

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: JULY 8, 2009
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday July 8, 2009 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton	Board Member
	Gary Palladino:	Board Member
	Rita Wicks:	Board Member
	Mark Rabbia:	Board Member
Absent:	Robert Bach:	Board Member, AdHoc
Others Present:	Wayne Dean:	Dir. of Planning and Development
	Melissa Del Guercio:	Attorney
	Nancy G. Morgan:	Secretary

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. Stanton, to approve the minutes of the June 1, 2009 Zoning Board of Appeals meeting. There were no additions or corrections.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mrs. Wicks:	Yes, I was not at that meeting but I have read the minutes.
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mrs. Wicks, 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
Mrs. Wicks:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

We have Proof of Posting for all cases on tonight's agenda.

Mr. Natali made the following announcement: Any action taken tonight will not be official until the minutes are filed with the Town Clerk, which has a deadline, by law, of two calendar weeks.

AREA VARIANCE DEFERRED FROM 6/1/09 FOR CHARLES KUCHARSKI, 6062 MUSKRAT BAY ROAD, TO CONSTRUCT A RESIDENTIAL ADDITION TO A HOUSE ON A NON-CONFORMING LOT. THE LOT IS 50 FEET WIDE WHERE 75 FEET IS REQUIRED. THE FRONT SETBACK IS 31.75 FT. FROM THE CENTERLINE OF THE ROAD WHERE 30 FEET IS REQUIRED FROM THE STREET LINE.

Representative: Charles Kucharski, Owner.

Mr. Kucharski: I would like to put an enclosed porch on the front of my house.

Mr. Rabbia: I'm looking at the latest additions to the survey dated 6/11/09. He then discussed measurements with Mr. Kucharski.

Mr. Kucharski: The concrete slab has to go. I can not build on it.

Mr. Natali opened the Public Hearing at 7:06 P.M.

FOR: NONE
AGAINST: NONE

Public Hearing was closed at 7:07 P.M.

Mr. Palladino discussed the 5 factors:

- 1- Will there be an undesirable change? Answer: No.
- 2- Can the benefit being sought by the applicant be achieved by some other method?
Answer: No.
- 3- Is the Variance substantial? Answer: No.
- 4- Will it have an adverse effect on the physical or environmental conditions?
Answer: No.
- 5- Was this difficulty self-created? Answer: No.

Mr. Palladino then made a motion to approve the Area Variance for Charles Kucharski, 6062 Muskrat Bay Road, to construct a residential addition to a house on a non-conforming lot. The lot is 20.45 feet from the edge of the pavement where 30 feet is required from the street line. The side setback is 4.4 feet where 6 feet is required. Motion was seconded by Mr. Stanton.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mrs. Wicks:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE FOR DR. THOMAS CARROLL, 9651 BREWERTON ROAD, TO CONSTRUCT AN ADDITION TO AN EXISTING OFFICE BUILDING WITH NON-CONFORMING SETBACKS. THE FRONT SETBACK IS 18.9 FEET WHERE 50 FEET IS REQUIRED; THE SIDE SETBACKS ARE 7.6 FEET AND 21.7 FEET WHERE 15 FEET IS REQUIRED.

Representative: Dr. Thomas Carroll, Owner.

Dr. Carroll discussed his new architectural drawings with the Board. His addition is now planned for the (north) Guy Young Road side of his existing office building. There were some current code violations but it will conform with the new "Brewerton Code".

Mr. Dean: The new Code for Brewerton, the new form base Code to be adopted soon, wants to bring buildings closer to the road and shield the parking behind it. That's the whole intent here. That's what has driven the changes.

Mrs. Wicks: What are you going to do with the front entrance?

Dr. Carroll: I have elected not to have a front entrance on Route 11 because of what it does to the internal floor plan of the building.

Mrs. Wicks: Where's your emergency exit for that side?

Dr. Carroll showed Mrs. Wicks where the two exits were on the plans.

Mrs. Wicks: I believe Zoning is about life safety. The entrance that's on Rt. 11--there's a ramp that goes up there. Are you going to leave the face of that looking the same, like it still has a door ?

