

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: June 7, 2010

PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday June 7, 2010 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Robert Bach:	Board Member, AdHoc
	Gary Palladino:	Board Member
	John Winters:	Board Member
	Mark Rabbia:	Board Member
Absent:	Charles Stanton:	Board Member
Others Present:	Wayne Dean:	Dir. of Planning and Development
	Terry Kirwan Jr:	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.Palladino, to approve the minutes of the May 3, 2010 Zoning Board of Appeals meeting, with the following correction:

Page 11, paragraph 7 should read June 7 instead of June 1.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Bach:	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. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Bach:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE DEFERRED FROM FEBRUARY 1, 2010 FOR SEAYCO-THF CICERO MARKET, LLC, TAX MAP #044.-01-17.1 (VACANT LOT ON ROUTE 11), TO SUBDIVIDE A PARCEL OF LAND TO CREATE TWO PARCELS WITHOUT THE REQUIRED DEPTY OF 200 FT.

Representative: Eric Hasselbauer, Attorney representing SEAYCO-THF, Cicero Market, LLC.

Mr. Hasselbauer : I appeared before this Board back in February when we initiated the application for the Lot Depth Area Variance, related to 2 of the 3 proposed out-parcels on Route 11, in front of the Walmart Plaza. At the time in February, there was some question as to exactly where the Zoning District boundary lied on the map. So, we tabled the application at that time in order to clarify that. After that meeting, I worked with the surveyor and Mr. Dean to identify the District boundaries. We determined the District boundary between Regional Commercial and General Commercial land just to the south of the SEFCU (Credit Union) parcel.

Mr. Hasselbauer continued:

The SEFCU parcel is zoned General Commercial. This 3 acre parcel of land to the south of SEFCU parcel was still in the Regional Commercial Zoning District. At that time , we made an application to the Cicero Town Board for a zone change to have that "tract 2- parcel 1.2" shown on the map--3.03 acres. We applied for the Zone Change and went thru the process with the Town Board. Referrals were made to County Planning, Public Hearings were held and ultimately , at the May 12th Town Board meeting, they approved the Zone Charge by passing Local Law #3. That Law was filed with the Town Clerk and the Secretary of State. As of that date, this parcel of land is now zoned General Commercial, which the developer feels is the appropriate designation. As part of the Town Board process, we appeared before the Town Planning Board so that they could also give their recommendation to the Town Board. The Planning Board agreed that it was consistent with the Town's Comprehensive Plan and was consistent with the out-parcels in the area on Route 11. They issued a positive recommendation to the Town Board. The Town Board did approve the Zone Change. With that done and the property now zoned General Commercial, I asked the Town to put us back on the agenda for tonight to re-visit the issue of lot depth Area Variances that will be required for what is shown as boundary line of Out Lot #1 and Out Lot #2 on the map. As you can see, the northern boundary line of Out Lot #1 has a depth , from Route 11-the R.O.W.- back to the internal ring road that runs behind this parcel of 193.01 ft. , so it's just short of 7 ft. shy of the 200 ft. depth requirement. The southern borderline of that parcel shared with Out Parcel #2 is 175.69 ft., just shy of 25 ft. of the depth requirement. The rest of the parcels meet the Zoning Classifications for the GC District. As the result of that process, I'm back to requesting approval of the lot depth Area Variances for Out Lot #1 and Out Lot #2. We feel that the balancing of the Area Variance factors favors an approval of the Area Variances, as detailed in my application letter. I welcome questions.

Mr. Rabbia: Do you feel the plans they have laid out for these Out Lots that you'll be able to fit all the other Bulk Regulations with the size of the buildings they have planned, in terms of area and other setbacks?

Mr. Hasselbauer: Yes, we feel the setbacks and the other Bulk Requirements of the GC district will all be able to be met in developing these 3 out-parcels, with the exception of the lot depth.

Mr. Natali: We already opened and closed the Public Hearing so we don't have a Public Hearing but I will re-open the hearing for anyone to speak for or against- (7:10 P.M.)

FOR: NONE
AGAINST: NONE

Public Hearing Closed at 7:11 P.M.

Mr Rabbia made a motion to approve the Area Variance deferred from February 1, 2010, for SEAYCO-THF Cicero Market, LLC, for lot depth for Out Lot #1 and Out Lot #2 with a survey dated January 11, 2010. He then went thru the considerations for the 5 factors:

#1- Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created ? Answer: No, it does not appear that that would be the case. In fact, this area was designed to support that type of retail establishments.

#2- Whether the applicant can achieve their goals via a reasonable alternative which does not involve the necessity of an Area Variance ? Answer: No, not in this caase, the way Route 11 and the "ring road" abut either side of the property.

