

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: APRIL 5, 2010

PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday April 5, 2010 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                        |
|                  | John Winters:    | Board Member                        |
| Absent:          | Robert Bach:     | Board Member, AdHoc                 |
|                  | Mark Rabbia:     | Board Member                        |
| Others Present:  | Wayne Dean:      | Dir. of Planning and<br>Development |
|                  | Terry Kirwan Jr: | Attorney                            |
|                  | Nancy G. Morgan: | Secretary                           |
|                  | Vernon Conway:   | Town Board Liaison                  |

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. Stanton, seconded by Mr.Palladino, to approve the minutes of the March 1, 2010 Zoning Board of Appeals meeting, with the following corrections:

Page 3: 1 st paragraph-should be Mr. HILTS not Hicks.

Page 6: 6th paragraph-should say "decision in 62 days" -not 65 .

Motion was put to a vote, resulting as follows:

|                |     |
|----------------|-----|
| Mr. Winters:   | 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.

Motion was made by Mr.. Natali, seconded by Mr. Palladino, 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. Winters:   | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton:   | Yes |
| Mr. Natali:    | Yes |

Motion duly carried.

AREA VARIANCE DEFERRED FROM 3/1/10 FOR TERRY & RITA WICKS, 6256 MUSKRAT BAY ROAD, TO OBTAIN A SETBACK OF 3.3 FEET WHERE 6.0 FEET IS REQUIRED FOR A PREVIOUSLY CONSTRUCTED GARAGE.

Representatives: Terry & Rita Wicks, Owners

Mr. Natali: The Public Hearing was closed last month.

Mrs. Wicks: Gentlemen, my husband and I come before you for the third and hopefully the last time to respectfully request a variance for the southeast corner of our garage.

As you recall, our garage was constructed in 2004 and a certificate of compliance from the Town of Cicero was obtained.

Mr. Hilts elected to put a fence between the properties and based on a survey he apparently obtained in 2009, it was discovered by the surveyor the garage was closer than 6 ft. from Mr. Hilts' property line. The discrepancy may have been discovered earlier if at any time Mr. Hilts, when applying for a building permit in 2004, a building permit in 2006 or the floodplain permit in 2009, used his own survey, rather than the survey for our property at 6256 Muskrat Bay Rd., to support his building permit and flood plain permit. So at that time, apparently he did not have a discrepancy with the property line. Interestingly, the same day Mr. Hilts filed for the flood plain permit on 8/25/09, using a copy of our Survey, he filed a complaint with the Town stating our garage was "2-10 inches from the property line." I FOIL requested all information on 6258 Muskrat Bay Rd. and did not see an updated survey in file. Mr. Hilts alleges the garage, as constructed, floods his property and is an imposition on his property.

- First, I would like Mr. Hilts to explain how the garage is an imposition on his property, when it is fenced in.

-Second, I would like Mr. Hilts to explain and show proof our garage is the only reason his backyard floods.

Could the backyard flood because it backs up to the swamp ?

Yes-perhaps.

Is the neighbor at 6262 Muskrat Bay Rd. higher than his backyard ?

Yes.

Does all the rainwater coming off his house drain towards the backyard ? Yes

Lastly, Terry and I took the liberty of writing the surveyor Mr. Whittaker and asking him to explain the difference in the surveys, as well as commenting on Mr. Hilts northwest corner of his house, which based on the new survey also requires a Variance to comply with the R-10 bulk regulations.

-Mr. Whittaker's explanation for the discrepancy in the property line is the survey stake he placed must have been moved during the construction of the garage. I find this statement without merit or proof. You would think if it was accidentally moved it certainly would not have stayed in an upright position.

-Mr. Whittaker also stated " perhaps Mr. Hilts' northwest corner of his addition is closer than 6 ft. to the property line and may warrant a Variance."

As I said in the last meeting, Mr. Hilts has had over 8 months since he filed a complaint with the Zoning Office, to compile his information against granting a Variance for our garage (I have the complaint) and over the last 2 months the only thing I have heard is allegations, half-truths and exaggerations.

At this time, I would like to submit pictures, a copy of our letter to Mr. Whittaker and Mr. Whittaker's response into the record, as supporting information.

