will be any environmental impact to the adjacent or neighboring properties. #5- Whether the alleged difficulty was self-created. I think we've talked about that. I don't think it was self created. He didn't know about it. If he had known about it, we wouldn't be here tonight. He did what any average person would do. As I sat here listening to your earlier cases, people were saying "I've never done this before". I think all but one came up and represented themselves. With guidance from the Board, they reacted and responded, there was "give and take". In this particular instance, that's exactly what Brian Hastings did. He came to the Town to get a Building Permit, he submitted the Building Permit to the Town. After about a month and a careful review, he was given the Building Permit. A few months later, he made an application for a garage. That was reviewed

and after 2 or 3 weeks, he got the Building Permit for that. It's only after that garage was started that the neighbors became upset and decided to go to the Town Board meeting and lodged a complaint . As a consequence, Mr. Dean had to inform Mr. Hastings that he had to make this variance application. Because Mr. Dean had been given other directions other than what Jay Seitz had told him in the past and has been the policy in this Town for at least 4 1/2 years, the length of time Mr. Dean has been employed here. I would suggest if there are questions or I've got the facts wrong, specific to the application, Mr. Dean, you could tell the Board I'm wrong or confirm the facts.

Mr. Dean: No, what you've said is correct.

Mr. Sharpe: Do you want to hear from Brian Hastings, with respect to what he did? He has a compelling story and he's put his life savings into this house and garage. He intends to maintain this property in a very high quality level. I don't understand why the neighbors would be concerned because considering the structure that was there before, this is a vast improvement to the neighborhood and an improvement to the Town's assessment roles.

Mr. Natali: Mr. Hastings, would you like to say something?

Mr. Hastings: I'm not sure what to say.

Mr. Natali: I've heard what your Attorney said but I'm asking you. Do you agree you do not want to speak? You don't have to.

Mr. Hastings: No, I don't want to speak.

Mr. Sharpe: Mr. Hastings said he does not wish to speak at this time.

Mr. Griola: The work has not been completed then?

Mr. Hastings: Almost done. Hardwood floors have to be finished.

Mr. Griola: Have you ever been told to stop at any point?

Mr. Hastings: No. I have never been told to stop. At one time, while the garage was being built, one of the neighbors approached me and was very upset over it and had a few words with me. I was shocked and concerned at the time. I don't know all these laws.

Mr. Griola: All your dimensions for the house and the garage are in conformance with the Building Permit. There's been no deviation?

Mr. Hastings: No, although, it was pointed out to me that the playroom side of the house ,we did add a 4 ft. roof on to that. We always went to Mr. Dean no matter what, with any issues or ideas, anything we were doing was explained to him. The heating contractor had to move a floor joist. I reframed it and asked Mr. Dean to come and look at it to make sure I did it properly. I'm an Electrician, not a builder. I forgot to mention the 4 ft. overhang at that time. That would be the only thing. It was done right at the beginning and that's the only change that' ever been made.

Mr. Natali: At any time when you met with Mr. Dean, were you told that we have some kind of architectural restraints?

Mr. Hastings: No, not at all.

Mr. Natali: Were you told at any time what material you could build with ?

Mr. Hastings: No.

Mr. Natali: Did you know you were going to use pole construction?

Mr. Hastings: Yes. Actually, when I submitted the plan for the garage to the Town, Wayne did call me and said there wasn't enough information and he needed more. The contractor, RLS, that I hired to build the garage, faxed the whole layout of the building, how it would be constructed and how far apart the posts were, etc. After they did that, about 2 weeks later, I received the Building Permit in the mail.

Mr. Natali: Would you summarize the effort you made to address the drainage?

Mr. Hastings: We took drain tile from the property to the lake with a pitch, filled it up with stone so it will drain. It's under the rock wall. There's another one right beside it. There's the same thing on the other side. It goes all the way back to the garage. I will note, that drains along our service. It's not draining as much as I want it to, so I had the guys back out there to put in the drain.

Mr. Rabbia: Is this the west property line you are talking about?

Mr. Hastings: As you're looking at the property, it would be on your left. Our property is up high and the next property is up high--there's kind of a gully there--there's a drain tile there. What we found out, somewhere along between the garage and the house, where our electrical service is, for some reason that pipe is about 5 inches higher. It's draining but it's not doing the job we'd like it to . When the ground gets hard, they're going to bring their equipment back and fix that.

Mr. Natali: How many French drains do you actually have?

Mr. Hastings: 4 French drains--2 on each side.

Mr. Rabbia: Do you believe the drains on the right side of your house are working properly?

Mr. Hastings: Yes, actually those are working very properly. We wondered if they were not because when it was raining about a week ago, it was pooling up there. We went out by the seawall and the water was just gushing out of the drains. The drains were working properly--there was just so much rain. I would say it's working good.

Mr. Natali: What was your theory in adding those rocks to the property line?

Mr. Hastings: Two reasons. I called for permission before I did that. One reason is, our property has been flooded since day one. We need to bring our property up to the 100 year flood zone. We were told we could and that's what we did. We looked around other people's property to see how they did it and it looks like it just dropped off. Well, it wasn't working like that for us. It was creating a mess so we put a stone wall up to keep that dirt from going in and to be in compliance with the Code, to bring it up to the 100 year flood zone.

Mr. Rabbia: And one of the drain tiles is below that stone wall?