#3-Whether the Variance is substantial ? Answer: For Out Lot #1, the northerly property boundary being 7 ft. is not substantial. You could argue that 25 ft. on Out Lot #2 is substantial but that in itself wouldn't be enough to not approve the Area Variance.

#4- Whether the Variance will have an adverse impact on the conditions in the neighborhood or district ? Answer: In my opinion, no.

#5- Whether there has been a self-created difficulty ? Answer: In my opinion, no. I'm sure other people could argue either way, but I don't see this as a self-created difficulty -- just the nature of this property and the way it lays. So my motion is to approve the Area Variance for Out Lot #1, having a northerly property lot depth of 193.01 ft. , where 200 ft. is required and the property line between Out Lot #1 and Out Lot #2 , having a depth of 175.69 ft. , where 200 ft. is required.

Mr. Dean: What is the date on the survey you have ?

Mr. Rabbia: January 11, 2010-- maybe it's older. Do you have a newer one ?

Mr. Dean: No, I have January 8th on mine.

Mr. Palladino: Mine is dated January 11, 2010. It says: Filed under 09055 EAR. That's the most current one I have.

Mr. Rabbia: Wayne, it's the one that was filed in your office on January 25, 2010.

Mr. Natali: I would like to add that we received a letter from Onondaga County Planning Board dated February 10, 2010 and they have no significant , adverse conditions. That will be part of the file also.

Mr. Palladino: I want to mention one part of the County Planning Board's letter--the last WHEREAS--where it does state that there's not going to be any access to Route 11 from these parcels.

Mr. Hasselbauer: Certainly, there will be no access to Route 11 from these parcels. All access to these parcels will be thru the back via the "ring road".

Mr. Rabbia: Frankly, that statement was the one where I said this would not have any adverse impact on the health, safety or welfare of the area".

Motion was seconded by Mr. Bach.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Bach:	Yes
Mr. Natali:	Yes

Motion duly carried.

Mr. Natali: By the way, do you have a tenant yet ?

Mr. Hasselbauer: There aren't any firm tenants yet. We have one that has shown some interest. We're hoping to firm that up now that we have developable lots. We hope to be in front of the Planning Board in the near future.

AREA VARIANCE DEFERRED FROM MAY 3, 2010 FOR P. DRESCHER CO, INC./ PAUL deLIMA CO.,INC., 8550 PARDEE ROAD, TO ALLOW THE INSTALLATION OF A 4,500 SQ. FT. SOLAR ARRAY AT A 30 FT. FRONT YARD SETBACK WHERE THE PRESENT SETBACK IS 75 FT.

Representative: Kurt Stroman, Attorney for Paul de Lima Co.

Mr. Natali: Since there was no Public Hearing, would you just go thru an over-view again ?

Mr. Stroman: Certainly. I'm in-house counsel to P.Descher Co. Inc./Paul deLima Co./ Warner Energy, 3 of whom have an interest in this application. I am here to represent Paul deLima Co. at 8550 Pardee Rd. That's where our roasting facility is located. We're here tonight seeking an Area Variance for the front yard setback at 8550 Pardee Rd., where we would like to install 160 solar modules in an 8 kilowatt solar array. An open field solar array that would be constructed on piers made of aluminum--160 solar modules--amorphus silicone thin film solar modules like you see right here in front of you. The amorphus silicone thin film solar module is very thin--2-1/8 inch pieces of glass between which is deposited a layer of inert gases, including silicone, which is used to convert sunlight to energy. The maximum peak production of the structure we're intending to install at the Paul deLima Roasting facility would have a total capacity of 8 kilowatts. Each of these 160 modules are 50 watts. That would give us 8 kilowatts total generation. We anticipate 3.7 hours per day, we'll be generating 8 kilowatts of power thru the use of this facility. The total area that's required is 4500 sq. ft. We've set off an area that's 100 ft. long by 45 ft. wide where the modules will be set on what we call tables. The tables are made of aluminum.

Mr. Stroman continued:

