

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: NOVEMBER 1, 2010  
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday November 1, 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
	Mark Rabbia:	Board Member
Absent:	John Winters:	Board Member
	Robert Bach:	Board Member, AdHoc
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.Stanton, to approve the minutes of the October 4, 2010 Zoning Board of Appeals meeting. There were no corrections or additions.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	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 FOR WILLIAM F. MEYER, 6474 LAKESHORE ROAD, TO CONSTRUCT A CARPORT ON THE SIDE OF THE EXISTING GARAGE, WHICH WOULD HAVE A SIDE SETBACK OF 5 FEET WHERE 10 FT. IS REQUIRED. THE TOTAL SETBACK WOULD BE 16 FT. WHERE 25 FT. IS REQUIRED.

Representative: William F. Meyer, Owner

Mr. Meyer: I would like to construct a 10 ft. X 36 ft. carport on the east side of my house, off of an existing garage I have there. We built the house three years ago. Mud Mill Road is directly across the street from me. I'd like to put the carport there for one of my vehicles. A year ago Christmas Eve, one of my cars got totaled in my driveway, by a drunk. Last year, during the winter, both cars were parked in front of the garage. Somebody came along and hit one of the cars and drove it into the garage door. I figure if I can park one car in the garage and one in the carport, it will be safer. That's one of the reasons I want to put the carport up.

Mr. Rabbia: You have a 2 car garage, right?

Mr. Meyer: Yes, I keep the tractor for snow plowing in one side.

Mr. Rabbia: So, cars are not stopping at the end of Mud Mill Rd. and running right into your driveway ?

Mr. Meyer: The drunk was coming down Lakeshore Rd.--she ran into the side of my car--pushed it into a telephone pole and totaled my car. Then one came up Mud Mill --came straight across--came up and hit the little car and pushed it right into the garage.

Mr. Palladino: If you take the cars out of the driveway.....

Mr. Meyer: Yes, they'll run into the house !!!

Mr. Natali: Would you consider building a full garage ? Wouldn't that look better--wouldn't you rather have a garage ?

Mr. Meyer: I don't really need a garage--I think a carport will look nice. It's a brand new house.I think the carport would look neater and do the job. I didn't think I would get an OK to have a new garage.

Mr. Natali: It would still need a Variance but it might blend in better with your new home.

Mr. Meyer: I'm not going to put junk there--nothing portable--I'm going to be talking to Solvay Glass. They built the one for my nextdoor neighbor, Gerry.I want it to look right.

Mr. Natali: Is the shed going to stay up ?

Mr. Meyer: Yes, my shed, way in the back, will stay there.

Mr. Natali: Your shed was not on your survey.

Mr. Meyer: I just put the shed up.

Mr. Natali : Did you get a permit for it ?

Mr. Meyer: Yes , I got a permit.

Mr. Natali: This survey goes back to '07 , right ?

Mr. Meyer: Oh, you know what they did---the Town has the new survey with the shed on it.

Mr. Pallidino: You said the shed is 12 ft. X 16 ft., right ?

Mr. Meyer: Yes, it's brand new. I just had it inspected a month ago.

Mr. Natali: When did you give the Zoning Office the survey, you brought it in when you built it ?

Mr. Meyer: Yes, I just finished it. I didn't even think about that. The survey the Board has doesn't show the shed.

Mr. Natali opened the Public Hearing at 7:10 P.M.

FOR: Gerald Voorhies, 6476 Lakeshore Rd. I live on the west side of Mr. Meyer, where the carport is to be built. Nobody stops coming down Mud Mill Rd. I am in support of the carport.

Mr. Natali: So you live on the side where he's going to be within 5 ft. of your property. You have no problem with that ?

Mr. Voorhies: No problem.

AGAINST: NONE

The Public Hearing was closed at 7:11 P.M.

Mr. Natali to Mr. Meyer: The Board is discussing the coverage of what this addition is going to be. It's coming real close to the 25 %---25.75 % without the shed.

Mr. Natali to Mr. Dean: Wayne , do you want to throw in any thoughts on the coverage ?

Mr. Dean: I haven't calculated it--it has a bunch of jogs.

Mr. Natali: Mr. Meyer, you're just under 25 %.

Mr. Rabbia: When I first looked at it--I'm not keen on carports but him having told us why he wants to do it, kind of comes into clarity now.