Dr. Carroll: Yes. In fact, the door may remain. I'm meeting with my architect tomorrow. There might be a "blind porch" left there. There's an existing flower box we plan to keep. I'm going to talk to my architect about making it look similar with an architectural detail so there will be a symmetrical appearance to the view from Rt. 11.

Mrs. Wicks to Mr. Dean: Is it within Code to have the entrance and exit of the building the same, in case of emergency. Is that OK?

Mr. Dean: It's no different than any other business or this building. The entrances are the emergency exits. This will be all one office eventually.

Dr. Carroll: The two entrance/exits are located to the parking lot, mainly for staff and one here for patients.

Mrs. Wicks: So, if there was a fire, between those two entrances, where would people exit your building ?

Dr. Carroll: If there was a fire between the two doors, the people on this side would go out this door (referring to the drawing) and the people on the other side would go out the other door.

Mr. Rabbia: Educate me. In General Commercial, we see side setbacks of 15 feet required. In the application, they're saying 21.7 ft. on the north side. I'm not sure they need a variance on that 21.7 ft., right ? Only 15 ft. is required on that side. I'm assuming Route 11 is the front.

Mr. Dean: It is, but when you have a corner lot, you have two setbacks. In the new form based Code, the old setbacks are negated by the new form based Code.

Mr. Rabbia: But the new form based Code has not been adopted.

Mr. Dean: That's correct. That's why Dr. Carroll is here.

Mr. Rabbia: So, the 21.7 feet should be considered the front setback, on the north as well ?

Mr. Stanton: I was still thinking this was General Commercial.

Mr. Rabbia: Are you thinking we don't need to comment on the 21.7 feet?

Mr. Stanton: No, I was thinking we would have to do the 21.7 ft.

Dr. Carroll: That 21.7 ft. is actually going to be greater than that. The 21.7 ft. is to the corner of the steps to the doorway that isn't going to be built. I'm only estimating , but I'm going to say that's another 3 or 4 feet.

Mr. Rabbia: That 18.9 feet is going to be bigger, right?

Mr. Stanton: I would say that's going to be 27.4 feet.

Mr. Dean: That's correct.

Mr. Rabbia: Then the 18.9 ft. turns into 25 ft.?

Dr. Carroll: Yes.

Mr. Rabbia: You won't have the front entrance built out?

Dr. Carroll: Yes, it will be a 90 % corner.

Mr. Stanton: Just in anticipation of this being rezoned "downtown core", which I believe this is going to be, I did look through the form based Code. There is one provision here for enlargement/repair/alterations. It says "any non-conforming structure may be enlarged, repaired, maintained or altered provided that no additional non-conformity or the degree of the existing non-conformity is not increased". I think this falls under that roughly. The one big discrepancy I saw, when I look at the "downtown core" building lot standards, it appears to say that the sidewalks should be located on the Town side of the property line and not the property owner's side of the property line. I don't want the sidewalks not to match up.

Mr. Dean: That's an issue for the Planning Board, not this Board. The State has requested that the sidewalks be on the public property , not on the private property. That will be addressed.

Mr. Natali to Dr. Carroll: You're planning on building this at a time when it's official to build in Brewerton, right ?

Dr. Carroll: I was granted relief from the moratorium on building.

Mr. Natali: You can go at any time now?

Dr. Carroll: Yes.

Mr. Natali opened the Public Hearing at 7:24 P.M.

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 7:25 P.M.

Mrs. Wicks: Am I "nit picking" on making sure that there is another exit?
We do have to take into consideration people's health and safety, in regards to when we look at the whole piece of property.

Mr. Natali: Actually, under the site plan, they're going to take a closer look.

Mr. Dean: The safety regulations are enforced by my office and the Building Code, not by the Planning Board or not by the Zoning Board of Appeals. We deal with it when we see the final plans for the building.

Mr. Stanton reviewed the five factors:

1-Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property will be created ?

Answer: No, any improvement in this area, especially the addition or expansion of a business, would be desirable.

2-Whether the benefit sought by the applicant can be achieved by some method other than an Area Variance? Answer: No, the lot lines are what they are and the building is what it is. The only way for Dr. Carroll to do the expansion he wants, is to seek this variance.

3-Whether the requested Area Variance is substantial? Answer: No, we're looking for small relief on the setbacks here.