Mr. Hastings: 2 of them and it works well. We have pictures of that tile under the stone wall.

Mr. Wilcox: So when it rained there was no flooding?

Mr. Hastings: I have noticed a little flooding by the side wall, but I don't know what to do about it.

Mr. Wilcox: It's a lot better than it was?

Mr. Hastings: Yes, I believe so.

Mr. Rabbia: We're talking about a non-conforming lot and have a slight density issue also. Mr. Natali and I were out there yesterday and there's a concern that a business will be run out of that garage. Is that the plan for that building?

Mr. Hastings: No. I do have an electrical truck and I do own the company. But no deliveries will be made there, I'll park 2 trucks there. I only have one now.

Mr. Natali: What truck do you have now?

Mr. Hastings: The smaller one than what you have the picture of.

Mr. Natali: Not the one ton plus?

Mr. Hastings: Actually, they're both light duty trucks. They're not over 18,500 pounds.

Mr. Wilcox: Bigger than a pickup?

Mr. Hastings: They are not pickup trucks. The truck I have now is a Tilt Master Chevy, 4 cylinder diesel, with bins on the back that I work out of. I leave in the morning and come back at night.

Mr. Griola: You're not going to store cable there?

Mr. Hastings: No. Nothing at all.

Mr. Natali: Do you run your business out of your current residence in Cazenovia?

Mr. Hastings: I do have an office in my house, which is used for things other than my business. My computer is in there.

Mr. Natali: Where are your supplies?

Mr. Hastings: I go to Edward Joy for my supplies then I go to work. I guess I don't understand about running a business or not. This is what I have done and I've never had a problem. Do we have deliveries come to our house? No. The only time UPS comes to our house is when my wife's breathing apparatus is delivered once a month. No electrical deliveries.

Mr. Rabbia: No 18 wheelers dropping off spools?

Mr. Hastings: No, never has been. There might be some plumbing supplies in there. It's to be used for storage.

Mr. Wilcox: Is there going to be a second story?

Mr. Hastings: No. I thought about storing my arcade game collection up above but I don't know if that is possible. It is 14 feet high.

Mr. Wilcox: But not an apartment?

Mr. Hastings: No. We don't have basements so it's for storage.

Mr. Rabbia: There's another RLS structure not too far from your house correct? It has similar metal siding?

Mr. Hastings: That's correct.

Mr. Wilcox: Same size?

Mr. Rabbia: No, smaller.

The public hearing was opened at 9:05 p.m.

FOR:	NONE
AGAINST:	Brody Smith from Bond, Schoeneck and King Attorney for the Neighbors.

Mr. Natali: We have quite a few people here. We're going to limit the time to 3 minutes per person. Any subsequent speakers should only bring up new information.

Mr. Smith: I don't disagree with what Mr. Sharpe said about the dates of the applications and the whole factual background going back to the beginning, in terms of when applications were submitted and what was included on those applications. I will say, it was interesting the way these applications were parceled out in the way that they were. First there's an application for the house, then the application for the pole barn. It makes it difficult for the Planning Department to do the coverage calculations when these improvements are meted out over time. Oh, and by the way, there's some additional roof space that was added because we have another porch that wasn't on our original plans. Sorry, I guess that puts us even further over the coverage limit. The coverage issue is one of the 3 use variances that I think are

required here today. I'd also like to point out from Mr. Sharpe's discussion, is the the lot size is little smaller than we thought it was . At this point, the lot size being presented to the Board to be 18,607, which is smaller than what I indicated in my letter. That's based on the new survey they have done, which I presume to be more accurate than the previous survey, which is where I got my number from. So, the lot has gotten a lot smaller. We're not at 25.1. We're at a much bigger number in terms of the coverage issue, than what has been represented here. Because that 25.1 figure was calculated using the exterior walls of the building instead of the roof eaves and it was calculated using 18,685 as the total area. So now the lot is more than 600 ft. smaller than before. The percentage is growing. I'm going to throw out a couple of numbers in terms of what I think the roof coverage is based on the drawing that was submitted. There's a figure on the original drawing that was submitted with the application that says the roof coverage is 2,320 sq. ft. I'll take their architect's word for that.

If you add that to the roof coverage of the pole barn, the dimensions of the roof of the pole barn is actually 74 ft. X 32 ft. because if you study the drawings, there's a foot overhang on each side. So it's not 30 ft. X 72 ft. , it's 74 ft. X 32ft. So if you multiply that together, that's 2358 sq. ft. With the old lot coverage, we are over without the new porch, without the smaller lot. Now the coverage issue is getting more severe and more substantial the longer this hearing goes on. But the Code indicates the proper way to measure coverage issues is by using the roof. Coverage is defined as basically everything that has a roof. I listed the percentage of the lot area covered by the area of the building, including porches, verandas and carports and the like that have roofs. The key point is roofs. The reason that roofs are important is because an important part of lot coverage and the reason to have this requirement is to insure there's enough permeable ground for water to be absorbed to prevent flooding, which is exactly what is happening here. You also want to measure roofs for light and air so you don't deny people light and air. The reason to have a coverage requirement, you want to measure roof space. To the degree that something else has been done in the past that was incorrect, I don't think is the common practice based on what's written in the Zoning Code. I'd also point to the fact that there's a definition for building area different--a separate building area definition not used in the coverage definition--the building area definition ways measure the exterior walls instead of the eaves of the roof. And that's separate. If they wanted to use that number for their coverage issue, they could have. But they didn't--that's not the way the Law was written. The roof space is the correct coverage calculation. We're further and further over the longer the Public Hearing is going on. I mentioned that there were 3 area variances that are required. We talked about coverage. Also, being a non-conforming lot, to build you need a variance. To the degree they were told something different, that was wrong. That's unfortunate. I wish