Mr. Palladino to Mrs. Wicks: Is there a difference between the 2 surveys that we're talking about--the one Mr. Hilts had and the one Mr. Whittaker put together for you--is there a difference in the surveys ?

Mr. Wicks: We've never seen a copy of his survey.

Mr. Pallidino: I'm confused. Did you say he used the survey---?

Mr. Stanton: In establishing a time line here, I think that's one of the more important things. We've heard a lot about conflicting surveys--yet the surveys that were submitted agree with each other.

Mr. and Mrs. Wicks went up to the Board to discuss information they had submitted.

Mr. Palladino: So, this is your survey ?

Mrs. Wicks: Yes, in Mr. Hilts' application for his Permit.

Mr. Palladino: He didn't get an independent survey ?

Mrs. Wicks: I don't know.

Mr. Palladino: I'll ask him the same question . So, he used your survey originally. Then it wasn't until he put the fence up that he got Mr. Whittaker to do another survey?

Mr. Wicks: As far as we know.

Mr. Palladino: I'm going to ask him the same questions.

Mr. Stanton: One thing that Mr. Whittaker said in his letter was that he had an attached sketch, which I didn't get with mine. I'm assuming that this with the red line on it is the attached sketch.

Mrs. Wicks: That is a copy of the attached sketch and then Terry put the red line on it , as he had it on his.

Mr. Stanton: Then that's showing, as I understand, the one stake that is alleged to be moved from one location to another?

Mr. Wicks: Yes. The lines with the red on them--that was the original property line that we built the garage off of. You can see off to the side where he (Mr. Hilts) put the comment off to the right side, "----- relocated the stake in 2009". Then when he re-did the survey for Glenn, that's the black line--that's the difference of the 1 1/2 degree.

Mr. Natali: Do you agree with your Surveyor's letter ?

Mrs. Wicks: No I do not. I believe the stake-- he made an error. I believe that was his error and he's not owning up to it.

Mr. Natali: If he's not going to change his position on it ? Is Mr. Whittacre present ? His final line--the new stake placement is exactly where the original was located and you disagree with that ?

Mrs. Wicks: I do. I am not a Surveyor and he's not here to explain himself better in laymen's terms for me to understand.

Mr. Wicks: I spoke with Mr. Whittaker when he came back to adjust this 1 1/2 degrees. Then I spoke to him the following day when he was at the property. I asked him how can there be 1 1/2 degrees difference--the stake is right there--I've got pictures of it with the pink ribbon on it. His comment to me was--"well there's a lot of metal in the fill around this garage and we may have picked up a false reading when we surveyed it." That was his comment to me. Since we've confronted him with this letter asking him to explain why this 1 1/2 degree thing came about, he said "it's possible perhaps that stake was moved during construction."

Mr. Stanton: The 1 1/2 degree difference, in your original submittal, that doesn't show up anywhere in here, does it ?

Mrs. Wicks: I have copies of the submission made 2 months ago that acutally showed the original stake and the moved stake. Is that what you need ?

Mr. Stanton: The one you have Exhibits A thru E is the first one we received.

Mrs. Wicks: You probably have my entire file.

Mr. Natali: Any other questions before we talk to Mr. Hilts ? There were none. Mr. Natali asked Mr. Hilts to come forward to make his comments. Do you have a copy of Mr. Whittacre's letter ?

Mr. Hilts: I do. Have you gentlemen had time to read Mr. Whittaker's letter? It's very clear in his explanation that he placed a proper stake at the time he surveyed for that garage. He didn't say perhaps it had been moved . He states unequivocally that it had been moved--perhaps it was during the foundation excavation--not that perhaps it had been moved--it had been moved. And he knows this. If you read the last paragraph--the corrected stake he placed for my fence survey lines up exactly with the rest of the property survey of their side--meaning the house is the exact same distance from the property line. Had he placed that in error during the garage survey for them, it wouldn't have lined up--the house would have been off. He explains that in the last paragraph or two in that letter. He clarifies that. He placed that stake properly during the survey for their garage. You can read the first paragraph--it says " the plans as he knew them when he was doing the survey, the garage was supposed to be 6 ft. off the northwest property line, which is the opposite property line to mine.

