

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: SEPTEMBER 13, 2010

PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday September 13, 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
	Robert Bach	Board Member, Ad Hoc
Absent:	Mark Rabbia,	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. Winters, seconded by Mr. Bach, to approve the minutes of the August 2, 2010 Zoning Board of Appeals meeting. There were no corrections or additions.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to make the following correction to the approved minutes of the July 12, 2010 ZBA meeting: Page 27- top of page- new garage will be 32 ft. X 24 ft., NOT 30 ft. X 24 ft. as written. 32 ft. shows on the application and the survey for Mr. Palys.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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. Bach:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

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

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

AREA VARIANCE DEFERRED FROM AUG. 2ND 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.

DiMaggio case continued:

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 FT. IS REQUIRED.

Mr. DiMaggio was not in attendance. No action was taken.

USE AND AREA VARIANCE DEFERRED FROM AUGUST 2, 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.

Representative: Hal Roman, Surveyor for Catherine Kahl

Mr. Roman: I am the Surveyor representing Catherine Kahl. We would like the Board to defer this until the next meeting, so we can review the options we are considering. Whether it's zone change, sub-division or whatever, coming to the Use Variance. I'd appreciate it being deferred.

Mr. Natali: Sure, we'll see you at the next meeting.

AREA VARIANCE FOR LUCIEN'S ENTERTAINMENT COMPLEX, (NORTHERN PROPERTIES, INC.) 7800 BREWERTON RD.(TAX MAP # 036.-04-19.0) TO REDUCE THE DRIVE AISLE WIDTH FOR TWO-WAY TRAFFIC FROM THE REQUIRED 22 FT. TO 20 FEET AND 19 FT. 6 IN.

Representatives: Hal Roman, Surveyor
Peter Crissey, Architect

Mr. Roman introduced Mr. Crissey, the project Architect.

Mr. Roman: This Area Variance is pretty simplified. It is for drive widths on the site plan. We have a unique situation here. It's the old Sam Dell Auto Mall on Route 11. We're trying to do Lucien's Entertainment there. We've been to the Planning Board for the site plan process. Looking at the way the parking was done originally for a car dealership versus how we'll have to do it for a more traditional commercial operation, we've come up with a couple ways. We are going to use one-way drive lanes. Also, due to the way the buildings are situated, the 22 ft. wide requirement for drive lanes is not going to be feasible. The Variance is asking for a reduction of 22 ft. to 20 ft. and 19 ft. 6 in. Part of that is because of the one-way lanes. We don't feel you need 22 ft. for a one-way lane but the Code specifies 22 ft. width--it doesn't get into one-way lanes in a parking lot. Peter will go over the special area we're talking about. If you look at the front sheet--the area between the 2 buildings--that's 19.6 ft. It was set up to have parking on both sides anyway.. Then the one-way lanes are on the right side of the plan. You see them going back north, then south.

Mr. Stanton: Is that 19 ft. 6 in. or 19.6 ft. ?

Mr. Crissey: 19 feet 6 inches.

Mr. Roman: The 20 ft. lanes are the 2 two-way lanes that are directly next to the one-way lanes. 20 ft. is actually a common drive isle width. Town of Clay and Town of Salina use that width. We think 2 large vehicles can pass side by side without hitting each other and it's in a parking lot where you're going about 5 MPH. It will work without adding any asphalt to the existing site. It's already paved. What we're trying to do is fix up the two buildings for Lucien's Entertainment Complex and maximize the existing asphalt and parking on-site. It's really not going to cause a detriment to the character of the neighborhood because we're fixing up the site and making it viable. We've addressed a lot of potential issues to the Planning Board as far as noise, crowd control, etc. without ending up with a lot of asphalt that isn't useful for parking spaces--that's what happens when you start looking at that 1 1/2 ft. to 2 1/2 ft., it's significant.

Mr. Crissey: Actually, it leaves about 12 parking spots. Unfortunately, the Town of Cicero doesn't have any requirements for parking. We've been to the Planning Board and they are comfortable with this number of spaces. If we had lost another 11 or 13 spaces, I think it could create a hardship on parking.

Mr. Palladino: You're saying you would lose those spaces if you maintained the 22 ft. width ?

Mr. Crissey: Yes.