their attorney would have done right by them and that their real estate agent and architect had done right by them. If someone from the Town gave them instructions that were not clear, I wish they had understood the correct instructions, but none of that happened. That's not the neighbor's fault that the Real Estate Agents, Attorneys, Architects and Engineers for the Hastings didn't give them the correct advise, so they said. That's not the neighborhood's fault.. The Law still needs to be enforced and the Zoning Code still needs to be enforced. The 5 factors that the State of New York says the ZBA needs to meet to weigh when deciding whether or not to give a variance is still in force. Ignorance of the Law doesn't forgive you from it. That claim of ignorance of the Law can hurt a lot of people if we don't follow the Law--it's going to damage the neighborhood. We've covered the coverage, the non-conforming lot. Mr. Sharpe concedes that 33 % is substantial.

Because, 75 ft. is needed and we have a 50 ft. lot. The 3rd reason we need a variance is, is this being used as a private garage? The Zoning Code defines an Accessory building as something that cannot exceed 192 ft. So, it's not an accessory building. It's not a private garage because the Zoning Code defines a private garage as something that is used to store your personal property . He just said he's using a truck that he goes to work with. It was described as to store that truck. It's so much bigger than any other private garage in Town so that's why they're here. This is a substantial variance. Mr. Smith showed pictures of the Commercial trucks. The Zoning Law also says you can not park a truck, not the weight but the cargo capacity of the truck can not exceed one ton. This truck is way over one ton in terms of it's cargo capacity. And he says it's a pickup. It doesn't look like a pickup, that's a commercial truck. You can see that those are commercial size garage doors--not a garage door you'd see on anyone's house--to fit a commercial vehicle. It has 2 bays --he says he's only going to park one there--everybody in the neighborhood sees 2 trucks there every day. They'll confirm that fact. You have to decide who you're going to believe. These commercial trucks are illegal to park in the Town in an R-10 district because they have a capacity of more than one ton. Why is that important? Because this building is going to change the character of the community because it's been built for a specific purpose to violate the Code by bringing a commercial use into the Town and that has to be on your mind. Mr. Smith referred to this similar case: Heitzman V, Town of Lake George Zoning Board of Appeals, 309 A.D.2d 1126, 1128 (3rd Dept. 2003). There was a non-conforming lot on a lake in a residentially zoned neighborhood. It was non-conforming because the lot was too narrow. It wasn't wide enough to meet the Zoning Code. Same facts as this case-- residential, non-conforming lot, surrounded by non-conforming lots and their lots also contained smaller houses, just like this neighborhood. In the Heitzman case, the Zoning Board of Appeals denies the application for a variance. The reason they denied it was because the building, which the people had just bought this non-conforming lot, wanted to build was unusually large for the

character of the neighborhood. The structure was larger than the structures around it. It didn't necessarily violate side yard of setback requirements. It was just much bigger on a small lot than others around it. And that's important when you're in a lakeside community. These are lots where view of the lake matters, where the character and beauty matters. That's the reason these people are here. In the Lake George case, what the ZBA decided was --this building is too big to be in character with the rest of the neighborhood and they denied the variance. The other thing they considered, just like this case, was the neighbors came to the ZBA meeting and said that this was an undesirable building--the exact words that the Court used were these: "Esthetically unattractive, it would cost an undesirable intrusion". I don't want to create a lot of repetition because everyone wants to go home.

Based on those 2 factors, the ZBA, in the Heitzman case, denied the Area Variance-- it went to Supreme Court, Article 78. The trial court upheld the ZBA's decision. It went to the Appellate Court, 3rd Department. They upheld the ZBA's decision and it ended there. You can look at how the building fits with the rest of the neighborhood based on these 2 factors: 1- Is it unusually large for the neighborhood ? 2- Is it an undesirable? Visible intrusion based on the size and esthetic value of the building and the appropriateness for a lakeside community on a non-conforming lot. On the bottom of page 5 of my letter, I've placed a diagram, according to Onondaga County Tax Department records, showing the names of the property owners, the addresses and the number of square feet of everyone's garage or pole barn. The Hastings garage is nearly 4 times as big as the average.

Mr. Rabbia: You have a total storage structure/shed/garage two houses over that totals up to 1968 feet.

