

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: OCTOBER 4, 2010

PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday October 4, 2010 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Charles Stanton:	Board Member
	Gary Palladino:	Board Member
	John Winters:	Board Member
	Mark Rabbia:	Board Member
Absent:	Gary Natali:	Board Chairman
	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.Stanton 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 September 13, 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. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes

Motion duly carried.

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

Motion duly carried.

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

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

AREA VARIANCE DEFERRED FROM SEPTEMBER 13, 2010 FOR LEN DIMAGGIO, 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 FT. WHERE 15 FT. IS REQUIRED.

Mr. Stanton asked how many times are we obligated to carry this over before it drops off the agenda ?

Mr. Kirwan: You can give him notice that it will be on the next month's agenda and if he is not here, it will be dismissed.

Motion was made by Mr. Stanton, seconded by Mr. Rabbia, to defer the case for Len DiMaggio until the November 1, 2010 Zoning Board of Appeals meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes
Mr. Winters: Yes
Mr. Palladino: Yes
Mr. Stanton: Yes

Motion duly carried.

USE AND AREA VARIANCE DEFERRED FROM THE SEPTEMBER 13, 2010 MEETING FOR CATHERINE M. KAHL, 6363 LAKESHORE ROAD, TO ALLOW TWO RESIDENCES ON A PARCEL ZONED AGRICULTURAL, WHICH ALLOWS FOR ONE ONE-FAMILY RESIDENCE AND AN AREA VARIANCE TO HAVE A BUILDING WITH A FRONT SETBACK OF 27.2 FEET WHERE 30 FEET IS REQUIRED.

Mr. Stanton: I understand that Ms. Kahl is not present tonight. I make a motion to defer her case until the November 1, 2010 Zoning Board of Appeals meeting. Mr. Rabbia seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes
Mr. Winters: Yes
Mr. Palladino: Yes
Mr. Stanton: Yes

Motion duly carried.

AREA VARIANCE FOR SCOTT KOSTER, 7177 LAKESHORE ROAD, TO CONSTRUCT A GARAGE ADDITION ON A NON-CONFORMING LOT. THE LOT IS 60 FEET WIDE WHERE 75 FT. IS REQUIRED. THE GARAGE HAS A SIDELINE SETBACK OF 4.2 FT. WHERE 6 FT. IS REQUIRED.

Representative: Scott Koster, Owner

Mr. Koster. I'm seeking a Variance to add a garage to the property we just purchased. The Variance we're requesting is 4 ft. 2 in. I thought that was an appropriate setback being that the closest structure on the property was closer than that. The reason I'm trying to keep it there is to provide a side entrance to the garage, for a turning radius. If you look at the one drawing I did, it represents a vehicle (the dark square). The turning radius--if I moved it another 2 ft., it would really affect the ability to get in and out of the garage.

Mr. Stanton: Are there any plans to take down the existing garage at the front of the property?

Mr. Koster: No, I'll keep that for storage--the house doesn't have much storage. This garage is going to be accessible just for my wife--the garage on the house. That is the reason for the move into this house really.

Mr. Palladino: Is the existing shed in the back going to stay also ? There's not anything that's going to be taken down, you just want to add the garage ?

Mr. Koster: Nothing to be taken down--just add the garage.

Mr. Rabbia: You could really come west in the 48 ft. along that back wall--the shorter you go--the more distance you get from the side line, right ?

Mr. Koster: Right, but the problem with that is the opening for the garage. I can explain. My wife suffers from Parkinsons Disease. I'm trying to make the garage as accessible as I can for her to come and go. We're putting a 16 ft. door in there so she can get in and out. If I got into a narrower door, it would make it hard for her to make the corner.

Mr. Stanton to Mr. Dean: Would the original garage be an auxillary structure, at this point ?

Mr. Dean: Yes , it would be.

Mr. Stanton: So, it would be subject to the limits--the 192 sq. ft. ?

Mr. Dean: It's a pre-existing , non-conforming structure.

Mr. Rabbia: It's 3.3 ft. off the side line.