Mr. Hilts Continued:

At the February 1st meeting, Mrs. Wicks stated and I quote "we elected to move the garage slightly so we could get into it from the original garage placement the surveyor put there." If you do the math, according to where the garage sits now, the front corner is 4.4 ft. off the property line- the rear corner is 3.3 ft. off the property line. That's a difference of 13.5 ft. in the front and 10.3 ft. in the back. I find it hard to believe that that is slightly moving the garage. They moved it from one side of the lot to the other without submitting any plans for approval, without notifying the Codes Department, they just did whatever they wanted to do and put the garage wherever they wanted to. That's why we're here. In absence of the decision to move that garage, we wouldn't be standing here. " Muddle" up the line by a couple of inches by a stake that was moved since it was originally and correctly placed by the Surveyor, by his own statement. That's why we're here today. If you read Mr. Whittaker's letter and look at the 2 surveys, the ones they (Wicks) submitted with the plans for the garage that were approved by the Town Codes Department and the ones that Mr. Whittaker had done very recently to clear up this mess, it clearly shows the difference of 17.9 ft. on the front of the submitted plan and 13.6 ft. to the back, when in actuality, it sits 3.3 ft. and 4.4 ft. I'm not disputing the fact that our properties do back up to the fence or the swamp and there is an area of my yard, when we have excessive rain or excessive melt, it does get wet. That's where my shed is placed on the back side of the property--that's why it's up on blocks. I have pictures to show facing the back side of the property that show the right side-- as you look at it , is the high side and the left side where the shed is, is the low side. He showed the pictures to the Board. And for informational purposes, I will go on record as agreeing that that survey that says the garage actually sits, as it was built, 3.3 ft. off the property line in the back and 4.4 ft. off the front. I think that was the question Mr. Natali asked me at the last meeting. I did a little research and I agree with the way the garage sits, as correctly depicted in that survey that you showed me. And after a little investigating today, that rear stake has again been moved--it's damaged--it's pounded into the ground--and it now sits 3 ft. 7 in. off their property --off the face of their garage. Not 3.3 ft. as depicted in Mr. Whittaker's survey of not too long ago . I verified that with him this morning on the telephone. It was left protruding about 4 inches with a ribbon on it, just pounded down in the ground--now it's damaged and pounded all the way down into the ground and it is 3 ft. 7 in. from the face of the garage. That's for informational purposes--I'll address that in another arena.

Mr. Natali to Mr. Hilts: Do you have gutters on your roof ?

Mr. Hilts: On my roof ? No, I don't. But my roof goes across my property-not front to back. The peak of my roof goes front to back so it goes off the sides of my property not toward the back yard. As you face my property from the road, you look at the gable , not the side.

Mr. Palladino: Mr. Hilts, you can't help but notice , by looking at your house from anywhere you stand on the property, either yours or the Wicks, you do have a natural slope from your house, being the highest point--sloping back toward the back part of your yard.

Mr. Palladino continued:

Somewhere around 30 or 32 ft. off the back of your fence is the lowest point in your yard. That happens to be where the front of the garage is. You can see your house is elevated in comparison to where the beginning of Wicks' garage is. So, naturally you're going to get rain--run off from your level--your house--your lot to the back portion of your lot but not all the way to the end of your lot--it's going to cradle. There's a swale or the back part of your lot actually goes up.

Mr. Hilts: If you look at the picture, you'll see me standing with my house at the back, taking a picture to the back side of the fence and you can note the contour of the ground. There's no gap to the fence towards the garage that was built and the ground slopes down where my shed is to the left. The high side of the yard is to the right.

Mr. Palladino: There's a gap all the way around except to where the Wick's garage---

Mr. Hilts: That's from the garage excavation. It comes thru my fence on to the property.

Mr. Palladino: You've got a gap--you can see the fence--if you look at the fence--on top of the fence--as well as the land, you can see that your house is higher than the beginning or the end---

Mr. Hilts: Their garage and the slope of the garage and the grade of the garage is higher than my property too.

Mr. Palladino: In that one area, yes.

Mr. Hilts: I believe you are being argumentive. I'd like to go on record as stating, you're showing yourself to be a little bit biased, in this case.

Mr. Natali: That's Mr. Palladino's opinion, he was there. Bottom line--what do you want us to do with Mrs. Wicks' property? What do you want them to do ? First of all, do you agree we're looking at a Variance of 3.3 ft. ?