Mr. Smith: True. Still smaller. That's Camerota at 6398 Long Point Rd. That doesn't tell the whole story. The reasons it is different: The Hastings garage/barn is 30 ft. wide on a 50 ft. lot. 60 % of the width of the lot. The Camerota's garage/barn is 24 ft. wide-- much narrower--on a 75 ft. lot. That's a big difference. A 1/3 of the width of the lot Camerota's is the height of a regular garage, it has 1 bay door consistent with regular residential use. If you look at the Hastings garage, there's 2 enormous bay doors in the front and a large bay door on the side and an unusually tall structure. Mr. Smith showed pictures of the Hastings structure and the Camerota structure to the Board. The Camerota's dealt with this issue by planting trees which completely screens their structure, The Ensminger's live between these two buildings. The Camerota building is quite far off the street, the Hastings is close to the street. The Camerota's barn lines up with the other buildings. The Hastings barn doesn't fit with the house, the neighbors, doesn't fit in with any of the other structures. That's what the community character requirement is for. The Legislature wouldn't have created this requirement if it thought the measurements for square footage , coverage and

other objectives was enough, they wouldn't have put in the community character requirement. The State Law says if everybody follows the Zoning requirements, they wouldn't need a variance. I guess we wouldn't need to ask these questions. But they're asking you to do something that is against the Law. Once you do that, you kind of are an architectural Board because the State says that's the first factor you have to weigh. This is a big, ugly building and it matters. The neighbors here are going to tell you why it matters and it should be part of your calculations. Mr. Smith showed the Board pictures of some of the home and garages on Long Point Rd. and also of the Hastings building.

That doesn't belong on the lake in Cicero.

Mr. Rabbia: Who owns the green strip of land there?

Mr. Smith: The Ensmingers. If no one has questions, I'll move on to the next factor. The benefit sought by the Hastings could be achieved by some other method. Of course it could. They could have built within coverage requirements. They didn't have to build a monstrous barn that is bigger than most people's houses on that street. They could have sought the benefits they wanted without violating the Code. Mr. Smith discussed the small non-conforming lots. He also discussed a case from the Brookhaven ZBA.

Mr. Griola asked for the date of the picture that showed the flooding on the Ensminger property.

Mr. Smith: It was taken this past April after the most recent rain storm. He discussed how the Hastings caused flooding on the Ensminger's property because they built up their property and put the stone wall there. It's not draining like they said it was.

Mr. Natali asked Mr. Smith if once grass grows there, will it help that problem?

Mr. Smith: I don't think so. Mr. Slivinski and Ms. Enminger that live in the brick house will tell you this flooding is not something that happened before this house and giant barn were put in. We submit that this problem was self-created. Mr. Sharpe's right. If they had come to you before the construction was started, you would have been able to tell them maybe you should move the house or not to fill in and flood your neighbors. You didn't have the opportunity to work with them like you do with other people. The Hastings can blame the Town or Attorney or Architect, if they want. But it doesn't change the fact that they didn't come to you first. Now you're put in this situation where you have to grant or deny this variance. It's easy to try to give them more leeway because they've already built the house and expended this money but that's not what the Board should do. The Board should not reward someone for ignoring the Law and

creating their own hardship. Any financial problem they have is their own fault. I'd like to respond to some things Mr. Sharpe said. He said there were more than twenty 50 ft. lots in the neighborhood. That's true. Of course the character will change Mr. Sharpe said it will not change. Mr. Sharpe said these folks have saved for a long time for their dream home. I feel for them but so has everyone else on the street. My clients have saved for their homes and retirement and now when they look out the window they see a giant metal wall.

This is not what they wanted for their neighborhood. They say that the French drains would alleviate the flooding but that hasn't happened. People have a right to have a say about what is in their neighborhood. You have a responsibility if someone is going to vary from the Code to weigh these 5 factors. I emphasize community character for about the 7th time because it's not even close. The building shouldn't be allowed to remain there. It should never have been put there in the first place.

Mr. Rabbia: Clarification issue-- on page 2 of your letter, you went into a definition of coverage. You say coverage is defined as that percentage of the lot area covered by area of any building, carport, porches, veranda, roofs.

Mr. Smith: Anything with a roof.

Mr. Rabbia: The reason that language is put into the Code is we did not want someone's brick patio to be included in the density or coverage calculation. It was the intent of the Code to say anything with a porch or some sort of a roof on it is included in the density calculation.

Mr. Smith: There are 2 reasons for coverage requirements. The 1st reason they came up with in the 19th century was "light and air". They didn't want someone to put a big building up that would cast a shadow over your lot. The 2nd reason is permeable ground. That's important around Cicero and the lake. If you cover ground with roofs, there's less ground to soak up the water. Let's say the right way to measure this is exterior walls. We need to change the Law. Because then there's nothing in this Code stopping them from putting the eaves all the way out to the property line. They can't do that. That can't be the Law.

Mr. Griola: So as far as your clients are concerned, the relief is the removal of the garage/barn?

Mr. Smith: I want a chance to talk to the group to see if that would fix it for them before I would answer for them. But I think that would be a big help.

Mr. Natali: Is there any alternative possibilities to make that more attractive? How small would it have to be? How far back would it have to be? What would it have to be made out of? How small would the garage doors have to be? Do you want the side door eliminated? What would they like there?

Mr. Smith: Let me put this way. I don't have a very good legal argument. Maybe they could mate the Camerota's garage--push it back off the road--make it a color that matches the house--one door shorter--I really wouldn't want to go any bigger than Camerota's garage.

Mr. Natali: That's 1968 feet.

Mr. Smith: No, it's not. The pole barn is 1200 ft.

Mr. Natali: Camerota has 2 buildings--2 garages.

Mr. Smith: It makes a difference. 2 small buildings, from an esthetic point of view is a big difference.

Mr. Natali: You need that square footage for storage. Nobody has basements, I understand that.

Mr. Smith: They could do the same configuration as the Camerota's if they want to pull it off the road, do a similar, smaller pole barn, not so tall, not so obtrusive and put a small accessory building behind it. I couldn't argue with that since it's two doors down.