4- Whether the proposed Variance will have an adverse effect on the physical or environmental conditions in the neighborhood or district?

Answer: No. With the proposed landscaping and building upgrades this is going to be a positive impact on the neighborhood.

5- Whether the alleged difficulty was self-created? Answer: You could say it is but the answer is no, because of the size of the lot.

Motion was made by Mr. Stanton, seconded by Mr. Rabbia, to approve the Area Variance for Dr. Thomas Carroll, 9651 Brewerton Rd., to construct an addition to an existing office building with non-conforming setbacks. The front setback from Route 11 is 25 feet, where 50 feet is required. The front setback from Guy Young Rd. 27.4 feet where 50 ft. is required. The side setback is 7.6 ft. where 15 ft. is required.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mrs. Wicks:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes.

Motion duly carried.

AREA VARIANCE FOR MARY CHAIRVOLOTTI, 6065 BANNISTER DRIVE,
TO CONSTRUCT A DECK AND FENCE WHICH EXTENDS INTO THE
30 FOOT SETBACK FROM A STREET. THIS IS A CORNER LOT WITH
TWO 30 FT. STREET SETBACKS.

Representative: Mary Chairvolotti, Owner.

Ms Chairvolotti: I started my deck before I knew about the Building permit process. I came in and got a Building Permit after the fact. I apologize. My son built the deck. I have a corner lot. I've talked to all my neighbors and they're all in support of it. I'm asking to keep my deck and I'm asking to put up a 6 foot fence.

Mr. Rabbia: What are you looking to do with the fence, as far as, where do you want to put it ?

Ms. Chairvolotti: I'd like to go out 20 ft. from the front of the house, I have the phone box--my neighbor has a 6 ft. fence--and I'd like to come inside the cable box/pole and just attach to my neighbor's fence. I prefer no fence but Thompson Rd. has become very busy. When you come out of Bannister Dr. to turn right onto Patchmark, I wouldn't be obstructing the view from people to turn. I used to have 25 ft. trees all along the back and side but I had those all removed. I didn't know the laws of the corner lot. I have an updated survey done 6/3/09.

Mr. Rabbia: I see a measurement 31.1 feet. Is that from the house or the edge of the deck? I'm guessing from the house.

Mr. Stanton: 31.1 ft. looks like from the edge of the house.

Mr. Rabbia: Where do you want the fence relative to the deck?

Ms Chairvolotti: Where the deck ends--about 5 feet out, towards Patchmark. So it won't be right up to the deck, so I can do some landscaping.

Mrs. Wicks: Could you come up and draw on my copy of the survey where you want the fence ?

Mr. Stanton: I think there's at least one thing we need to know before we can rule on this. Exactly where is the fence going to be? We have two standards in this Town. They deal with corner lots. My interpretation is that we're trying to provide some sight distance for people who are making turns. The first one is in 210-190C in the Code, which is : " On corners there shall be no obstruction to visibility between the height 2 feet and 10 feet from grade, for a distance of 20 feet from the property corner along both streets".

We also have a definition of a corner lot which says:" There shall be no obstruction of vehicular visibility between the heights of 3 feet and 7 feet, above finished grade, in a line 25 ft. each side of the corner of the lot ". I think based on that, we're going to need to see--maybe you should sit down and talk with Wayne about this and lay out exactly where you want this fence. Have your Surveyor lay it out, then come back to us. You should make sure you're meeting what the Town Code is asking for.

Mr. Rabbia: I drew a line for your fence that traced the outline of your deck and ran from the edge of your deck to your Thompson Rd. line, then over. You extend out from your house quite a bit, the way you've got the deck jogging.

Ms. Chairvolotti: It's 14 feet out from the house.

Mr. Rabbia: You might think about following that deck to however you want deep to your back line, then come across.

Mr. Stanton: I was thinking that also.

Mr. Rabbia: Layout your proposals with your Surveyor.

Ms Chairvolotti: I've already paid the Surveyor. What I thought I was here today to do was for the Board to say "you can come in 10-15 ft.". I want to know what you would allow me to do.

Mr. Rabbia: I'm not sure what to allow you because there's not a dimension on here for me to work with. No dimension of the deck. There's no dimensions on the survey.