It's about 3 inches thick--I have a sample. There will be 40 clips on each table to hold them in place--a series of six piers that hold 40 modules on a 25 degree angle facing due south. The whole array would be parallel with Pardee Rd. & Route 81, facing due south. Anytime you put in a solar module, it needs to face south, where the sun is--that's where it has to be. We've addressed, with the Planning Board and the Zoning Board, issues related to glare. That question comes up everytime we propose a solar installation. Due to the 25 degree angle these will be placed at, facing south, the sun's in the northern hemisphere so the angle of incidence equals the angle of refraction. There won't be an issue about glare from these modules because any sun that strikes these modules, the glare will be bounced into the atmosphere and it wouldn't impact motorists driving north on Route 81 or Pardee Rd. We're here tonight because the total setback for the property at 8550 Pardee Rd. is zoned Industrial and the setback is 75 ft. We're proposing to install this at a 30 ft. setback, which we obviously understand that requires somewhat of a significant Variance of 45 ft. from the Town's requirements. However, given the current configuration of the land and the building we have constructed there, it's really the only Commercially feasible location that we believe without going thru with what would be, in our opinion, an undue expense that be overly burdensome and would require that we not take the project. We decided not to locate on the building--that was the first issue that was asked of us by the Town, for several reasons. The first is : if you've seen the structure, it's a 3 tiered structure. The first tier of the building, the one located the furthest west, is about a 20 ft. high section. Then the next section is about 40 ft. high and the last section is about 60 ft. high. The third section, located in the rear, would be the only appropriate location on the rooftop of our building to locate a solar array. The reason for that is, you would have shading from the higher sections during the first half or greater half of the day if it was located on either of the lower elevated sections. The reason we can't put it on the 60 ft. section is that the rear of the facility, the highest portion, is where our roasting takes place. We have a couple of gas-fired roasters back there where we roast the coffee beans and also some grinding equipment. #1- that expends a significant amount of heat into the atmosphere and solar modules work just as well or better in cold temperatures as they do in hot temperatures. That heat exhaust at the top of the facility would have an adulterated effect on the modules. We would have to locate them a significant distance away from there in order to not have them impacted. There's a potential we'd have to raise the height of those because there would be a potential fire risk from installing anything else on the top of the facility. The reason we didn't choose any other area on the property itself was because we are contemplating a facility expansion. We presently have a need for additional roasting capacity to serve our clients and we have several clients we've been speaking to, where we hope we get the business. If we do, we could be potentially come back before the Town requesting an expansion of the facility. The only natural place we could expand the facility would be to the east or to the north. We'd like to do that adjacent to our present facility, not as a stand alone structure. We couldn't locate the solar array on the roof--we didn't want to locate it to the rear of the property because of future expansion plans.

Mr. Stroman continued:

To the north of the property , we have two issues. We have the issue of shading from the building itself, which would require that we move the solar array a distance of 2 1/2 times the maximum height of the structure--that would require us to go 150 ft. to 180 ft. north of the building to install the solar array, which would also require a significant amount of grading land work , tree removal, etc. and we also have an issue when we get north on our property of the wetlands and the same issue to the west. In an attempt to avoid the wetland issues, to accomodate a future expansion of the building and to locate this array on the property in an area we thought was readily accessible, we located it in the 4500 sq. ft. area that is located just inside of the 30 ft. sewer R.O.W. located along Pardee Rd. Since we were here on May 3 rd, we've addressed some issues that were raised by the Town Engineer related to the site plan as well as those raised by the County Planning Board in their resolution. We've amended the map and submitted a new copy to the Town that was prepared by D.W. Hannig, our Surveyor. That clearly identifies the boundaries of the wetlands, as they were drawn in 1988. We addressed the issues that were raised by Mark Parrish, related to our application that was before the Planning Board. So, we're back tonight with a revised map and I'll take any questions.

Mr. Rabbia: So, as far as we're concerned, you didn't change the location of the array ?

Mr. Stroman: No, we made no change at all of the location. I believe comments that were raised by both Mark and County Planning, County Planning wanted the wetlands put on and also, in their resolution I believe addressed or mentioned--I've never seen it before-- the first portion of their resolution, they required that we put the wetland boundaries, as well as the 100 ft. wetland buffer area on the map. The second comment was : unauthorized alteration or addition to the survey map during a licensed land survey seal is a violation of 7209 Subdivision 2 of NYS Educational Law. I think the reason they put that in there, it's my understanding from the County representatives that was put in there because our original survey map that we filed with the Town, Planning Board and Zoning Board, was prepared by D.W. Hannig, our Surveyor. However, they had a scanned copy of our survey that had not been entered into the CAD. If you look at the revised updates, all the revisions and updates that are marked on the bottom of the map, they've always updated that by hand. We never could understand why they did that. We showed them the County resolution--they got the map into CAD for us so now we have the electronic version so there's no questions or concerns now to deal with. Mark Parrish requested some additional information to be denoted on the map, as we., on behalf of the Town included some of the Zoning designations, neighboring property designation and some other various notes related to development, including the fact that no grading will be required on the site and that we won't have any artificial signage or lighting for the project.

Mr. Natali: The question I have is, the other concern of the County Planning Board was-- in the event that Pardee Rd. is expanded or widened, which means you would have to move your solar array, it would be at you expense. Do you have any problem with that ?