Mr. Stanton: I understand that other Towns allow the 20 ft. 2-way width. Has anyone bothered to check with the NYSDOT Highway Design Manual or guide specifications to see what is showing 19 ft. 6 in. or the 16 ft. one-way lane--if that's acceptable ? It's not just the comfort of the person pulling into the spot--it's the physical practicality of someone being able to get in and out.

Mr. Crissey: I looked in Graphic Standards, which is a book we typically use for these types of things and the 16 ft. is actually generous for that. They consider it a 45 degree angle, that you can get away with 13 ft. Because of the fact we have some experience with parking lots and malls, the standard they typically use is a 16 ft. because some jerk is going to go the wrong way--that allows them to get past each other.

Mr. Roman: We didn't check the asphalt. Mainly because we look at that as primarily dealing with a public roadway, not parking lots. As far as the lane width, the 20 ft. or 19 ft. 6 in. , is your graphic standard. When you have diagonal parking there, you still have to have the same depth of parking spaces.

Mr. Crissey: I think you can see we put the parking spots that were between the buildings, on the diagonal--that we should make that either one-way in or one-way out. It makes no sense to be one-way in because then everybody would have to circulate around the restaurant building to get back out again, since the lower driveway is one-way in. Maybe we should address the Onondaga County Planning Board letter.

Mr. Crissey continued:

I don't know where they got that information. I talked to the lady that signed it today and she said "I'm new here, I don't know". I have the letter here from Patty Williams.

Mr. Roman: The State DOT has already approved this.

Mr. Crissey: This is the plan with the driveways--they've approved the center driveway.

Mr. Palladino: So they approved 2 driveways ?

Mr. Crissey: Yes. And never did they have any requests from the neighbor next door. The neighbor next door gave a couple of names to the Planning Board and they're not interested in any cross easements--they don't want people parking on their property. That's what would happen if we didn't put the buffer up. I think that satisfies County Planning. I have no idea where they got that information from.

Mr. Roman: I looked at that on the referral and it almost looked like the original site plan referral that they issued. Since the original site plan submission, Peter has met with the State DOT and this driveway configuration is what they wanted to see. Right-in on the lower driveway and then full access on the other . No interconnect--the owner of the property to the north was animate--he wanted to make sure no one was parking in his lot. We've got a buffer that's been approved by the Planning Board that really cuts that off. In fact, they wanted us to make sure we shortened the space between the plantings to absolutely make sure no car could get thru there.

Mr. Stanton: So what you're maintaining is that the 2 resolutions from Onondaga County Planning Board--the first being that the final site plan has to show a single driveway on Route 11 and the southern most driveway on Route 11 closed to meet the requirements of NYSDOT--then the interconnect we just discussed. I heard us talk about the second condition but the first you believe is also incorrect ?

Mr. Roman: Yes, Peter has met with NYSDOT about the access--he has a letter-- we are ready to get the final permit.

Mr. Crissey: The drawing you're responding to--we left the middle existing driveway and made a couple parking spots in case we can't get the two-way on the other plan. They insisted that this be one-way and that the driveway be to their standards--so we did that.

Mr. Natali: The one-way--is 16 ft. We don't have in our Code any requirements for one-way. We don't address that in "Parking Lot". Is that consistent with other Towns Codes ?

Mr. Roman: As Peter said, it's actually wider than other Towns. The City of Syracuse is probably the most user of site plans with one-way lanes like this and that's probably around 14 ft. We specifically chose 16 ft. to make sure if 2 cars went the wrong way for some reason, they would have enough room to squeeze by without somebody having to back up. Invariably, that will happen. We will be signing and striping it.

Mr. Natali opened the Public Hearing at 7:15 P.M.

FOR: NONE

AGAINST: Theodore Martin, 104 Kopp Ave.

Mr. Martin: We never even knew this was going in. Nobody on the block knew this was going in. This backs right up to our homes--this facility--whatever it's going to be--a bar or nightclub. No one knew this was going in until this meeting. I don't know if you would like a night club going in your back yard. We've had no notification at all that this was going in.. We're like the forgotten block of the Town.. We don't get notification of anything.

Mr. Natali: Supposedly, everyone listed on that street was notified of tonight's Public Hearing.