Mr. Stanton: I know how you feel but we're charged with granting the minimum Variance required. We can't just say "OK--you can do 25 ft.". You need to have a proposal. Please don't sketch it out yourself, have your Surveyor do it.

Mr. Natali to Mr. Dean: We're looking at 20 ft. so we have visibility on a corner lot. Does that include the 10 ft. of the utility easement or 20 on top of the 10 ft. ? Where does the 20 ft. start ?

Mr. Dean: The 20 ft. starts at the edge of the pavement, where you go up. That's different than the setback regulations.

Mr. Natali: That's a minimum, we couldn't go any closer than that.

Mr. Dean: You could with a Variance. It's part of the Code.

Mr. Natali: What we're trying to determine is from the lower deck to that 10 ft. line, we're estimating only 7 1/2 feet.

Mr. Dean: I think it would be logical to assume that anyone pulling out of Bannister-- it's not going to impace their line of sight, looking that way, because the car coming at them is on the other side of the road, they would see it. It's more of an issue at the corner, but it's still on the inside corner and you're not going to see it--it's not going to impact the line of sight on either corner. I think it would be safe to assume--it's a violation of the Code and setbacks, but as long as she stays out of that utility easement, that's my biggest concern right now. If she stays ou of that, it looks like she'll still be at least 20 ft. from the edge of the pavement on both corners. I think that's more than adequate.

Mr. Natali: So are you saying you'd go along with a fence that would go within a foot of the easement ?

Mr. Dean: Within a foot of the easement or right up to the easement. The easement is laid out and you can go right up to the edge of the easement if you want to. The easements are laid out to give them adequate work space.

Mr. Natali: This is a substantial Variance. Ms. Chairvolotti would like us to tell her where she can put the fence. Our problem is, your Surveyor didn't put all the dimensions in, that you've already paid for. He didn't put the dimensions in for the side setbacks and back setback, so we could make a decision.

Mrs. Wicks: I don't know if I'm comfortable speculating on what I would give you without actually seeing something on paper. I think what Mr. Rabbia was saying, to conform your deck along the porch that's already existing. Then all we'd have to worry about would be how far back you'd go toward Thompson Rd.

Ms. Chairvolotti: You mean put the fence a foot out from the deck?

Mr. Natali: She would need room to paint it.

Ms. Chairvolotti: If it was attached to the deck, it would be kind of odd looking.

Mrs. Wicks: Are you looking for full privacy or one of those decorative fences that are only 2 or 3 ft. high ?

Mr. Stanton: The application basically says there's two front yards because you're on a corner lot.

Mr. Dean: There's really three.

Mr. Stanton: That's what I was getting at. We've got 3 front yards here. Based on our Code: "Fences in the front yard shall be 4 feet from grade and shall be no more than 50 % opaque". That's something else we need to consider. That's 210-19-A5 in the Code.

Mr. Dean: That is the requirement based on the line of sight.

Mrs. Wicks: It would be nice, however, to get an idea where the fence would lie. Then we could park our vehicle, could we in fact , see where the edge of the fence was going to be to see if the line of sight was clear ? That would be doing our due diligence.

Mr. Palladino: Looking at the map, taking the corner lot into account, with our angles and tangents, to give you a feel rather than "throwing a dart" at the survey, this has to be qualified--if you were to come 21 ft. off the edge of the street line (Thompson Rd.) and you're neighbor's fence. If you go toward your neighbor's fence--toward Patchmark--it's 70 feet. That would be the one point. As I look at it, your fence can't be 90 degrees. You're going to have to put an angle in there. You would have to cut it off for line of view. The second point--if we go off your deck 5 ft. toward Patchmark Ln.--then go up 30 ft. That would be the other point. You can use your existing dotted line that you have for a fence, you could follow that up 30 ft. from the edge of your deck, you'd put a pole, then do the other one 70 ft. as I said, and at 20 ft. put a pole, that would be your guide. He showed Mary on her survey.

Mr. Dean: If you did that Gary, you'll be in the middle of the deck when you turn the corner. The 85 ft. is the straight line dimension to that corner. If you come back 15 ft. from there, you're going to be back into the deck.

Mrs. Wicks: I probably wouldn't have a problem with that formation.

Mr. Natali: Mary can still ask her Surveyor to put that in as a start. He should have given her the dimensions of the upper deck and the lower deck.