Mr. Natali: I'd like to remind the speakers to keep it to 3 minutes and any subsequent speakers, please just add additional information.

Ruth Willis: With all due respect, I'd like to tell the ZBA, the Hastings and Mr. Sharpe, that I have put my life savings into my house also. She read the following:

My name is Ruth Willis and I live at 6406 Long Point Rd. As you face Mr. & Mrs. Hastings' house, I am on the left hand side. It is mine and my husband's belief that our property values have been impacted negatively by the construction of the house and pole barn. We have lived in our home for twenty two years. I love Long Point Rd. as much for the people as for the magnificent lake views.

Mr. Hastings is an electrician who works on new homes. He knows all about Zoning Codes. It is my belief he knew full well he should have had variances.

He purposely did not do what he was supposed to do and clearly Mr. Wayne Dean of the Town of Cicero did not do his due diligence and protect the people who live and pay taxes here.

And because of that my property values and those of the people on my street have been greatly harmed. In particular, the neighbors on the other side of Mr. Hastings, the Slivinski's, have been dealt quite a blow. When they walk out of their front door, all they see is the broad side of the barn--to me it seems that they are barricaded in.

The Zoning Laws require that you consider "whether an undesirable change will be produced in the character of our neighborhood". First of all, that house is entirely too large to be on that lot, but the pole barn has totally changed the look of our street. It dominates our street. It towers above everything else. I have a fabulous view of Oneida Lake from most of the rooms of my home. But, I always enjoyed looking out my windows roadside at what I have always thought to be a "park like" setting. I loved watching the kids ride their bikes, and my neighbors and friends walking. Now when I look out I see a gigantic sized building that makes me feel as if I live in Vern Conway's Marina or an industrial park. I particularly feel that way when Mr. Hastings has his two enormous work trucks parked out front. The house and the pole barn have created an "undesirable change" in our neighborhood. For this reason the variance should be denied.

Another issue that you are to consider is "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.". My property has standing water and flooding in areas where I never had a problem before. It is particularly bad between the old barn and my driveway where some of my trees seem to be dying because they are standing in water. Mr. Hastings has caused an adverse effect on the physical and environmental conditions of my neighborhood and in particular the two houses to either side of him. For this reason the variance should be denied.

The last issue I would like to address is that the Town Law requires that this factor be considered and to me this is very important and so very obvious. That factor is "whether the alleged difficulty was self created". This entire issue was created by Mr. & Mrs. Hastings and the arrogance that they showed by thumbing their noses at their new neighbors, the Zoning Laws, and the Town of Cicero. Mr. Hastings created this problem all by himself and therefore, the variance should be denied.

I would like to close by asking each of you to rule on this variance as you would if you lived on either side or across the street from Mr. & Mrs. Hastings. And I know if that was the case, you would deny this request for

a variance and that is what you must do.  
Thank you.

My name is Susan Eisminger and I reside with my husband Mike Slivinski at 6400 Long Point Road. directly to the west of the Hastings property. I realize you have before you the outline from our Attorney Brody Smith with what has transpired with our new neighbors, Martha and Brian Hastings. We bought our property just after they bought their property. Their Attorney mentioned that they didn't have the opportunity to buy property. When they bought theirs, they did. I bought mine--I got an approved offer after they bought theirs. I realize that you've seen what Brody Smith put before you, and what has transpired with the Hastings, who along with Wayne Dean, have deceived us from the beginning into believing that all was well and good with their building project beginning in early 2007. We were in Tucson when they went for the permit. I asked for information on the property. I got the information on the building and the building plans. I didn't hear anything about a variance being required. We thought all was fine. As new residents of the Town of Cicero, unlike Mr. & Mrs. Hastings, we were unaware that their lot was a non-conforming lot and required a number of variances for their building project. After numerous calls and letters for information to Mr. Dean's office, we were still not made aware of these variance requirements. After daily conversations with the Hastings, we still did not know until this year. What kind of neighbors and what kind of Town Officials are these who deliberately deceive their next door new neighbor's. Had we known we could have had a say in the building of these 2 oversized buildings, we would never have approved of the building of the house , which has a foundation of over 3 ft. tall. I think you might be able to do some storage in that 3 ft. tall foundation. He's got his furnace and hot water heater in there , so I think he could do some storage there--it's almost like a basement. Causing it to tower over our home and take away all the privacy, since a fence can not be built tall enough to block their view of our home or our view of their home and yard. The building of their house more than 15 feet ahead of ours on the lakefront, therefore blocking our view of the eastern side of Oneida Lake. The blocking of one whole side of our home to include 5 windows in my home , all which used to provide a view of the eastern side of the lake before their home was built. And now we have a 32 X 72 X 20 pole barn that we look at everyday when we leave our home--we walk out the door and that's what we look at. Aside from being a commercial building made of metal, it has blocked the view we had of the north shore of Oneida Lake. Now we have blocked views of both sides of the point.