Mr. Hilts: A Variance of 3.3 ft.--6 ft.--whatever the difference.

Mr. Natali: Where 6 feet is required.

Mr. Hilts: Sure. That was the Code at the time the garage was built, I believe.

Mr. Stanton: I guess what we're asking is, you seem to be very aggrieved with this situation so what are you asking us for ?

Mr. Hilts: I'm asking that the garage be made to be in Code at the time it was built, then it should have been on a ---(cannot understand word). It was a conscious decision to move the garage from one side of the lot to the other. Had they submitted a plan to do so, I believe the Codes Department would have caught this problem right before the garage was even built. If it was built according to the plans that were submitted, we wouldn't be standing here today. The garage would be 15.5 ft. and 15.2 ft. and we wouldn't be standing here today..

Mr. Winters: Mr. Chairman, I think the matter before us really is a matter of the Wicks' have requested approval of a Variance for their existing garage. I think we've heard sufficient information. At this point, I suggest we close the Public Hearing and move forward.

Mr. Natali: The Public Hearing has been closed as of the last meeting. We're just giving ample time to get something from Mr. Whittaker. This is the first thing we've had in writing, from Mr. Whittaker. One party agrees with his statement and one party disagrees. One of the things we have to do is find a compromise or another method, other than what is requested. That's why we're trying to get to --what do you see as a solution ?

Mr. Hilts: I hadn't thought about that.

Mr. Natali: What are you fighting for ?

Mr. Hilts: If I built the building out of Code, out of the plans I submitted to the Town , changed it however I wanted to change it, and then they came and discovered I'd built the building out of Code and was illegal, what action would the Codes Department take ?

Mr. Natali: We would require a Variance. That's exactly what has happened. I don't think anything has been proven that they were malicious with their intent to defraud the Codes Department, as you possibly are suggesting--that they moved it on purpose.

Mr. Hilts: She said they moved it on purpose--they elected to move it--they moved it on purpose--it wasn't an accident.

Mr. Natali: That's why they're asking for a Variance, whereas before, they did not feel there was a Variance. We're in a position to make a decision here and I'm just trying to get a better feel for what you want us to do. We haven't granted a Variance. We don't feel we have the support. That's why you're here as an aggrieved neighbor.

Mr. Hilts: I would ask that the garage be made to comply with the Code as it was built, at the time it was built.

Mr. Natali: OK--that's your position. Any other questions ? There were none.

Mrs. Wicks: In closing, it was my understanding , at the last meeting, that Mr. Hilts was--first place, supposed to bring Mr. Wittaker--he's not here. Secondly, he was supposed to bring his own survey that he had done. I don't see a survey that was done so technically, I think he put the fence up using our survey anyways. I would implore Mr. Dean's office to take that into consideration.

Mr. Hilts: Mr. Whittaker doing the survey for my fence is what brought us here today. Obviously, he was there and found the discrepancies we're here to address. So, for her to insinuate that I did it to her survey is absolutely ludicrous. That's why we're here.

Mr. Winters: Gary, I will attempt to make a motion. I won't make it in the format that we normally do. I make a motion that we approve the Variance, as requested by the Wicks and let the garage stay as it is. I would hope, sincerely, people, that this ends this matter.

Mr. Stanton: I would like to note, Mr. Winters is the only person on this Board who is a new member and has not known the Wicks or did not serve with Rita when she was on this Board. A couple of suggestions I would make, since we are doing this, we tend to want to bring the lot into general conformance. We have a 50 ft. lot where 75 ft. is required. That's the end of it because the 3.3 ft. where 6 ft. is required covers the remainder of the Variances that are needed for this. Do you agree with that Mr. Palladino ?

Mr. Palladino checked his notes and queried Mr. Stanton on the location of the lhouse relative to the northwest property line.

Mr. Stanton: The house to the northwest side of the property line is 5.6 ft where 6 ft. is required.

Mr. Palladino: Should we address both because they're not attached ?

Mr. Stanton: I agree that should be done. Let's revise: To allow a residence and a garage on a non-conforming lot. The lot width is 50 ft. where 75 is required. The minimum side setback from the house to the northwest side property line is 5.6 ft. where 6 ft. is required. The minimum side setback from the garage to the southeast side property line is 3.3 ft. where 6 ft. is required.