Mr. Stroman: No, we understand that's a risk of locating it in the area where we are. We're willing to take that risk.

Mr. Bach: How tough are these panels--could you stand on these panels ?

Mr. Stroman: Just depends how they're supported. We install them on rooftops, as well as these solar farms, assuming you're standing in an area that's supported, you could. I wouldn't suggest jumping on it because it is glass.

Mr. Bach: I was just curious because I went to a meeting where we were talking about "ice throw" off the wind turbine you've got there. It looks like that is parallel with this solar field. Would that be a consideration--just out of curiosity--the ice coming off the wind mill hitting the solar panels ?

Mr. Stroman: It's something we consider very seriously, just by virtue of having a wind turbine there located where it is and the proximity to the building. We have a retail store there and we take great care for that. I think it was mentioned the last time we were here and I wouldn't shy away from telling this Town Board or any representative of the Town that we are very careful with respect to the operation of that wind turbine. We had an incident at our Warner Energy Headquarters in the Town of Clay. We also had an incident with a faulty part about 2 years ago, right after we put it up. We are incredibly careful and very safe. We have a shut-down and a fail-safe--3 times redundant system, actually, to shut it down in the event that ice becomes an issue or high winds become an issue.

Mr. Bach: It's just that I see the array laid out right under it.

Mr. Stroman: It's a great question and truthfully, it's one we're very concerned about--forget the solar module-- we're more concerned with what happens to the workers in that building and the retail customers walking into that store.

Mr. Winters: Is there any other alternative for the arrangement of the array ? You talked about it being on the rooftop. For example, seeing that these are only a couple of feet long, could the array be longer and narrower ?

Mr. Stroman: It could be longer and narrower but the reason we locate where we have is for 3 reasons: #1- The area is cleared, it's graded, it's available land. #2- We have an issue with the sheeting--if we locate it any closer to the building-- if you draw a line from the northeast corner of the building to the southwest corner of this array, it's approximately 60 ft. with a 20 ft. high building, to locate it any closer than that, we would have an issue of shading from the building that would impact the array and the production of the array. We've located it in the position it is to accommodate shading so we won't have shading any part of the day. I guess we could arrange the array longer but our thinking was that we knew we were going to be requesting a setback from the Town. We want it to impact the smallest portion of road frontage that we could in our request for the setback.

Mr. Stroman continued:

So, instead of making a 200 ft. run along the front of our property, we decided to condense it into 100 ft. 42 ft. wide. #3- The other issue is, we'd be locating closer to some landscaping that's on the site, as well as the wind turbine. The decision to locate it where we did is based on a variety of factors. We took the available area we had, to arrange our tables in that area.

Mr. Winters: You talked about a fire hazard on the roof--could you elaborate on that ?

Mr. Stroman: The only reason I say that is -- given the fact that we have the roasters in the rear part of the building and they expend a significant amount of heat, my guess is that the NYS Building Code and the Town Engineer probably would not like to see anything installed on the roof and the exhaust from those roasters. That's my guess. The solar modules themselves do not operate well under 2 conditions.#1- If it's too hot. Since those exhausters expend a certain amount of heat, it would impact the performance of the modules. #2- If you go by the facility at certain times of the year, there's going to be an exhaust plume or steam cloud that could shade the modules as well. I'm guessing, given the heat that's up there, we probably would not be able to locate these modules in close proximity to the exhaust plumes coming from the roasters.

Mr. Winters: Why do you exclude the rooftop of the front building ?

Mr. Stroman: The front part of the building would be shaded--because the building is in tiers and located east and west on the property. If it was located on one of the lower tiers of the building, it would be impacted by shading for at least half of the day , as the sun moves east to west. It would impact the production of the array. As I said before, in Central New York, we can only expect 3.7 hours , on average, of direct sunlight per day.

Mr. Winters: But you should accomodate that by installing them on a higher platform on the lower roof, right ?

Mr. Stroman: It would have to be a platform that would raise them up above the third tier of the roof. I suppose it's possible--I'm not an Engineer so I wouldn't have any idea how to design that structure.

Mr. Rabbia: We talked about this before--are you going to put a security fence around this array ?

Mr. Stroman: We have not proposed to install a fence for security. It's our opinion that it's really an issue of premisis liability. On all the open field arrays we have proposed so far to date, we have not proposed fencing nor have we been required to do so.

Mr. Bach: As you get close to the highway there, what are the odds of anyone getting thru by car ?

Mr. Stroman: From Route 81- unlikely. From Pardee Rd.- A- It's 30 ft. from the road and B- there's a bit of a drainage swale. My guess is that it would be unlikely.

Mr. Natali opened the Public Hearing at 7:36 P.M.