In addition to the building, the property has caused the detriment to our property, We are sure it has affected our homes value to the negative. We just bought it 2 years ago. We can't imagine we can sell it for what we bought it for. What was once a lovely home and garage on a lovely landscaped lot is now overpowered by this "larger-than-life" building. We would expect that everyone of our Zoning Board of Appeals members have taken a look at his Hastings property. If you have, you've seen the change and the detriment to the variance application. This variance must be denied under the following terms. These buildings have caused an undesirable change in the character of the neighborhood by over shadowing every garage and pole barn in the neighborhood by over 3 times, except for our neighbor, which is a very different building. The house and pole barn exceed the square footage allowed on a non-conforming lot leaving less space to handle flooding from their property. Our understanding from Mr. Smith is that these variances or laws were made so that we'd have appropriate run-off and enough grass to take in all the water that comes off driveways, buildings, pools--which I believe they're going to be building a pool 20 X 40, according to my neighbor, which would also have run-off.

Mr. Natali: Excuse me, I believe you've been talking for 5 minutes. I think you're starting to repeat some of the factors--Mr. Smith, do you have anything different to add?

Ms. Ensminger: I think all this information is different. I have another whole page.

Mr. Natali: Is it different? The fact that you just mentioned about the detriment to the neighborhood has been dealt with.

Ms. Ensminger: I'll see if I can cover less. The Hastings house has had an adverse effect on the physical condition of our home caused by flooding--you know about that. No drains in the ground can prevent this damage now. You've see the flooding of our driveway. And we talked about the commercial metal barn taking up the width of their property. Something I don't think was mentioned today was the cable wires. There are cable wires that are sitting on the building.

Mr. Natali: Those are telephone and cable. They've both have been called and I guess they're going to address that.

Ms. Ensminger: We didn't talk about a fire hydrant that's blocked by the trucks that have been parked around it. And we haven't talked about the way the pole barn is going to block the hydrant for our home. We didn't talk about the safety.

We have children riding bikes, people walking dogs, families going for walks- this is routine. Another thing Mr. Hastings mentioned today, which I had talked to him about last year. He said the back porch, the extension that wasn't approved and what didn't come thru on any plans, was approved by Mr. Dean. You asked if grass would help the situation, as you can see. The dirt is higher than the boulders. I imagine the water would run right off the grass. Now we have stone and dirt coming between the both of us, onto our land. The boulders are right on his property line. So anything you see to the left of the boulders is the dirt and mud we now have. Thank you.

Mike Slivinski, husband of Ms. Ensminger: We speak with one voice. In the beginning, we were on good terms with the Hastings. Where the boulders are, all thru the construction period of their home, they used our property also. When they tore up the lawn, I told my wife not to worry, that Mr. Hastings would take care of it. The one day I asked Mr. Hastings--do I have to worry about flooding? He said "I don't know--talk to the Town--honeymoon over". That's when I realized I was betrayed. I'm glad his property is draining just fine. What's going to happen when he paves the gravel? If we have a run-off problem now--what's going to happen when he paves his driveway? My underground electrical outlet is under water now. If anybody gets electrocuted or hurt, I'll probably have to take responsibility but I think the Town should for allowing this situation to develop to this point. Mr. Hastings, an Electrician, has worked on some big jobs. I object to ignorance--the "dumbing-up" about not knowing the Code. He's been around construction for a long time. Someone else had to move their building. It cost them several thousand dollars. Someone else was told they could not build under the wires. Why the special privilege for Mr. Hastings? I asked Mr. Dean about it and he said everything is OK. My wife asked him about the trucks. He said he didn't realize that. If you had brought this information in, we wouldn't be here today. Somebody "dropped the ball".

Mr. Coleman, 6427 Long Point Rd.: I have lived on Long Point Rd. for 30 years and I've gone thru several constructions. Recently a house was built next door to me on a lot that I had owned. It's a beautiful house. When it was finished, it created a lake. My neighbor was a very nice gentleman and to eliminate the lake, he dug real deep with a large bucket and filled it with a 4 inch pipe and stone, sod on top. It takes one day every time it rains to drain. We have 75 ft. lots. This is going to be one huge lake.

Lucretia Pulis, 6395 Long Point Rd., husband Victor: We own 2 houses directly across the street from the Hastings.

I know that you don't want people to repeat themselves but you've got a whole street of people who have the same issues and their property values have gone down. They have to look at this building every day. We continue to work hard to pay for our homes. Now we have commercial vehicles across the street. When we open our front door, this is the building we have to look at. I can't even see the beautiful house he built because this building is so big. What happens when his business grows and there's more vehicles being stored there?

Milt Brill, 6409 Long Point Rd.; Most of you know I was on the Planning Board for over 10 years and have somewhat of an understanding of the growth. I support growth, residential and commercial in the community. With the efforts of the ZBA, Planning Board and Town Board, I think we've gone a long way making sure that that growth is going to develop in the proper way. Unfortunately, Mr. Dean did not do his job. That's one of the reasons we're here. Mr. Hastings applied just like Mr. Sharpe said for all the permits, which Mr. Dean gave him (approved) but still on a non-conforming lot. We all know what needs to be done on a non-conforming lot. There needs to be a variance. The Codes are there to protect not only the builder but also the community and residents in the area. Mr. Dean did not follow those Codes. That's unfortunate for both Mr. Hastings and our neighborhood. I'd like the Board to take a different look. If you look back and did it the right way, would that house be the same? Would that garage be the same? I don't believe it would. Mr. Hastings bought the lot and went to Mr. Dean for the permits. If he had come before this Board, I can guarantee you that house wouldn't be as it is. The neighbors lost their view of the lake because Mr. Hastings built that porch. Would the Board have allowed that to happen I don't think so. That house would have been set back. Then there's the pole barn. Mr. Dean knew that was way over coverage. We know why that Law is there, especially on a non-conforming lot like this, what do you think that's going to do with the water? We all know what it's going to do--flood the other property. Mr. Dean made a deal with Mr. Hastings to put the pole barn up then take the old garage down and move it out--that's exactly what happened. In the meantime, the neighbors suffer for it because we did not come in front of this Board. The pole barn would probably have been smaller, shorter, 10 ft. instead of 14 ft. We would have come and asked these questions and the Board would have taken us into consideration. I'm ashamed of Mr. Dean for taking somebody's word for it and not knowing the Code.