Mr. Stanton: My reasoning behind that was, because we have what is, basically, a new garage going up and the old garage is going to be converted into storage, which puts it into an auxillary structure.

Mr. Koster: It will still be used for vehicles--just not primary parking for my wife.

Mr. Palladino: You will still park your vehicle in there and your wife will park in the new garage ?

Mr. Koster: Yes, my main concern was for her to pull in and access the house directly.

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

FOR:

Mr. Koster: I'd like to introduce Maurice Douglas.

Mr. Douglas: My name is Maurice Douglas . I'm with Eagle Builders--a large commercial builder. I'm here tonight to support Scott. We also have letters from other adjacent property owners to represent Scott. We are doing a pro bono engineering. Peter Crissey, Architectural firm and myself as a general contractor. Scott's wife is in desperate need of this. Her condition is Stage 4 Parkinson's Disease. We do need to get her into the home.

Mr. Douglas continued:

We just put a new roof on the garage on behalf of Scott and his family. We appreciate the Town working with them. The property owners on both sides and adjacent have sent letters and are here and they have no objections. We appreciate your consideration and I assure you we will comply with everything. We're going to make this an ADA accessible structure for his wife Tammy, who is in desperate need to get in and out. We're going to try to fast track this before winter and the holidays. Eagle Builders is here on behalf of the Kosters to assure compliance. All sub-contractors, Workers Comp and General Liability insurances will be done under the Pro Bono act of Eagle Builders. We're not asking you to waive funds for the permit, we're asking you to approve this Variance.

Perry Panos, 7175 Lakeshore Rd.:

Mr. Panos: I live on the side of Scott that needs the Variance. I'm OK with it and have no problem with it.

AGAINST: NONE

Mr. Stanton: I have a question. Seeing we're kind of close to the side line at this point, obviously, we're going to be taking care of drainage ? Another thing I wanted to warn everybody about is the offset that's shown is on what looks like an engineering drawing. Just make sure when we give you the 4 ft.--if we give you the 4 ft.2 in offset tonight-- you'll be held to that where ever it may lie, in relation to your actual survey.

The Hearing was closed at 7:14 P.M.

Motion was made by Mr. Palladino, to approve lthe Area Variance for Scott Koster, 7177 Lakeshore Rd., to construct a garage addition on a non-conforming lot. The lot is 60 ft. wide where 75 ft. is required. The garage has a sideline setback of 4 ft. 2 in. where 6 ft. is required. As I look at the survey, I see there's a couple Variances that should be addressed. 1- As noted on the application, the side Variance, where we have two requirements for the side. One, the total side setback should be 15 ft. I took the measurements off the existing survey. It looks like you have a 14 ft.2 in. total side setback for both sides, which leaves you with a negative .8 ft. Plus, there's also a minimum side setback for one side and that is 6 ft. If I go off the old garage, that being the tightest to the property, that's 3.3 ft., we're supposed to have 6 ft.

Mr. Stanton: Just a clarification: that is the least but the one in question is the corner to the proposed garage--as long as we specify that that's the proposed garage.

Mr. Palladino: Let me back up--addressing the new garage--the southwest corner of the new garage is going to be 4 ft. 2 in. and they're required to have 6 ft., so it's going to be short by 1 ft. 10 in. That addresses the new garage. The existing garage, however is: southwest side of the old garage has a side setback of 3 ft. 3 in., where 6 ft. is required minimum. The 2nd Area Variance I see is, the minimum building line for an R-10 is 75 ft. and you have 60 ft. so, you have a deficit of 15 ft. I will review the 5 factors used for approval of a Variance:

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1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? Answer: No, I personally didn't see where it would be and the fact that the neighbors have stepped up and said they're in favor of this supports there should be no negative or undesirable change. Your new garage is still behind the existing garage so it's no further out in the road. It's not going to obstruct vision.

2- Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the Area Variance ? Answer: No, I don't believe so. We would have to shorten the garage to get it within the 6 ft., it would take 12 ft. off the end of the garage.