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 7:37 P.M.

Motion was made by Mr. Natali to approve the Area Variance, deferred from May 3, 2010, to allow the installation of a 4500 sq. ft. solar array at a 30 ft. front setback, where the present setback is 75 ft., for P. Drescher Co.,Inc./Paul deLima Co., Inc. , 8550 Pardee Rd. The 5 factors I considered in making this decision are:

#1- Whether there's going to be a substantial change in the character of the neighborhood? Answer: No, this is an Industrial neighborhood designed for corporations that have excess trucking, excess noise, usually nuisance type businesses, none of which solar panel in an open field design will be. It's Industrial on all sides of this property and will probably continue to be that way, with an Industrial Park just to the south. #2- Whether the benefit sought by the applicant can be achieved by an alternative ? Answer: No, not really. It's not economically feasible due to the fact that the roof is in tiers. Tier1 and 2 provide shade one half of the day. Tier 3 is too hot due to the roasting done below. In addition, quite a bit of the property has wetlands and trees to the north. This spot is limited to the front of the property. #3- Whether the request is substantial? Answer: Yes, the Variance is substantial , if you consider 45 ft. as a percentage of 75 ft. (60 %). However , they're only asking for 100 ft. out of the frontage, which is a total of 758 ft. So, therefore, I believe it is not substantial. #4- Will the Variance have an adverse effect on the physical or environmental conditions of the neighborhood ? Answer: No grading is required, therefore we will not have a potential drainage problem. #5- Whether the alleged difficulty was self-created ? Answer: Yes, but when you purchased the property, you probably had no idea that you would be using solar power. However, a yes in this area does not by itself negate the requested Variance. I would like to add the condition that in the event that Pardee Rd. was expanded and the array has to be moved, it would be at the expense of the applicant. In addition, I would like to mention that the Onondaga Planning Board basically has no significant adverse comments nor feels there will be any adverse implications.

Motion was seconded by Mr. Rabbia.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes
Mr. Winters: Yes
Mr. Palladino: Yes
Mr. Bach: Yes
Mr. Natali: Yes

Motion duly carried.

AREA VARIANCE FOR T & L COMPANIES, LLC, 8606 LYONS LANDING ROAD,
(LOT 72 LYONS RUNNE) TO REDUCE THE REQUIRED MINIMUM SETBACK TO
THE STREET LINE FOR A PROPOSED SUBDIVISION IDENTIFICATION
MONUMENT SIGN FROM 20 FEET TO 11 FEET.

Representative: Tom Woznica, representing T & L Companies.

Mr. Woznica: I'm President of T & L Companies and the developer and builder of Lyons Runne subdivision. We're asking for a Variance tonight for a sign at the intersection of Cicero Center Road and Lyons Landing Rd. We're asking for a setback currently from 20 ft. from the road boundary to 11 ft. We have an easement in that area already and there's a house on the property. Basically, we did prepare to put a sign in the current area that's required and the sign location was about 10 ft. off the homeowner's front porch. I scrapped the idea and told him we weren't going to do it. I told him we were going to try to get a Variance to move it closer to the intersection. The homeowner supports this, without a doubt. He asked the Board if they all had the copy of the survey showing the sign.

Mr. Rabbia: Was the house laid out in the wrong spot ?

Mr. Woznica: No, it's just that under the Town regulations, that's how far it's required. The house is a standard size--an average 2250 sq.ft. house with a wrap around porch. If you look at where we're proposing the sign, it doesn't look that close but it's still a lot closer than we want it. This is as close as we can get because of the R.O.W. for the utility companies. Right now, the sign would be about 40 ft. from the curb so we're still a long distance from the curb. There's plenty of sight. Cars will be driving by the sign and stopping--if you look at the survey, you'll see where it says "edge of pavement". That's about where the cars are stopping to leave the subdivision so, the sign isn't even close to any sight impairment.

Mr. Rabbia: Had you always planned the sign ?

Mr. Woznica: Yes, we did, but I had no idea it was going to be where it was.

Mr. Natali: Was it on the original sight plan ?

Mr. Woznica: I think so--I really didn't pay attention to it because it didn't show a house on the lot. The first 80 % of the subdivision was done and we decided to put a sign up. When we got around to staking it out, it was quite surprising but it was all done within the Town regulations.

Mr. Bach: Did you adjust the sign after you found out where it was going to be ?

Mr. Woznica: As close to the intersection as possible.

Mr. Bach: I mean the sign design.

Mr. Woznica: The sign design was about 12 ft. wide.

Mr. Bach: That was the original sign ? Was the sign changed at all for the Variance ?