Mr. Natali: In analyzing this, we spent a lot of time on it , so we are going to go through the 5 factors to make this end:

- 1- Whether there is an undesirable change to the character of the neighborhood and a detriment to the nearby properties. ? Answer: Absolutely not. We've made Variances like this through out the lakefront. It's the nature of the properties that were originally camps. This is not going to change the character of the neighborhood.
- 2- Whether the applicant sought some other feasible alternative ? Answer: No, there's nothing esle. We "hashed" around what we could possibly do. The land is what it is. The building is already up. They built it in good faith. They had a permit. It was inspected by the Codes Office and there really is no other alternative.
- 3- Whether the request is substantial ? Answer: No, it really isn't. We've made this type of Area Variance in the past and it is not substantial.

Mr. Natali continued:

4- Will it have a physical impact that would refer to the drainage ? Answer: I think Mr. Palladino pointed out the fact that you do have a swamp in the back. Your land does tilt--it could have been graded in a different way. I think gutters would definitely help your situation. We do want to add a condition that no way should you make any other changes to that building without approval, which would probably be denied. You have very little space there and with snow accumulating between the fence and the garage, I think you should do everything possible so that drainage does not go to the neighboring property.

5- Whether the alleged situation was self-created? Answer: Yes, we have to put the blame basically that maybe when you first started to build it, you might have considered putting it back a little further to the right, looking at the property. But because that is self-created does not, in itself, put us in a position to deny the Variance.

I will second Mr. Winter's motion.

Motion was put to a vote, resulting as follows:

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|----------------|-----|
| Mr. Winters:   | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton:   | Yes |
| Mr. Natali:    | Yes |

Motion duly carried.

AREA VARIANCE DEFERRED FROM 3/1/10 FOR KENNETH & ELLEN CICCARELLI, 7523 TOTMAN ROAD, TO CONSTRUCT A DECK AND A BREEZEWAY (CONNECTION TO THE GARAGE) ON A NON-CONFORMING LOT. THE LOT IS 68 FT. WIDE WHERE 80 FT. IS REQUIRED AND IS 127 FT. DEEP WHERE 130 FT. IS REQUIRED AND THE SIDE SETBACK IS 6 FT. (+/-) WHERE 10 FT. IS REQUIRED.

Representatives: Kenneth & Ellen Ciccarelli, Owners.

Mr. Natali: You got a new survey--that's the way to go.

Mr. Ciccarelli: Did everyone get the new survey?

Mr. Stanton: Yes, thank you for getting a new survey.

Mr. Ciccarelli: I had them draw the deck, to scale, on the survey. He was very helpful. We want to build a deck even with our house and not have to come in 10 ft. off the line looking for 6 ft. We're not extending towards our neighbor's property--just out to our back yard with the deck, maintaining a 6ft. distance from our property line.

Mr. Palladino: Did you buy the land (next to you) ?

Mrs. Ciccarelli: Yes, we did.

Mr. Palladino: I saw it in the paper and I thought-- I know those people. So, looking at that garage--the land to the right--is that the lot you bought ?

Mrs. Ciccarelli: Yes, that whole lot is ours.

Mr. Ciccarelli: They didn't take care of it very well.

Mrs. Ciccarelli: Do we need a new survey for that ? I need to know now.

Mr. Ciccarelli: The main thing on the garage--if there's a hold up on the breezeway--the connection between the house and the garage, that's probably something that's planned way into the future right now. With buying that land, we've had a lot of expense so I don't see any addition coming up for a while. We were told it would be a good idea to get a Variance to put them both in together.

Mrs. Ciccarelli: We didn't have anybody come and actually draw out the breezeway. When we talked to the person that's going to build our deck, we mentioned the breezeway just in talk. We never really had anything drawn out--we knew it would be a little while and that was before the land came up.

Mr. Palladino: I imagine the breezeway would stay within the confines.

Mr. Ciccarelli: It would be nice to get out of my car in the winter and not have to go thru the snow.

Mr. Palladino: I went there today and put the scale take out and from the garage to the very edge of the road, I got 37 ft. I'm sure that says 24 ft. across.

Mrs. Ciccarelli: We thought that--we paid good money for that survey.