Nancy Snyder, 6429 Long Point Rd.: That's way up the street from the pole barn and the house. I go by it twice a day. It is an eyesore and distracting from the character of the neighborhood. My main concern is if that pole barn is allowed to stay there where it shouldn't be , there's two other properties that are under development now. That

just opens the door. If this is allowed to stay there in the condition it's in with all these things that I keep hearing, it goes against the rule. What's going to be put up at the other two places? It's not a good precedent to set because it was a mistake to begin with--it needs to be rectified. Someone's going to suffer. It's a great neighborhood to be in--don't make it change.

Sherry Pitroski, 6426 Long Point Rd.: I can not see their pole barn directly from my house. I'm thankful for that. I walk and jog in the neighborhood. I'm very concerned about the safety. It looks like a warehouse. I've lived on this road for 16 years. I'm a young , single woman, not in the construction business, but I know enough common knowledge about variances. The argument about not knowing the Code is irrelevant. I ask this Board to deny this variance. There was a blatant disregard for aesthetic, environment and the neighbors that have lived there for a long time.

Kurt Snyder , 6429 Long Point Rd.: I want to touch briefly on a subject that's already been discussed. All of you said you have seen the property. I trust you've seen it coming from the east because then you should not have any question about 2 points. #1- Weather an undesirable change was produced in the neighborhood. You must have been able to see that. You couldn't see the Camerota property. I never knew that pole barn was there. I've been driving by it since it was put up. If you want to have a foot print like the Camerota's 2 buildings are, where it's as wide as it is from the street and it goes back towards the lake-- "knock themselves out". He can have that as long as I don't have to look at it. #2- I wonder how this drainage system is going to work when Oneida Lake is at 372 ft. I tell you, it won't work. Two wrongs don't make it right--3,4 or 5 wrongs don't make it right. This has to be changed.

Marianna Michaud, 6411 Long Point Rd.: Milt Brill said he was ashamed of Mr. Dean. I don't know this man. I'd like to know, after all this gets settled and worked out, who's going to look into this, what he did and whose pockets got filled up here? When I added 900 sq. ft. to my house, they were at my house measuring how tall it was, if I was using 2 X 6's on a regular basis.

Bud Cole, 6440 Long Point Rd.: We're relatively new to Long Point Rd. but it is a great place to live. In the Hastings situation, I'm sure if you are doing your homework and you want to be on water property, there are certain things you have to adhere to. You'd probably go looking as we did. Everything we bought was there but I do know living on a flood plain and coming from the Adirondack region, that there are specific Codes that everybody must follow. Especially out there with wonderful Oneida Lake and the Oneida Lake Association that protects it. There are certain things you can or can't do on the water. Ignorance is bliss. If you didn't know the Code, somebody dropped the ball. The people here tonight are affected if this is allowed to go thru.

My reaction is, you can't allow an occupancy level. Changes have to be made for neighbors. If you needed bigger spaces, look other places--find something bigger that you need and then do it. We would have--we did. Thank you.

Laura Himpler, 6413 Long Point Rd. : The integrity of the road surfaces, the new bridges, the bridge by the marina, the other entrance on Beach Rd. that was reinforced--when we get flooding, I'm concerned with a constant flow of commercial traffic that would normally not be there. How are we going to degrade the road surfaces? What effect is that going to have on the entrance on either side of Long Point? This is more far-reaching perhaps in that regard. Would it have any effect on our road when it floods and the drainage of that road surface? Are we going to spend alot more money taking care of a flood issue than we really are seeing besides the unfortunate esthetic value and the neighbor's ground and surface out there? What is the footprint that's going to be laid? I don't know. I apologize to the Hastings and the neighbors on the other side but there is another issue, perhaps far-reaching, increasing taxes, increasing costs, increasing safety for just our Long Point Rd.

Gene Cmerota, 6398 Long Point Rd.: I have the other pole barn that has been mentioned. When I built that last year, I applied to the Town for the permit and I had a little problem with wires running over it and Mr. Dean told me I couldn't put it exactly where I wanted it because wires are not allowed to pass over structures. I had to call National Grid. Ultimately I couldn't do it so I had to move it down a ways , which I did--12 ft. down. The thing I think you ought to look at is this particular building has wires running over it and there's a wire actually touching it. I guess one is a cable wire but the other is a power wire. I was told by National Grid you are not supposed to build under power lines.

Robert Willis, husband of Ruth that spoke first: Two quick points. Everybody's implied this but I don't think it's been stated.

If the Zoning Board had done their job properly--giving the proper building permits--neither party would have had to hire an Attorney. Just as a comparison: 31 years as a Dentist, the NYS Dental Society self-disciplines the Dentists by a peer review. The closest I can come here is negligence in issuing these building permits. A Doctor or Dentist can loose their license when they have a negligent claim. As far as I can see repeated permits given for building piecemeal illegally, it all came down to Wayne Dean. I think the Board should ask him to resign.