Mr. Woznica: No, we basically kept the same sign and put it closer to the road to see how it would look. Right now, we're 40 ft. from the radius on the curb, so we're still quite a ways off. If you look at other current signs, they're even closer than that. I think it might have to do with us being on a County road.

Mr. Natali: How did you determine that 40 ft. ?

Mr. Woznica: The Surveyor--Hal Romans couldn't be here tonight. You look at that catch basin--it's almost from that catch basin to the front of the sign is 40 ft.

Mr. Bach: Probably the most critical measurement is from the edge of the paved shoulder back to the sign. That's where the line of sight would be rather than the arc.

Mr. Woznica: Which is 40 ft.

Mr. Bach: The consideration, if this is approved, is to make sure the line of sight isn't an issue--there shouldn't be an issue. I looked at it today and it looks like it's going to set back far enough.

Mr. Palladino: I'm looking at the fact that it's on a corner. I'm looking at the 25 ft. line where the 2 roads intersect. It appears an acceptable distance for the sign to setback. Coming from Lyons Landing Rd. or from Cicero Cer Rd., your vision will not be blocked by the sign.

Mr. Woznica: That's correct. The STOP sign is actually past the catch basin.

Mr. Palladino: One of the things we have to look at, being on the corner, is someone pulling off and merging on the another street--the sign blocking, the rate of speed, whatever it is there--is whether there would be ample time to stop or take off and not be obstructed by the sign. Yours falls within the calculation being pushed back for this Variance.

Mr. Rabbia: You're probably approaching 50 ft.--from where cars are actually going to stop and look for traffic.

Mr. Winters: The homeowner has no problem with this sign ?

Mr. Woznica: No, because legally , I have the right to put it where it's supposed to be. We gain about another 9 ft. We'll stake it out--it's the best we can do.

Mr. Winters: Who would be responsible for the maintenance of the sign ?

Mr. Woznica: I would be.

Mr. Winters: What happens when you go away ?

Mr. Woznica: It turns into the Homeowners Assn. or into the covenants.

Mr. Winters: They don't really have any strength.

Mr. Woznica: I live right down the street and I don't think the homeowner would let it go seeing it's on his property also.

Mr. Winters: I understand your concern and your commitment to it. It just concerns me that we're putting these signs up all over the Town with no guarantee that they're going to be maintained in any specific form. You're a nice guy and you'll take care of it and that's probably not in the best interest of the Town.

Mr. Woznica: In defense of that, if you drive down Pine Grove Rd., there's one for Hiller Heights that's been there for 25 years. I don't know who takes care of it but it's still in decent shape. Would you like me to go thru the 5 points ? Answer was yes..

#1- Is the requested Variance substantial ? Answer: No, I don't think so because we're still 11 ft. from the road boundary and 40 ft. off the gutter.

#2- Will an undesirable change be produced in the character of the neighborhood or will the granting of the Variance create a detriment to nearby property ? Answer: No, one- the lot owners for this and two- it's designed to go along with the subdivision.

#3- Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue other than an Area Variance ? Answer: No, We're kind of stuck right where we are.

#4- Was the alleged difficulty self-created ? Answer: Yes, we went by the Code.

#5- Will the Variance have an adverse effect on the physical or environmental conditions ? Answer: No, I don't think so, with the residential character of the sign. It blends in and enhances the area.

Mr. Natali: Would you consider making the sign smaller ?

Mr. Woznica: I probably will once we get to see exactly where it is. I've compared it to other signs around Town. It's a little bit bigger than one and a lot smaller than "Gulfstream". Referring to his drawing--these are concrete lions that will be purchased right down the street here. The overall length is 9.4 ft., so it's not big to begin with. We worked hard to get it looking decent. I wouldn't want to shrink it too much more.

Mr. Natali: Do you think the lions are to scale or pretty close ?

Mr. Woznica: Yes, to scale--I think they're 42 inches tall. My architect took them from the website that has the lions on it. The whole idea was to put it to scale so I could see what the sign was going to look like. The sign that says "Lyons Runne" is a little smaller than I wanted it but we'll do what we can.

Mr. Natali opened the Public Hearing at 7:51 P.M.

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 7:52 P.M.

Mr. Rabbia: My only comment would be, when the applicant, when going thru the 5 factors, my one comment would be--9 ft. out of 20 ft. would make it substantial-- he said it wasn't substantial. But I don't think it's enough to deny it.

Mr. Bach: I'll make the motion. I'll go thru the 5 factors first.

#1- Whether an undesirable change will be produced in the neighborhood or a detriment to nearby property will be created ? Answer:I'd say no. The sign is basically 30 ft. from the nearest house, if you look at that--it's designed for the neighborhood.