Mr. Martin: We got 1 or 2 letters on the whole block about this meeting--nobody else knew about it.

Mr. Natali: Do you want to present your point of view at this point ?

Mr. Martin: My point of view is: this is Route 11. There's about 150 yards from the entrance of this facility to Bear Rd. We can hardly get out from our street onto Route 11 most of the time. The traffic is so bad--the traffic from Dunkin Donuts coming out and in and the rest of the traffic. And now you want to put a nightclub in where Sam Dell used to be. You've got traffic coming in from the restaurant that opened up across the street. It's too much traffic as it is now. Now you want to put something else there bringing in even more traffic. You want to close the lanes down--that doesn't make any sense.

Mr. Natali: Sir, that's not what we're here for. It is Commercial property. It is an approved type of business.

Mr. Martin: Commercial property, yes--with Sam Dell--with having a nightclub in your backyard . Do you want a nightclub in your backyard ?

Mr. Natali: Sir, that's not the question tonight. If you'd like, do you suggest we send out another notice ?

Mr. Martin: It's a little late for that now. It's already been approved by you guys.

Mr. Natali: We haven't approved it, Sir.

Mr. Martin: You gave them a Business License didn't you ?

Mr. Natali: No, that's not what this Board does. We're entertaining a Variance because they want to change the lane size. That's all this Board does--we're not the Planning Board or the Town Board.

Mr. Martin: How can they be doing all the work on the facility now ?

Mr. Natali: That's not something we address. We'll note your position. And my question was: Are you suggesting that we send a letter out and that you would have more people here ?

Mr. Martin: Yes, you'd have everybody on the block here.

Mr. Natali: OK, but that may not change the decision just because they object to that. You may have a seat now. I'd like to ask representation for Lucien's to come forward, Mr. Chatfield.

Mr. Chatfield, Attorney for Lucien's: I'd like to explain to the residents a little bit about the operation and some of the things the Planning Board has required that we have agreed to do to address some of the concerns. This nightclub is going to operate on weekends ONLY from 10 P.M. to 2 A.M.--Friday and Saturday--no Sunday. The facility on the side closest to Kopp Ave. residents, will be completely sound insulated. I understand the garage doors that are there are going to be removed and re-insulated/sound proofed. The parking lot was one of the concerns of the Planning Board and we have agreed that this parking lot will be monitored at all times that the nightclub open by on-site security personnel, to make sure there's no noise in the parking lot to disturb the neighbors. The Planning Board was quite concerned about making certain that we screened to the maximum extent possible to protect the adjacent neighbors to the south. Can anyone think of anything else addressing the concerns of the neighborhood ?

Mr. Crissey: I think it should be noted, the hours of the restaurant are from 11 A.M. to 10 P.M., so there's no overlap on the hours of operation.

Mr. Chatfield: You mean the restaurant operates at different hours than the nightclub. We suspect the nightclub will be the significant generator of traffic of the two--that would be from 10 P.M. to 2 A.M.. so it shouldn't aggravate the existing traffic situation on your street and Route 11. We realize that in peak hours, it's tough to get out of your intersection, to make a left turn southbound. Our use certainly won't be during the peak hours of traffic. The Planning Board has already required that we enter into an agreement, with the Planning Board, to the effect that if parking on our site becomes problematic, we have alternative land that we can utilize. We have several other alternative plans to alleviate any parking problems that may arise. Like I said, one of the things the Planning Board was concerned about was making certain that we monitored the parking lot so there wouldn't be any loud noises in the parking lot when people are coming in or leaving. We want to operate in such a way that there will be minimal disruption to the adjacent neighborhood.

Mrs. Holly Ranger, 6115 Griffin Dr. : We do come to the Planning Board meetings and we know about stuff that is going on in the Town. We were not able to go to the Fire House to go to the Public Hearing. I have a couple of questions. What is the maximum occupancy for this facility? Is it going to be serving alcohol ? I do express my opinion about the neighbors in the area. I think they're--it wasn't too long ago, I was an avid pub goer--people are going to be staying until 2 in the morning,

I think that's the question at hand. Is there going to be proper respect for the neighbors when all these kids are leaving at 2 A.M. ? These are my concerns.