Motion was made by Mr. Palladino, to approve the Area Variance for William F. Meyer, 6474 Lakeshore Rd., to construct a carport. The information taken to determine the Variances required was taken from a survey, file # 3105.002 dated 8-1-07. Mr. Meyer will need 2 Variances, both for the side lot. The 1st Variance : The total side with the new addition is 16 ft. Under an R-12 , the requirement is 25 ft., so he needs a Variance of 9 ft. On the single side, you have a 5 ft. from the proposed addition. The Code requires a 10 ft. so you have a Variance of 5 ft. Looking at the survey, it appears that all other bulk regulations are met--no other Variances required. The 5 factors taken into consideration when making this recommendation are as follows:

- 1- Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties? Answer: No, the house is new and after listening to Mr. Meyer not wanting to throw just anything up, he's going to put a nice carport up. I believe no undesirable change will be produced.
- 2- Whether the benefit being sought by the applicant can be achieved by some other method ? Answer: Not if he wants to get the cars out of line of sight or impact.

3- Whether the requested Area Variance is substantial ? Answer: No, all other bulk regulations are met, as stated and we're only dealing with a side setback.

4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Answer: No, from talking to Mr. Meyer, he's putting down stone or runner crush initially to see how the drainage works before he concretes or black tops the parking area under the carport. I don't believe any environmental conditions will be impacted.

5-Whether the alleged difficulty was self-created ? Answer: Yes, it was but that is not a negative factor.

Mr. Palladino: I make a recommendation that the Board approve these 2 Area Variances.

Mr. Natali seconded the motion to approve the Variance and the motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE DEFERRED FROM OCTOBER 4, 2010 FOR LEN DI MAGGIO, 7467 WEST MURRAY DR., TO CONSTRUCT A TWO STORY DECK ON A NON-CONFORMING LOT. THE LOT IS 50 FT. WIDE WHERE 75 FT. IS REQUIRED. THE EXISTING HOUSE HAS A FRONT SETBACK OF 2.9 FT. WHERE 30 FT. IS REQUIRED AND SIDE YARD SETBACK TOTAL OF 12.3 WHERE 15 FEET IS REQUIRED.

Representatives: Len DiMaggio, Owner  
Robert Ventre, Attorney for Owner

Mr. Ventre: I am here on behalf of Mr. DiMaggio. For the first time in 46 years, I'm going to do something different, where the applicant will be describing most of it for you because I think you and the applicant know more about it and I haven't had the time to review it. I'd like to ask Mr. Dean a question. On the agenda, it says the existing house has a front setback of 2.9 ft. I presume this is a pre-existing condition.

Mr. Dean: Yes, it is pre-existing. It's been there several years.

Mr. Ventre: The other thing is the side yard setback is 12.3 ft. where 15 ft. is required. Is that with the addition ?

Mr. Stanton: Can I clarify that ? The 12.3 ft. is the 6.9 ft. side setback to the existing building, on the south side property line. Plus, the 5.4 ft. side setback on the north property line. That does not include any of the current build-out.

Mr. Ventre to Mr. Dean: Do we know what that is-- the current ?

Mr. Dean: If you take into account the deck and everything, you're looking at about 5 or 6 ft.--1.1 ft and 6.9 ft. minus the width of the walkway along the east side of the house--you're down to 2.9 ft. and 1.1 ft--you've got 4 to 5 ft.

Mr. Ventre: I just wanted to straighten out what we are looking at. As you know, the decks were built without a permit. While his contractor didn't get it, Mr. DiMaggio clearly understands that the permit is the responsibility of the owner. We're not denying that. That's why we're here--to see if there's room for a Variance. There are 2 decks that have been constructed and you've heard the amount of side yard setbacks --approximately 4 to 5 ft. from the total of 15 ft. that's required. Much of what was there is included in that area. We considered taking down part of the decks and we're still willing to do that but, in all honesty, I'm confused. I asked Mr. DiMaggio to explain to you and show you with his pictures, in a very calm manor, the extent of these decks. Everybody that lives on the lake wants decks. My vision of Oneida Lake, as it stands there, is where this house and the other houses are--the lake is there ! It doesn't bend back so he might be blocking someone's view. The lake is in front of these properties and it does not bend back and forth. There's really no blocking of vision by these decks. He then asked Mr. DiMaggio to explain, with his pictures, what is there now.