#2-Will the benefit sought by the applicant be achieved by some other feasible method for the applicant to persue other than the Variance ? Answer: No, Full setback would put it too close to the house.

#3- Is the requested Variance substantial? Answer: I didn't think it was but we have to consider that it won't block the intersection--very important.

#4- Will the proposed Variance have an adverse impact on the physical or environmental condition of the neighborhood ? Answer: No, I do not think so. It's appropriate for the neighborhood . Most of the developments have these signs.

#5- Was the alleged difficulty self-created ? Answer: Yes, to some degree, because the house was placed there without considering where the sign would go at some later date. However, that's not a major factor at this point.

The benefit outweighs the detriment to the community so I make a motion to approve the Area Variance for T & L Companies,LLc, 8606 Lyons Landing Rd., to reduce the required minimum setback to the street line for a proposed subdivision identification, monument sign from 20 ft. to 11 ft. Motion was seconded by Mr. Natali.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes

Mr. Winters: No

Mr. Palladino: Yes , and I'd also like to point out that the Onondage Co. Planning Board has no objection to this sign, as well, in their letter dated 5/26/10.

Mr. Bach: Yes, and just to add that the County said to make sure that it didn't block the intersection.

Mr. Natali: Yes

Motion duly carried.

AREA VARIANCE FOR GEORGE MAHANA, 6341 MUSKRAT BAY ROAD, FOR A GARAGE WHERE THE LOT WIDTH IS 50 FEET AND 75 FEET IS REQUIRED.

Representatives: Mr. & Mrs Mahana.

Mr. Mahana: I apologize--I don't hear very well so I asked my wife to come with me. We need a storage garage to store our lawn mowers, etc. I had Scott Whittaker draw up a plan to show you where I would put it--a 12 ft X 24 ft. storage shed. I would take down the current shed and get rid of it. I was told that I can't have less than 6 ft. from the house because of the Fire Code. The sidewalk that's there now would stay there--I don't have to move the sidewalk. The entryway would remain the same--exactly where it is.

Mr. Natali: Are you aware of the letters that were submitted by your neighbors? Did you get a copy ?

Mrs. Mahana: No, we didn't.

Mr. Natali: I'm going to enter them into the minutes. I will read them.

Mrs. Mahana: Would you please.

Mr. Natali read the letters from Bruce Maether, 6339 Muskrat Bay Rd. and Barbara Rivard, 6343 Muskrat Bay Rd. Neither neighbor was in favor of the Variance. (SEE ATTACHMENTS)

Mr. Mahana: I couldn't hear. Could I see those letters please ?

Mr. Natali: Certainly.

Mrs. Mahana: I have a question about Bruce's suggestion. Could you show me on our survey where he wanted us to put that garage ?

Mr. Natali: Is he here by any chance ? Answer was , no.

Mr. Bach: As you face your house, is Bruce to the right or the left ?

Mrs. Mahana: The left--the big house.

Mr. Natali: And the house to the right is the exact same setup as yours.

Mrs. Mahana went forward and discussed the placement of the garage with Board members.

Mr. Rabbia: I think he means for you to attach it where your living room is now.

Mr. Dean: You could attach it with the proper fire wall.

Mr. Natali: That's not the issue--not the Variance. These are within the setbacks. That's not the issue tonight. The only issue is that it's a non-conforming, pre-existing lot. When you're going to expand, you need a Variance for the pre-existing, non-conforming lot. You need 75 ft. and you only have 50 ft. That's all there is available--that's all you have to work with.

Mr. Mahana: All I want is a storage garage, bigger than the one I have. Barbara says she's gong to look at a blank wall. Where's she going to look at this blank wall ? From her garage door ? That's the only place she can see the blank wall. I've llied there for 20 years. I've mowed Barbara's lawnfor the entire year. I should charge her-- I didn't charge her a thing. These are really great friends ! I'm ticked off. I apologize.

Mr. Natali: The only issue before us tonight is te non-conforming, prior existing lot. You're well within the serbacks--not an issue.

Mr. Mahana: What can I do to make them both happy ?

Mr. Winters: Maybe you want to take another look at this--talk to your neighbors--talk about what they've recommended and then come back and identify what exactly you want to do.

Mr. Mahana: Before I initiated the Variance,I went out and measured my lawn. I said, "Barb, here's what I want to do, is it OK ?" She said "I see no problem with that at all." I said "I'll see Scott Whittaker and have him draw it up"--it cost me to get to this stage. Now she does this.

Mr. Natali: Mr. Mahala, you can have exactly what you asked for. You're well within the setbacks. That's not the issue before this Board.

Mr. Winters: If there's no issues, then why are they here ?

Mr. Rabbia: Because their lot is 50 ft. wide and the Code requires 75 ft.