Mr. Dean: I don't know if the deck was completed when the Surveyor did his work.

Mr. Rabbia: So, you put a Stop Work Order on it?

Mr. Dean: Yes, we made her come in for a Permit, then she finished the deck.

Mr. Stanton: The Variance is also for the deck?

Mr. Dean: As long as we're here, we might as well make it legal.

Ms. Chairvolotti: I didn't even know what a Variance was.

Mr. Natali: Originally, what we probably would have proposed, that your deck would go over the concrete patio, then we would have done the whole thing. We're reluctant to ask you to take down part of the deck, that's what we should be doing. We're going to ask you to go an extra step.

Mr. Natali continued:

Mr. Palladino gave you a possible scenario. Have your Surveyor put all dimensions on the survey, plus every corner should have a number--from the lower deck to the side, to the rear.

Mr. Dean: Surveyors document what's there, they don't document what isn't there.

Mr. Natali: But they can put a proposed fence on it. We like to see them put it in because they've measured where it's going to be.

Mr. Stanton to Ms. Chairvolotti: Your Surveyor needs to contact Mr. Dean's office. He needs to ask specific questions about our corner setbacks. That will lead him to what Mr. Palladino came up with.

Mr. Rabbia: Had you come and requested this deck, in my opinion, it would have not been approved the way it sits right now. Had we started from scratch on this, that deck would have been moved over a good number of feet.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to defer this case until our August meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mrs. Wicks	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE FOR MARIO D. ROVITO, 7844 MARINA DRIVE, TO BUILD A FREE STANDING (16 FT. X 16 FT.) DECK WITH A REAR SETBACK OF 7 FEET WHERE 20 FEET IS REQUIRED (SETBACKS AMENDED BY APPROVED SITE PLAN).

Representative: Mario Rovito, Owner.

Mr. Rovito: I'm looking for a Variance for a free standing deck that I started without a Permit. I thought if it wasn't connected to the house or wasn't heated living space, you didn't need a Permit. After I got three quarters of the way through it, Steve came by the house. He asked me if I had a Permit for that. I said, do I need one? He said yes, you do. So my next step was to come in for a Permit. Then I found out I needed a Variance.

Mr. Rabbia: I'm looking at a survey--it looks like something's attached to the back side of the house.

Mr. Rovito: There's a small enclosed porch on the back of the house. There should be pictures.

Mr. Rabbia: Does anyone have anything other than a survey with no dimensions?

Mrs. Wicks: What I saw, and it was difficult, you have the recessed in part of the deck, then the deck you built goes out further.

Mr. Rovito: It's kind of hard to see it. That's why I took the pictures. If you look around the side, you can see it's not connected.

Mr. Rabbia: What are the dimensions of the deck?

Mr. Rovito: 16 ft. X 16 ft.

Mr. Rabbia: The drawing shows 11.4 ft. width coming out from the house.

Mr. Stanton: It was a little confusing when I went out to look at it. I was confused about the 11.4 ft. It's conjecture, but the 16 ft. X 16 ft. is outside of what's drawn there.

Mr. Rabbia: The square that's drawn on here is not representative of what was actually built.

Mr. Rovito: That actually should be close to scale on the survey.

Mr. Rabbia: I'm looking at 11.4 ft. for width here. He discussed the dimensions on the drawing with Mr. Rovito.

Mr. Stanton to Mr. Rovito: Refresh my memory. Is the original part of the deck, the 6 ft. X 11.4 ft , is that covered?

Mr. Rovito: Yes. Originally, that was supposed to be concrete. I told the contractor I wanted to put a wood deck in back so he put in the pressure treated wood.

Mr. Stanton to Mr. Dean: Dimensionally, as I look at this, there's other issues like the lot depth and possibly the size. Has that all been covered?

Mr. Dean: Yes , that's been covered. It wasn't laid out or sub-divided in accordance with any zoning regulations. It was done under Planned Unit Development. These lots a very small. They have 20 ft. back setbacks, which doesn't allow for anything. I just want the Board to be aware that this is the first time this has come up. The sub-division is relatively new. There's probably about 10 houses built out there now. This issue is going to come up time and again. I just want the Board to be aware of this and take it into consideration.