Mr. DiMaggio: I want to put the decks up because I live on the lake. When I bought the house, there were sliding doors with no decks. I couldn't understand why but now I know. I would like to open up doors and have a deck. He discussed the L shape--sharing his pictures with the Board--what I'd like to do was build a deck up top that would go over my deck down below because I wanted a bit of privacy. Honestly, going out on my deck and looking out at the lake isn't that enjoyable to me anymore. When I come out on the bottom deck and look over--I've actually thought about dropping the deck down so it wouldn't be so high---

Mr. Palladino: Which deck are you referring to ?

M. DiMaggio: The one off my bedroom--I wanted to build a covered deck--down below--it's a lot of maintenance--I have to strip it--it's expensive--the lake just ruins the deck so I wanted to put tile on that one deck. But I wanted to cover it and kind of make privacy because when I go in my yard, this house next to me was recently purchased. He cut the trees--he doesn't live there--he's there a few weekends. The wood has been there for 2 years. He's had a "Bobcat" working there--I don't know what he's doing--property is a mess. I'm just trying to get some privacy. This one section encroaches a foot--I want to take that back--there's a planter that's a couple of feet--there's steps--I think a combination of 10 ft. I'll take those down so we've got our sides proper. I'd like to continue complying with all the Codes-- bringing the uppers and lowers in to Code.

Mr. Natali: That would require changing the design to stay within the coverage.

Mr. DiMaggio: The uppers are over the lowers. The lowers were existing and the uppers are over existing deckage. Actually, they were all existing when I bought the house. I didn't go any wider with them.

Mr. Stanton: I think it's the fact that you've actually put a cover on top of those decks that's one of the problems.

Mr. Natali: Once you put a roof on it--it changes.

Mr. Ventre to Mr. Dean: Do we have a coverage issue here ?

Mr. Dean: Yes.

Mr. Rabbia: I believe it's about 35 %, as it sits right now. We need 25 %.

Mr. Stanton: Just as a note, the existing structure is about 29 %, without any of the build out that's been done.

Mr. Natali: Which is substantial, in coverage, on lakefront property.

Mr. Stanton: I'd like to make a point. You can't get 25 % without demoing a portion of the house.

Mr. Natali: Is there any other way you can achieve privacy ? The lots are what they are along the lake shore.

Mr. Stanton: My main question is, if the view is objectionable, one of the things contributing to that is the fact that this lower deck that has the 1.1 ft. offset to the existing property line--that's high enough up off the ground so that you can actually see into your neighbor's back yard.

Mr. DiMaggio: All the decks are--so are my windows.

Mr. Stanton: So, if we were to say, you're in an R-10 and your minimum side setback is 6 ft., because of all the other issues you have here and the fact that your build-out is almost 70 % of the area of the lot right now. That's taking into account the deck. If we were to say, we really want you to peel that deck back to the 6 ft. offset from the property line, is that feasible for you ?

Mr. DiMaggio: I suppose anything is feasible--can I have anything off those sliding doors? We're talking about the lower deck.

Mr. Stanton: This is a somewhat easier issue (the deck) than the 2 exits off the back of the house.

Mr. Palladino: The adverse effect I think, if you did take off that lower deck, it would eliminate 1 required Variance.

Mr. Rabbia to Mr. Stanton: Are you proposing to trim back from the north side of the deck back to the center of the property line or are you proposing trimming back the projection deck as well ?

Mr. Stanton: That didn't even come into play as I was talking about it.

Mr. Rabbia: So, we're looking at taking 5 ft. off that north edge of the deck extension--that's the first proposal ?

Mr. Stanton: Yes.

Mr. DiMaggio: The planter and the walkway combines probably more than what's required. The walkway is 4 ft.--the planter is 2 1/2 ft. I need the walkway.

Mr. Palladino: There are so many Variances there.

Mr. DiMaggio: How about if I dropped the whole deck on the ground--if it wasn't elevated ? Does that change anything?

Mr. Natali: It still has to comply with the setbacks.

Mr. Rabbia: It changes the coverage calculation, right ?

Mr. DiMaggio: I'd rather be on the ground, then I wouldn't have to see my neighbors.

Mr. Stanton to Mr. Dean: Do we have any jurisdiction over a truly at-grade patio ?

Mr. Dean: No, not a patio. Anything that is raised structurally is a deck.