3- Whether the requested Variance is substantial? Answer: No, it is not. We have a side setback, which is very common on properties along this area due to the fact, the lot width is usually 50 to 60 feet.

4- Whether the proposed Variance will have an adverse effect or impact on physical or environmental conditions in the neighborhood ? Answer: No, I don't believe it will effect drainage--you're going to take a look at that.

5- Whether the alleged difficulty was self-created ? Answer: Yes--the fact you want to put the garage in made it a self-created difficulty but that's not an over-riding factor.

Mr. Winters seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes

Motion duly carried.

AREA VARIANCE FOR WILLIAM KAUFMAN, 6317 MUD MILL ROAD, TO CONSTRUCT A DECK ON A RESIDENCE ON A NON-CONFORMING LOT. ACTUAL WIDTH 66 FT., REQUIRED WIDTH = 100 FT. ACTUAL AREA=1/2 ACRE, REQUIRED AREA 1 ACRE. ACTUAL FRONT SETBACK= 13.6 FT., REQUIRED FRONT SETBACK= 30 FT. SIDE SETBACKS ARE ALSO DEFICIENT.

Representative: William Kaufman, Owner

Mr. Kaufman: I would like to put a new deck on the front of my house. I have a non-conforming lot and the house is too close to the road. The deck I want to put on will be approximately 2 ft. further from the road than the existing structure.

Mr. Stanton: On the front of your house is what might have been an entryway to begin with and was converted over into some kind of room. You're saying you're going to be 2 ft. in front of that now ?

Mr. Kaufman: 2 ft. behind that.

Mr. Stanton: My concern here is that, while we have a sketch of the deck and we have a survey of the house, we do not have a real layout of where this deck would be in relation to the house. My concern is , we could go ahead and grant you this Variance today contingent on offsets from the sidelines and offset from northern road boundary. My question to you is--what if we make a mistake? What if we grant you something--say you're looking for 11 ft. Say we give you 12 ft. and you don't have enough room to construct your deck ? Would you be able to live with a 4 ft. wide deck on the front of your house ?

Mr. Kaufman: Are you asking how far from the road ?

Mr. Stanton: Yes.

Mr. Kaufman: It would end up being 43 ft. 11 in. from the center of the road.

Mr. Rabbia to Mr. Stanton:: I almost want to offset it from the house--wouldn't it be easier that way?

Mr. Stanton: Yes, I think so.

Mr. Rabbia: You're going to be inside the house from the front center of the house, you're going to be flush with the side of the house also--is that the plan ?

Mr. Kaufman: If you look at the survey, you can see there's concrete steps--it's going to start there and wrap around the front section where it says 7.6 ft. wide but it will only be 5 ft. 2 in. It will continue 5 ft. 2 in. down next to the driveway, then turn and go 5 ft. 2 in. out from the front of the house.

Mr. Rabbia: Right, but you're going to go no wider than the east side of your house--you're not going to jut out past the east side of your house ?

Mr. Kaufman: Correct.

Mr. Wm. Kaufman, Sr. (father): My question is, where are the steps going to be ?

Mr. Kaufman,Jr. : Right off the front edge. I believe it will be one step.

Mr. Rabbia: Towards the road ?

Mr. Stanton: Were any of the other Board members able to duplicate the 13 ft. 6 in. setback that was listed? Here's what I'm getting at--if we give hime the 13.6 ft. and that's going to be from the northerly road boundary as described on your survey--what happens if there's a miscalculation in that ? Say, you actually need 8 1/2 ft. to the front and we give you 13 ft--you're not going to be able to build your deck the way it's shown here.

Mr. Winters: He couldn't go any further out--there's already an 8 ft. extension.

Mr. Stanton: We'd have to give a Variance on the actual deck location. Am I not correct ? It's an addition to the structure that would be violating the front setback.

Mr. Kirwan: Right, but he's saying he's going to keep it within that 7.6 ft. jog, right--as long as it doesn't extend out beyond that.

Mr. Kaufman: If you figure just 2 ft. back where that 7.6 ft--2 ft. back from that , I'll be safe because the house angles toward the rear of the property.