Mr. Natali: I just want to point out to the two gentlemen, we have a list of the 7 residents that received all the information--so whether they're here or not, that's all we can do at this point.

Mr. Dean: We are obligated to send out notices to contiguous land owners and that's the list we sent out. They are the properties actually touching the site. If Mr. Martin lives on the other side of the street, he would not have received one, but we did send out the notices to the people on the list.

Mr. Chatfield: I can answer one or two of the lady's questions. Yes, alcohol will be served--it's a nightclub. We still have to return to the Planning Board. We do not have final approval from the Planning Board. They've worked their way thru most of the issues, however, they were jurisdictionally deprived of the ability to approve the site plan because our final layout needed this Variance. We'll be back on the Planning Board agenda, assuming this Board grants the Area Variance. The kinds of issues that are being expressed here this evening, I'm sure the Planning Board will be interested in hearing from the neighbors and to deal with those.

Mr. Dean to Mr.Chatfield: The occupancy has not been determined because we do not have a final lay-out that we can calculate the occupancy for at this time.

There being no other comments, Mr. Natali closed the Hearing at 7:29 P.M.

Mr. Stanton: How do we reconcile the Onondaga County Planning Board's decision , in light of the E-mail we were just presented, or can we ?

Mr. Kirwan: You can disregard the recommendation as long as you have a super majority here. Right, Scott ?

Mr. Chatfield: Yes--I would even go so far as to say because that recommendation is couched upon the consent of NYSDOT. Seeing that they have addressed it, I submit respectfully that we're not acting contrary to that recommendation, given that we're doing what the NYSDOT told us to do.

Mr. Stanton : I'd like to review the 5 factors we use when considering an Area Variance.

- 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. Currently this is a vacant site and we'll be occupying that . We should encourage any development that we can
- 2- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance ? Answer: No. The applicant has maintained and proved that wider lanes would eliminate parking to the point where the facility is unfeasible, from an economic standpoint.

3- Whether the requested Area Variance is substantial ? Answer: No. They're asking for a maximum 2 ft. 6 in. Variance on a 22 ft. two-way width, which allows two 9 ft. 9 in. wide lanes, one in either direction.

4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ? Answer: No. The lane widths that we're talking about here, with the amount of parking we have here, will have no appreciable impact.

5- Whether the alleged difficulty was self-created ? Answer: Yes, the applicant purchased the property knowing the size. However, this is not a deciding factor in this case.

Mr. Stanton made a motion, seconded by Mr. Palladino, to approve the Area Variance for Lucien's Entertainment Complex (Norther Properties, Inc.), 7800 Brewerton Rd. (Rt. 11) , to reduce the drive aisle width for two-way traffic from the required 22 ft. to 20 ft. and 19 ft. 6 in. as shown on the site plan dated 8/5/2010 by the Crissey Architectural Group.

Mr, Natali: I would like to add to that: That the one-way 16 ft. lanes would require a Variance, also, since we do not have a one-way width in our Code, I would like to add that this is also approved--that it will be no smaller than 16 ft. wide on your one-way lanes.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR KENNETH & DEBRA JONES, 6111 GRIFFIN DRIVE , TO ALLOW A RECENTLY CONSTRUCTED GARAGE TO REMAIN. THE GARAGE WAS CONSTRUCTED WITH A SIDE SETBACK OF 8.8 FT. WHERE 10 FEET IS REQUIRED.

Representative: Debra Jones, Owner

Mrs. Jones: Our garage is less than 10 ft. from the property line with the neighbors.

Mr. Natali: How did that happen ?

Mrs. Jones:

We didn't know that we should have survey stakes along the property line. The neighbors did call someone from Zoning and Planning before our contractor poured the concrete.

Mrs. Jones Continued:

I believe it was Wayne that came out and measured from the neighbor's existing fence line, which is not the property line and he told our contractor it was O.K. to go ahead and do this. I'm getting this from "say-so" but that's what my contractor told me. After the fact, we did have more survey pins and stakes put out. At that point in time, it was noted that the garage was less than 10 ft. from the property line and we had to wait to get our Certificate of Occupancy, which took a while, from our contractor. Once we did that, we filed for the Variance.

Mr. Stanton: So, we did have a Building Permit applied for and secured ?