Mr. Rabbia: So, we've got a proposal on the table on the north side of that deck projection, right ? The planter would go--so that gives us relief, at least on the north side. What do we think on the south side, Chuck ? Or are we still processing the thought of him taking down the second story deck ?

The Board discussed what could be done, how many Variances there were, etc.

Mr. Stanton: To get back to your question, I'm looking at the south side--from looking at the photos and being out to the site--it looks like there's a pre-existing overhang coming off the house.

Mr. Rabbia: The front of the house--towards the road ?

Mr. Stanton: Basically, all Mr. DiMaggio is doing is keeping it in line with that.

Mr. Rabbia: But the house is a little cock-eyed on the lot. So, you're getting closer to the sideline the deeper you go into the property, right? You can see that on the survey.

Mr. Ventre: I guess we might as well "bite-the-bullet" and get to the coverage issue.

Mr. Natali: One of the things we look at when considering a Variance is, is there another alternative ? With what you're asking for, do you have any thoughts of scaling back ?

Mr. DiMaggio: Sure. You tell me what would be feasible.

Mr. Stanton: We're charged with granting the minimum Variance necessary so, the answer to that would probably be 29.3 %, which is the existing structure.

Mr. Ventre: Let's take the roof on the top deck--you could pull that back--but it's the floor of the top deck that's causing the problem, isn't it ?

Mr. DiMaggio: (Pointing to one of his pictures) What if I scaled this back to go with the upper deck--that would cut back from the house.

Board members agreed that would be about 6.9 Ft. The Board discussed more dimensions and information about the decks.

Mr. Stanton: Just peeling back that back deck so that it doesn't go any further than the existing structure, get us down to 33.1 ft. That takes out about 96 sq. ft.

Mr. Rabbia: We're running out of things to take away. Can I ask a question? I know you have a door over here but this wood deck that you project along the south side, where does that go to ?

Mr. DiMaggio: This was an existing walkway to the back deck.

Mr. Rabbia: I'm talking about up on this level--I know there was a door on that side of the house. What's past that door? Or does the deck just go nowhere?

Mr. DiMaggio: The deck meets the overhang.

Mr. Rabbia: But you're not going anywhere on that deck ?

Mr. DiMaggio: No. That's a roof.

Mr. Rabbia: So, really , you've got how many feet of deck that's doing nothing there. How many feet, Chuck ? That's kind of dead area.

Mr. DiMaggio: Past the door--there might be a couple of feet.

Mr. Rabbia: Am I looking at the lower or upper wood deck ?

Mr. DiMaggio: This is that side piece you're talking about. It actually goes to the overhang. He discussed how his neighbor put a fence up.

Mr. Stanton: In all fairness to you, site lines and the way people's property looks is not in our purvue.

Mr. Natali discussed the upper decks with Mr. DiMaggio. With all your decks, how much room do you need up there ? Get us close and if you work on the deck, somebody might be willing to make a motion. The deck has to be totally in compliance. Let's get close to it.

Mr. DiMaggio: I've got how many more percent to do ?

Mr. Natali: Just take a little away from your neighbor's side. How many decks do you need ?

Mr. DiMaggio: If you open the door, there'd be nothing .

Mr. Natali: Could you make them windows ?

Mr. DiMaggio: What if I scale the whole thing back ?

Mr. Natali: Make it smaller ? Have this drawn up. You have 62 days after the hearing is closed. The thing is--you're going to be running into the elements.

Mr. DiMaggio: I've just got to get a Contractor that won't rob me.

Mr. Natali: We can defer this. You can consult with your Attorney. We want the deck totally in compliance. We'll work with that percentage.

Mr. Natali made a motion to defer this case until the December 6, 2010 ZBA meeting, at which time you'll get a professional survey, with every corner having a dimension on it so that we can come up with our percentage.

Mr. Stanton: We're looking for offsets. Instead of making us scale this and guess it. the Surveyor could put that on the survey.

Mr. Rabbia: There's a point in the house that's closer than 3.3 ft. on the northwest corner.

Mr. Natali: We'll have a "walk-around"--everything will be in compliance--this way there won't be any questions when you go to sell the property.

The motion to defer was seconded by Mr. Stanton.

Motion was put to a vote, resulting as follows:

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

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Motion duly carried.

There being no further business before the Board, 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 November 1, 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

November