Mr. Rabbia: We're 8 ft. off the road, you're right on the road--you're going to be within that little addition, right--so you could say no closer than 9.6 ft. to the road.

Mr. Stanton: Just so that you realize--if we give you something and it comes up short, you can't come back and ask for more.

Mr. Kirwan: Where is the step going--is that going to be in there ?

Mr. Rabbia: I'd rather not have him step out toward the road.

Mr. Palladino: Or will it be towards the driveway ?

Mr. Kaufman: If it's towards the driveway, there won't be enough room to pull the vehicle in or I could integrate it into the deck.

Mr. Rabbia: I'd rather see you step into the driveway rather than the road.

Mr. Kaufman: I understand what you mean about stepping into the road but I park my vehicle there, in front, and I'd be stepping on my vehicle--behind it.

Mr. Dean: The road boundary is the edge of the pavement.

Mr. Rabbia: There's no edge of pavement on his survey--that's what is throwing me off. How far off the ground will the deck be ?

Mr. Kaufman: In the back where it says 5.2 ft. , it will be about 18 inches. In the front, it will probably be about 10 or 12 in.

Mr. Rabbia: So, it's only one step. You could actually do that step within the 2 ft. that you're going to be set back from the front of your house.

Mr. Palladino: Are you going to have a door there--is that why you're going to put a deck there, so you can walk into the house ?

Mr. Kaufman: There's no door there and there won't be a door there. The other reason I wanted to put the porch there is so I can put a gutter in because water comes down the road and into my basement so I want to build a land thing underneath the deck to direct the water away from the house instead of thru it.

Mr. Rabbia: I think I understand what he wants to do. Ordinarily , we'd say go back and get a survey and tell us what you want but the fact that you're going to be kind of inside or equal to the confines of your house, I'm OK with that.

Mr. Palladino: If you work from the house wall towards the road, it should be OK.

Mr. Stanton to Mr. Kirwan: How does that work out ? That's kind of opposite of the way we usually do things.

Mr. Kirwan: I think you're all right doing that, Like Gary said, the structure is already there. You can back off 2 ft. from the 7.6 ft.--what he's asking for--and if Wayne wants to go out and measure it, he can.

Mr. Dean: As long as it's defined, it's easier for us to measure off the house than the property line that we don't know where it is.

Mr. Kaufman: Does the 5 ft. 2 in. include the overhang of the roof ? The overhang will be about 8 inches more than the deck.

Mr. Stanton: The deck plan that I'm looking at here, from the front of the house, parallel to the road is 5 ft.3 in. You're saying that's not sufficient room to build the deck ?

Mr. Kaufman: That is the deck--the part we'd be standing on--it would be the roof of it.

Mr. Palladino: You're going to cover it ?

Mr. Kaufman: I did put that in the application.

Mr. Rabbia: So, you're thinking the 5 ft. 3 in. doesn't cover the overhang ?

Mr. Kaufman: Well, you guys are very exact so I just wanted to make sure if I put 5 ft. 3 in. in the deck and then another 8 in. overhang on it, that it will stick out further closer to the road than the actual deck.

Mr. Kirwan: So, if it's recessed back from the most southerly portion of the house, it's fine--everything is going to be recessed back from this.

Mr. Dean: You're not making it any worse.

Mr. Stanton: We appreciate that you brought this up for us because that would have probably derailed us at the end. I think I understand this now.

Mr. Winters: Do you have any plans to convert this into living space ?

Mr. Kaufman: No, I do not--there will be no foundation so it wouldn't be practical.

Mr. Winters: I suspect that's where that jut came from originally.

Mr. Kaufman: There's a foundation under it . It was all enclosed. I changed the angle of the roof line a few years back.

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

FOR: Mr. Wm. Kaufman Sr. (father): It would enhance the property. It doesn't look right without it right now. He keeps me busy, too.

Mr. Kaufman Jr.: I have a loan for siding and all this other stuff. I've been waiting for this--the porch I'm putting on is where the siding is going. I hope to get it done before the snow flies.