Mr. Stanton: That could very well be the difference between the road right-of-way and the actual edge of pavement because the R.O.W. tends to go a little bit further.

Mrs. Ciccarelli: Yes, they did tell us we don't own--. They told us that when we bought the land --they said even though it looks like it, you have to come back farther.

Mr. Stanton:A lot of the old Town roads that were assumed, the R.O.W. is actually the edge of the pavement but some of the newer roads, they've actually taken more than they need so they can fit in utilities and things like that.

Mr. Ciccarelli: I didn't know that.

Mr. Stanton: So, are we asking for a breezeway also ?

Mrs. Ciccarelli: If you can approve it based on that but if you need more then we can just scrap the breezeway, at this point. since now we're-- this land came up in December so that's going to be our priority right now.

Mrs. Ciccarelli continued:

Before the land came up for sale, we had given up getting that property, so we thought we'll just make our own area conform to what we want and the breezeway was something that my husband wanted to add--to connect it and make it look nicer. It's not the end of the world if we don't get the breezeway at this point. We mostly want the deck because we want it mainly for safety reasons. Our stairs are in bad shape and something has to be done with those anyway.

Mr. Stanton: If we were to bring this whole lot--basically give them Variances on everything they needed and the breezeway within the bulk regulations of an R-15, they wouldn't have to come back in here, would they?

Mrs. Ciccarelli: You could approve it?

Mr. Dean: The setback from the side street is non-conforming anyway, for the house. We'll just make that a condition that it doesn't intrude any further than the house.

Mr. Natali: We're going to clean up all the Variances right now. Mr. Natali opened the Public Hearing at 7:42 P.M.

AGAINST:

NONE

FOR:

Ellen DeJohn, Thompson Rd., Ellen Ciccarelli's mother: I've been on that deck--I don't know how it got put in there. It's rickety and old and it needs work. And what he wants to do is nothing wrong. Just put a nice deck out there--make the house look nicer--and make everything around there look nicer.

The Public Hearing was closed at 7:43 P.M.

Motion was made by Mr. Palladino that the Zoning Board of Appeals approves Ellen & Kenneth's application for several Area Variances to 7523 Totman Rd. The Variances are as follows:

- 1- For lot width--per Code for R-15--the lot should be 85 ft. The existing condition is 68 ft--so there's a shortage of 17 ft.
- 2- Side yard setback per Code is 25 ft., with one side a minimum of 10 ft. Existing condition is 5.98 ft. for a shortage of 4.02 ft.
- 3- Front yard setback--the one facing Harrington Dr.--this is a corner lot so it basically has two front yards. Per Code, it should be 30 ft. Where we have 30 ft. on the front of the house, where it faces Totman--that's acceptable, however the side is 23.58 ft. so there's a shortage of 6.42 ft.
- 4- Minimum lot area should be 15,000 sq. ft. and you have approximately 8653 sq. ft., so there's a shortage of 6327 sq. ft.
- 5- Lot depth should be 130 ft. and you have 127.25 ft. So there's a shortage of 2.75 ft.

Mr. Stanton: I caught another one. The existing coverage is 22.75 % where 20 % is required. That's based on the areas of the garage and the house.

Mrs. Ciccarelli: So this is our lot right now--this isn't our new lot ?

Mr. Stanton: Correct.

Mr. Palladino considered the 5 factors:

1- Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties ? Answer: No, these Variances are on paper --the structures are there--they are not new, they have been there for a while.

Conditions resulting from these structures are apparently acceptable because there are no negative comments or suggestions to granting these Variances.

2- Whether the benefit sought by the applicant can be achieved by a feasible alternative to the Variance? Answer: No, the land is what it is.

3- Whether the requested Variance is substantial ? Answer: It's numerous but I don't believe it's substantial.

4- Will the Variance have an adverse impact on the physical or environmental conditions in the neighborhood ? Answer: No.

5- Whether the alleged difficulty was self-created ? Answer: No, it was not.

Motion was seconded by Mr. Natali.

Motion was put to a vote, resulting as follows:

|                |     |
|----------------|-----|
| Mr. Winters:   | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton:   | Yes |
| Mr. Natali:    | Yes |

Motion duly carried.

Motion was made and unanimously approved to adjourn the meeting at 7:50 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 said Board of Appeals held April 5, 2010 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

April 16, 2010