Mr. Winters: There's issues then. You're giving me and them the impression they can do whatever they want.

Mr. Natali: John, they can do what they asked for. What is on survey is well within the Code.

Mr. Winters: This 6 ft. setback is within the Code ?

Mr. Rabbia: Absolutely.

Mr. Winters: I'll ask again--why are they here ?

Mr. Rabbia: Because they have a pre-existing, non-conforming lot.

Mr. Palladino: That requires a Variance regardless of what they want to do. They need a Variance because the lot width does not meet the present Code like it did at one time.

Mr. Rabbia: It's typical of the lots along Muskrat Bay Rd. and the lake.

Mr. Bach: I think when the shed comes down, that will probably resolve any issues, I'm just guessing.

Mr. Rabbia: John, the garage will be about 37 ft. from the pavement surface--that's quite a ways away.

Mr. Palladino: I'd like to address a couple of items Mr. Maether suggested. Especially the one about adding on to the existing area. You mentioned the firewall but also, in order to do that--in my opinion--I don't think this was looked at because you would have to raise the roof--the pitch of the roof--which would now give you 10 to 12 feet above the wall line. Your garage would then over power your house.

Mrs. Mahana: That's if it was attached to the house ?

Mr. Palladino: That's if you attached it to the house. Because you would have to remove the roof of the existing house--put up new trusses--and your garage would over power the house. To me, that would be more of an eyesore than a stand-alone small building.

Mrs. Mahana: What would the cost be ? That's a lot more than an \$8000 storage garage.

Mr. Palladino: We look at that but the cost is not a guiding factor. Adding it on to the front would only block someone driving on the road. It would totally restrict the vision of your other neighbor from backing out of her garage, because now you would just have added another 24 ft.

Mr. Mahana: I've paid taxes in this Town for 45 years. This is the first time in 45 years that I've requested anything--this is unbelievable--I really thank you gentlemen.

Mr. Bach: I think removing your shed will solve your neighbor's issues. Does she know you're going to take the shed down ?

Mrs. Mahana: Well, she told us to.

Mr. Natali opened the Public Hearing at 8:19 P.M.

FOR	NONE
AGAINST:	NONE

The Public Hearing was closed at 8:20 P.M.

Mr. Palladino: I would like to make a motion that we vote on Mr. Mahana's request for an Area Variance for his property located at 6341 Muskrat Bay Rd. Mr. Mahana has requested a lot width Variance of 25 ft. His lot is 50 ft. wide where 75 ft. is required for an R-10 zone. Also , Mr. Mahana will need a side setback Variance of 1 ft. 6 in. His lot presently has a west side setback of 6 ft. 8 in. and with the proposed garage, would now have a new east side setback of 6 ft. The combined total of the sides are now 13 ft. 6 in., 1 ft. 6 in. short of the required 15 ft.

The Zoning Board of Appeals has received 2 letters from neighbors to the right and to the left of Mr. Mahana, requesting this Board deny his application.

(SEE ATTACHMENTS ON PAGE 15)

Their comments and concerns have been taken into consideration, however I believe we must keep our process of evaluating Variance requests consistent with past practices of the lake area. Most of the properties on the lake are long and narrow, requiring an Area Variance. I see no unusual request being made, no safety hazards being created, nothing out of the ordinary for a request being made for lake property. I am therefore requesting the Board to approve Mr. Mahana's Area Variance, based on these comments and the 5 guiding factors:

#1- Whether undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties ? Answer: No, the proposed garage is in line with the front of the house, it will not create a safety hazard, block or hinder anyone's ability to see. This type of condition of detached garage is quite common for this area.

#2- Whether the benefit sought by the applicant can be achieved by a feasible alternative to the Variance? Answer: No, it has been suggested in one of the letters that the garage be attached to the present structure. I don't believe this to be a feasible option. The new truss design would be approximately 34 ft.wide/run by 10 ft. height/rise --which would look overpowering to the property and surrounding properties.

#3- Whether the requested Variance is substantial ? Answer: No, this type of request is very common. for the lake area.

#4- Would the Variance have an adverse impact on the physical or environmental conditions in the neighborhood ? Answer: No, as stated earlier, this is common. The sizes and configuration of the lots really limits viable choices.

#5- Whether the alleged difficulty was self-created ? Answer: No, Zoning requirements have changed over the years, making this lot non-compliant.

Mr. Rabbia seconded the motion.

Motion was put to a vote, resulting as follows:

Mr, Rabbia:	Yes
Mr. Winters:	No
Mr. Palladino:	Yes
Mr. Bach:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion was made and unanimously approved to adjourn the meeting at 8:27P.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 June 7, 2010 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

June 20, 2010