AGAINST: NONE

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

Mr. Rabbia: Let's do a "walk around" the property. We've got lot width, lot size, and side setbacks. I've got 13.6 ft. but I can't find that dimension any place on the survey. Did you see it on the agenda ? It says actual front setback is 13.6 ft. I see 14.1 ft. to the road boundary.

Mr. Stanton: I think it's 14.1 ft. from the southwesterly corner of the house to the road boundary--then 24.4 ft from the southeasterly corner.

Mr. Rabbia to Mr. Dean: In this case, on the road boundary, is that the property line per say, that we're going to for the front setback ?

Mr. Dean: Yes, you always go to the property boundary. The road line and the front property line are the same line.

Mr. Stanton: If you're working with definitions, it's the road line. This is an Agricultural lot. The minimum side setback is 10 ft. The northwesterly corner is 9.3 ft. The total is 23.3 ft where 30 ft. is required. 23.3 ft is what I sketched out for the deck and I believe the other 23.3 ft. is to the existing house.

Mr. Rabbia: Are we OK with this covered porch, to say "no closer to the road boundary than the 8 ft. extension off the house"--what do we want to say ?

Mr. Stanton: I like the idea of bounding the front of it at a certain distance from--parallel to the front of the house--then making sure the side of the deck is in line with the existing line of the side of the house.

Mr. Rabbia: So, maybe 6 ft. from that 13.4 ft. part--that would give him the 9 inches overhang that he's planning.

Mr. Stanton: We have a different offset for sheds, don't we ?

Mr. Dean: Yes, we do. This one doesn't have a dimension so I can't tell.

Mr. Rabbia: It looks like about 4 ft.

Mr. Stanton: Yes , on a 30 scale, it's about 4 ft. I don't see an issue with that.

Motion was made by Mr. Rabbia, to approve an Area Variance for William Kaufman, 6317 Mud Mill Rd., to construct a covered deck/porch on a non-conforming lot.

First I will review the 5 factors considered for approval of a Variance:

1- Whether an undesirable change will be produced in the character of the neighborhood ? Answer: Absolutely not. I think what he's doing is going to be a major improvement to the general neighborhood.

2- Whether the applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an Area Variance ? Answer: Having looked at this, at least with regards to that roof line. I can understand what he's trying to do--to enter the house without getting soaked. The other non-conforming lot issues are nothing he can control.

3- Whether the Variance is substantial ? Answer: No, not in this case.

4- Whether the Variance will have an adverse effect on physical or environmental conditions in the neighborhood or district ? Answer: No.

5- Whether there have been any self-created difficulties ? Answer: Yes , but that in itself is not a reason to deny the Area Variance.

What I want to do is talk about the covered porch first, then we'll come back to all the other lot issues. I approve the covered porch/deck based on the drawing number 7H77 dated August 24, 2007, in the application packet, with the covered porch to be 6 ft. away from the 13.4 ft. wall on the south side of the house, extending easterly all the way to the east side of the house, no further , and parallel to the house. Other issues to be addressed are:

1- Actual area of the lot where 1 acre is required--the applicant has .499 acres.

2- Lot width is 66 ft., where 100 ft. is required, in the AG Zone.

3- Lot setback on the west side of the property is 9.3 ft. where 10 ft. is required.

4- Distance to the south property line ? I have 14.1 ft. where 30 ft. is required.

5- Total side set back of 21 ft. where 30 ft. is required.

Motion was seconded by Mr. Stanton.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes

Motion duly carried.

ZONING INTERPRETATION FOR BLASE' LARROCA, 8081 ROUTE 11,
REQUESTING THE ZONING OF THE REAR PORTION OF THE PROPERTY BE
CHANGED TO GENERAL COMMERCIAL.

Mr. Dean: He called me today to say he would not be here tonight.

Mr. Stanton: We will not defer this case. It will be taken off the agenda.

Motion was made and unanimously approved to adjourn the meeting at 7:49 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 October 4, 2010 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

October 10, 2010