John Rands, 6454 Long Point Rd.: I'm the old man of the Point. I've been there over 40 years. We don't live on a road where people go 30 or 40 MPH because it is a dead end. My biggest concern is that not only Long Point Rd. but there's

people on Beach Rd. and Muskrat Bay Rd. that walk, rollerblade, etc. I've seen these Hastings trucks come thru, they look similar to the ones used by National Grid--big commercial trucks. I don't think they belong on Long Point Rd. or any of the adjacent roads. I don't think you should allow commercial use of the residential section of the lake. I think the pole barn is definitely a commercial building. It should be put on a commercial lot and you should look at this thing as if it is starting from scratch. I'm an Engineer--I think you should go back to day one. Look at a 50 ft. lot and pretend nothing's happened and start off with an existing new lot that was purchased and go thru the parameters just like you did with the other people here tonight. I think you're open minded, fair and intelligent and came up with a lot of good ideas for these other people that were building. Ask yourself, what would we do if we were all here from the beginning, what would your parameters be and what would be allowed to be put on that lot. Would the house be as big as it is? Would you let a commercial building be put on that lot in a residential area? I think Mr. Hastings should be allowed to have a 2 car garage to store a car and a boat but he should not be allowed to store commercial trucks. Mr. Hastings is a young man. His business will probably grow 3 or 4 times bigger than it is now. I hope he is successful but put it on a commercial lot not on Long Point Rd. Don't pass this. Don't shove this down our throats.

Mr. Polis, 6373 Long Point Rd.: I look at that building everyday. The monster Pole barn is a big building. When I see the Camerota building, it doesn't catch me-- I don't see it there. When I pull out of my driveway and look for traffic, I have to look around the pole barn. It affects everybody.

Mr. Smith gave a picture of the Farrell residence at 6418 Long Point Rd., to the Board Members.

Mr. Sharpe: Mr. Smith suggested because we made separate applications that there was some evil mode involved or that the Town wasn't able to calculate the coverage or the size of these things. I fail to follow that. We made application for the house and gave them full plans . We made application for the garage and gave them full plans. The calculations are simple and we received the Building Permits. The coverage is what the coverage is according to the calculations by the surveyor, it's 25.1 . It's .1 over the statute. Mr. Smith cited the case of Heitzman V, Town of Lake George and he told you that this was a case just like our case here. The Heitzman application was for 5 area variances. They wanted a rear setback, a right side yard, left side yard, height variance and a density variance. Not exactly like our case. The lot coverage wasn't one tenth of one percent over the Ordinance, it was 15 % over the Ordinance. Yes, the Board denied it and you can see why. That case illustrates one point. There are principals of Law enunciated in many of

these cases but variances are inevitably fact specific. You really have to take the facts of any given case. That's why the State gave you 5 factors to consider. This is not a commercial operation. We don't have storage, he wants a boat, has children's toys, he has only one truck now, he sold the other one. A lot of people are talking about where the house is located. If you look at the survey, it's 59.85 ft. setback from the lake, it's not designed to be on top of the lake. I'd point out that far in excess of the requirements of the Code. There's no Code violation. Someone brought up the fire hydrant. Brian has made arrangements with OCWA to move the fire hydrant to the property line at his expense so that will be moved out from in between the two entrances to the garage. I would submit that the drains have only been operational for the past few weeks and I think the so called flooding issue with the standing water, I'm not sure if it is standing water--the drain on that side will help take it way. Of course the neighbors are upset about this thing but I think you have to take into consideration the hard facts and make a decision based on this case. They came here innocent. They didn't know about it. They followed the correct procedures, made the applications, they received the permits. Some people are suggesting that he did it on purpose. That's absurd. The easiest thing to get done is to come, make some suggestions, it's taken care of and you're on your way. I think that's true in this Town where you have a lot of 50 ft. wide lots from years ago and then when they adopted the Ordinance and changed to R-10 and larger, you're going to have non-conforming lots for many years to come. The power line, according to National Grid, is 40 ft. above the structure.

We contacted National Grid before the building was erected and they said it was all right to go ahead and build under it because the clearance met the requirements. The cable and phone companies have been contacted and those will be taken care of. This family has gone thru a lot of difficulty in the last 3 or 4 months and unfortunately the "good neighbor" policy has not prevailed in the neighborhood. We found that out last week when the DEC came out. That turned out to be a good thing because they approved everything that had been done and realized there was some crank call suggesting that he was throwing rocks into the lake. There are a lot of big garages up and down the street. Under the Code, this is a legal structure if the lot is non-conforming. The same is true for the house. I request you give it due diligence. Thank you for your attention.

The public hearing was closed at 10:13 p.m.

Mr. Natali: We've been given a lot of information. Most of it was presented to us yesterday afternoon by Mr. Smith.

Based on the job at hand, Mr. Natali made a motion, seconded by Mr. Griola,

to defer this until next meeting on June 2nd. By law we have 62 days. I think we can make a decision way before that.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Smith requested the Secretary to enter the following packet of information into the minutes, which are on file in the Town Clerk's Office for public view.

Motion and unanimous approval made to adjourn the meeting at 10:14 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 the meeting of the said Board of Appeals, held May 5, 2008 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

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Nancy G. Morgan

May 5, 2008