Mrs. Jones: We had one Building Permit for the house and the garage, all inclusive.

Mr. Dean: She is correct. I went out there the day they were pouring the concrete and looked at it. We don't know where the exact property line is when we go out. I told the builder he better make sure he measured it. He measured it from the fence line. I don't know where the property line is. When I went out, I told him we were going to need an as-built and if there's a problem, they're going to need a Variance if it's less than 10 ft. That's what we did.

Mr. Bach: I just want to clarify--there wasn't a staked survey ahead of time for the garage--just an assumed line ?

Mrs. Jones: No, there wasn't a survey--yes, an assumed line. We own the property--we had a much smaller house and had it demolished--we have a new home there and while the foundation for the home was being poured, the foundation for the garage was being poured.

Mr. Bach: Is this the contractor's position on the cost of relocating this garage ?

Mrs. Jones: He did submit a quotation--it's attached there.

Mr. Bach: At his expense or yours ?

Mrs. Jones: Mine.

Mr. Palladino: So, no surveyor was used to build the garage ?

Mrs. Jones: No.

Mr. Palladino: No surveyor was used to build the house ?

Mr. Dean: Gary, when a Building Permit is applied for, we ask for a survey of the property showing the location of the buildings--whether they put them there or not--that's why when things are built we ask for an as-built survey showing exactly where they are so we can compare the two.

Mr. Palladino: Do we have a copy of the survey--the one with the Permit ?

Mr. Dean: Yes, we have it in the office.

Mr. Bach: That did show the garage location, Wayne ?

Mr. Dean: I'm not positive it did-- it should have. I know the house is on there because that's what the major building was.

Mr. Palladino: It's the back corner. The front of the garage is 10 ft. off.

Mrs. Jones: Not quite.

Mr. Stanton: 9 1/2 feet.

Mr. Palladino: Is the chain link fence that's there , on the property line ?

Mrs. Jones: It is now.

Mrs. Ranger: We moved it to the property line after the garage was built. We moved it over a little bit to make sure it stayed on our side of the stake.

Mr. Natali opened the Public Hearing at 7:40 P.M.

FOR: NONE

AGAINST: Holly Ranger, 6115 Griffin Dr.: My daughter and I were leaving to go to the Zoo one day and I noticed the contractor measuring off the fence, which was not on the property line at that time, to the footers. Before this, Deb and I have been on very cordial terms. I let them know that the fence was not the property line. They insidited that they were confident that the footers, where they were, were fine. At that called Wayne Dean at the office. I explained to him what was going on. I told him there was absolutely no way that those footers were at least 10 ft. from my property line. He insisted that it wasn't his job to go out and measure it. It was not brought up the next day when the inspection came and it was passed and the concrete was poured. Everything that I asked for--just take a look at it--there's no stakes up there for the properp property line. I know that if there's any thing in question, they can basically shut it down and nothing was done. Right now, we're furious. I've come to all the Board meetings and the Planning meetings and it's consistency, consistency. When you raise your voice and say something--and it wasn't done out of being a bad neighbor or whatever--I honestly didn't want the garage that close to my property line. The reason why I did it was because we just previously built a home in 2005, so we're very aware if the Zoning Codes and whatcan and can not be done. It took us a year to build our house because the Town and County are "sticklers" about where the house was going to be, where the septic system was going to be, they told us where we were going to build--we didn't tell them where we wanted it. That's what caught my eye--I knew this building had to be at least 10 ft. away from the property line. All my concerns were thrown out the window when that footer was poured the next day.

Mrs. Ranger continued:

I've been in contact with Codes Enforcement and with Wayne Dean since everything's been going on and they keep telling me I have to wait , the Jones' are going to have to apply for a Variance and I'd just have to live with it. That's where we are right now.

Mr.Natali: What would you suggest--what would be a compromise ?