Mr. Rovito: If you look in back of my house, it's all woods. I wanted to buy some land from my neighbor but he doesn't want to break up his property. He said he has no problem with me putting a deck there. The deck would enhance my house.

Mrs. Wicks: Wayne, did you say all these are the same in this development? Does the lot next to him have more depth?

Mr. Dean: No, they're all 100 foot lots.

Mr. Rovito: There are other neighbors that have been issued Permits to build decks.

Mr. Dean: It depends where the house sits on the lot. I could check on that.

Mr. Rabbia: How far along on the deck are you ?

Mr. Rovito: It's all up except for the railings. I have about \$1500 worth of materials in it.

Mrs. Wicks asked if Mr. Rovito had heard anything else from Mr. Roberts about him selling some of his property.

Mr. Rabbia: How far does that 16 ft. put him from the rear property line? Do we know that?

Mr. Stanton: Pretty much 7 feet, if I sketched it correctly.

Mr. Rovito: Steve and I measured it. I believe it was 4 feet.

Mr. Rabbia to Mr. Stanton: Do you know what the dashed line is running through the property, that has the 92 ft. ?

Mr. Stanton: I don't know what it is.

Mr. Rabbia: Wayne, do you know what that is ?

Mr. Dean: There's a flood plain line that was eliminated because of the fill put in for construction. That might be what the dashed line is.

Mr. Natali opened the Public Hearing at 8:07 P.M.

FOR: Neighbor Ann Bush, 7846 Marina Dr., spoke in favor.
AGAINST: NONE

Hearing was closed at 8:08 P.M.

Mr. Stanton: Just something to think about. If we were to approve this, I believe, in the explanation, we'd have some pretty heavy qualifications, that the only reason that we're approving this is because we don't believe there's going to be any build-outs behind that lot.

Mr. Rabbia: Everyone is handled independently. This is going to start a lot of deck requests.

Mr. Rovito: The way it was explained to me, the setbacks for the three houses on that side is different.

Mr. Stanton: Wayne, what did you think of my idea about heavy qualifications ?

Mr. Dean: You can't put qualifications on what's done on this lot predicated on something saying you can't build behind there on the adjoining property.

Mr. Natali: He could support his decision with the understanding, to the best of his knowledge at this time, that there will be no proposed building there.

Mr. Dean: You could do that but it's not a condition that will never happen.

Mr. Rovito: From what I understand, the property owner owns all the land right down through. He wants to keep that land as a barrier. He has a construction business and wants to keep that land for his own use.

Mr. Rabbia: When they did the PUD, this must have come up.

Mr. Dean: They've already violated the 30 ft. setback for the rear property line because they've given a 20 ft. rear setback for the principal structure and it excludes accessory structures, such as decks, sheds, pools and fences. That means you can't build any of those items in that setback.

Mr. Stanton: So, do we default to the wider setbacks, the more restrictive ones for the R-10 ?

Mr. Dean: Yes.

Mr. Rabbia: If we approved this, we would be going against the way the PUD was planned and laid out for the community.

Mr. Dean: That's correct. It's unclear. I haven't clarified if that's for all of these lots or just for certain lots. I've been trying to find out but haven't been able to yet. I'll go back to the Planning Board and ask them what their recollections are. The original plan for this tract was approved about 20 or 30 years ago under the old zoning standards. That's why it was allowed to go on. If it hadn't been approved that long ago, it wouldn't have been allowed to go on like this.

Mr. Rabbia: You've got houses on both sides of the street with the same problem.

Mr. Rovito: What are your requirements for a shed? Can it be built in your driveway between two houses ?

Mr. Dean: As long as it doesn't intrude into your front setback and is 3 ft. from your side property line.

Mr. Rovito: What's the alternative? Do you expect people in that neighborhood not to build a deck ?

Mr. Dean: That may be the case.

Motion was made by Mr. Stanton to defer the case for Mario Rovito, 7844 Marina Drive, until our August meeting until such time that we can get clarification on what the setbacks are. Motion was seconded by Mrs. Wicks.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mrs. Wicks	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion was made and unanimously approved to adjourn the meeting at 8:20 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 meeting of the said Board of Appeals, held July 8, 2009 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

July 21, 2009