Mrs. Ranger: Jeff and I have talked about what we want done. Right now, we're just frustrated with the whole way this was handled. I think we have been pretty good neighbors to the Jones' considering there are a couple of problems with damage to our personal property, on their part, that they have never even acknowledged. We have put up a privacy fence around our home and removed the chain link fence until we knew exactly what was going to happen to this garage . It's been a very hostile situation ever since. Issues with the contractor coming over and asking to use my electricity to build thier home and because I wouldn't let them, they threw generators up against my fence. I had to go a whole day without going in my home because of the fumes from that. I had to call the Fire Department. There have been 2 other occasions when the Police were called--one was because my dog supposedly bit her.Police said there was no dog bite, it was fabricated. My dog supposedly bit the contractor--I talked with the contractor and she said "absolutely not, I like little dogs. I actually was petting your dog". Then recently we had a problem--just antagonizing, spiteful things that are happening to us--it's become a hostile situation. I'm not against giving them the Variance, what I don't want is for them to park their vehicle between the garage and our fence. Actually, we might take that fence down and make it a wooden fence. I'm also requesting to put up an 8 ft. fence. When we have to apply for the Variance , we're asking for the Jones' to pay for it.

Jeff Ranger: I live next door to the Jones'. One of the biggest issues with the whole thing--we have some pictures of their back yard--there's a hot water tank that's been laying there since the construction started.

Mr. Natali:That's something that Mr. Dean's office would be glad to entertain.

Mr. Ranger: We've talked to Mr. Dean.

Mrs. Ranger: We've had no reply on that.

Mr. Natali to Mr. or Mrs. Ranger: Any other information you want to share with us ? Do you want to answer the question--I asked what would be a compromise, what would you like to see done ?

Mr. Ranger: It's a couple issues. I like the Jones'--we tried to help them out. It turned into a hostile situation. The Police have come. I'd just as soon leave the fence there and try to make peace. I think it's ludicrous--the expense on their part to move this thing a foot or foot and a half. I hope the Town would learn from this situation. When something is not to Code, maybe stop building right there and address the situation. They didn't have a survey to begin with and they didn't know where their property actually was.

Mr. Ranger continued:
Right there is a red flag to say "do not move forward".

Mrs. Ranger: There's a long line of arguments between the 2 families that date back 40 or 50 years.

Mr. Jones: We were told where to put the house--but to be a foot and a half off--and to say this is my property line--it kind of blew my mind. I think the Town should have stopped it right there and saved a lot of hard feelings.

The Hearing was closed at 7:45 P.M.

Mr. Natali reviewed the following 5 factors used when considering approval of a Variance.:

1- Will it change the character of the neighborhood? Answer: Not really. We have all residential homes there. This is a detached garage. Nice setting with a large lot. We're only talking about a 1 ft. 2 in. difference.

2- Is the Variance excessive ? Answer: no, it's not an excessive Variance.

3- Whether the requested Area Variance is substantial ? Answer: No. A Variance of 1.2 ft. is not substantial in this situation. The Ranger property is in excess of 1 acre.

4- Is there any physical attributes that would change the drainage or anything of that nature? Answer: I didn't see anything like that that would have caused any problems or snow run off.

5- Was it self-created ? Answer: Yes, it was self-created. Whether you put the blame on the contractor or not, the homeowner ultimately has the result. I see his estimate to move it, approximately \$4300. Since the neighbors really don't want it moved, that's an expense you don't have to bear.

Mr. Natali made the motion, seconded by Mr. Winters, to approve the Area Variance for Kenneth and Debra Jones, 6111 Griffin Dr. , to allow a recently constructed garage to remain. The garage was constructed with a side setback of 8.8 ft. where where 10 ft. is required.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR STEVEN STOWELL,5439 BALDWIN ST., TO CONSTRUCT AN ADDITION TO A RESIDENCE ON A NON-CONFORMING LOT. THE REQUIRED SETBACKS FOR THE EXISTING HOUSE AND THE ADDITION ARE ALSO NON - CONFORMING. THE COVERAGE OF 25 % IS ALSO EXCEEDED.

Representative: Steven Stowell, Owner

Mr. Stowell: My wife and I would like to put an addition on our existing lot. The house was built in the 1890's so there's some problems with the property lines. There's an existing addition on the back of the house, as you can see on the survey. We're actually taking that off. That's out 9 feet now. There used to be a deck behind it, which was another 15 ft. past that addition. We want to take that addition down--go the width of the house and come back 22 ft. We're not actually going any closer to the property line--we're just going straight back. When we first filed the application for the Permit, we went off an old survey map that we didn't know had to be updated. I went and got it updated--I met all the standards they needed. We're just looking for approval to build straight back so we can put our bedroom downstairs and the teenage kids upstairs. When she originally bought the house, there was the little addition on the back and a big deck. We applied for the Permit. They didn't see a problem at the time so we asked if we could start demoing stuff --we got the approval--we took the deck down--I tore the addition down--now I'm sitting there with a big yard spot I want to build back on.

Mr. Palladino: Do you have a copy of your survey ?

Mr. Stowell: I have a copy of the survey I just had done.

Mr. Palladino: How wide is the front porch ?

Mr. Stowell: I think it's only about 4 ft. wide.

Mr. Palladino: By what ?--4 ft. by what ?

Mr. Stowell: The whole length of the house.

Mr. Palladino: It says 52 ft. How wide is your lot ?

Mr. Stanton: I think the lot is 52 ft. wide.

Mr. Palladino: Is it 5 ft. 2 in. ?

Mr. Stowell: No, the house is 32 ft. wide.

Mr. Dean: 52 ft. is the front dimension of the lot.

Mr. Palladino: I'm confused.

Mr. Stowell: That's a good catch. I've been a contractor for years and I didn't catch that. When we had the new survey done, we found the stakes--I went out with the surveyor. I put a string line across from stake to stake, down the side where we're having the problem and after I staked out where the addition is going to be, actually the corner of the addition is going to be 5 ft. 4 in. from the property line. I was told I need 6 ft.

Mr. Stanton: That's where I'm a little confused when I look at the survey, to the back corner of the existing house, it seems to show 4 ft. 6 in. But then there are 2 hand written measurements--one 5 ft. 5 in. and the other 5 ft. 2 in.--those came from your string line?

Mr. Stowell: Yes after they did the survey and they left, I went out with my step son. We actually took a line, strung it from stake to stake and I laid out where the new addition is going to be and that's the measurements I came up with. I guess there were some people over there today taking pictures--the string is still up.

Several Board members said yes, they had been there and took pictures.

Mr. Stanton: My concern with the dimensions you just pulled, now your surveyor maintains that is 4 ft. 6 in. You may run into a situation where that 5.ft. 5.in. offset is inside the lines of your house, based on what your surveyor is saying. This is just a suggestion, if we did something, it probably should be based on the actual dimensions called out on the survey.

Mr. Bach: That side of the house actually looks like it fits at a slight angle on that lot ?

Mr. Stowell: It's not that much of an angle.

Mr. Stanton: It shows it goes from 5.5 ft to 4. 6 ft.

Mr. Bach: So if you extend the house back 6 or 8 ft. , that could be a slight problem. It looks like the addition is going to be on the property line rather than aligning up with the existing house.

Mrs. Stowell: The deck we had on there was actually going past...

Mr. Stowell: It was actually the whole width of the back of the house--all the way straight back.

Mrs. Stowell: We're not putting another deck on.

Mr. Bach: I understand but if you look at how the house sits on the lot--if it goes back straight, it might cause a problem to the back of the addition, if it gets closer to the property line than is specified here.

Mr. Stanton: If they run it parallel to the existing structure, we'd have about 3.7 ft.

Mr. Bach: The house is sitting a little bit of an angle now. Keep that in mind, with the addition going straight back.

Mr. Winters: Is this a 2 story addition or one ?

Mr. Stowell: Part of it is going to be 2 story--the first 6 ft. of it. I just want to extend the kid's upper rooms out because right now they have slanted ceilings--I have a 6 ft. 2 in. boy.

Mr. Winters: What is the deck--it refers to a deck on this ?

Mr. Stowell: That was an old deck we tore down.

Mrs. Stowell: There used to be a pool there. The pool was not there when I bought the house. You could see where the deck had been around the pool.

Mr. Stowell: We're not looking to degrade the neighborhood. We just want to improve the house we have--upgrade it--make better living conditions for everybody.

Mr. Palladino: Have there been any water problems--standing water--snow melt--any problems ?

Mr. Stowell: No.

Mr. Palladino: You're not shedding water on your neighbor's property ?

Mr. Stowell: no.

Mr. Palladino: You're talking about basically doubling the size of your house. You've increased the footprint and exceeded what is allowed by Code for area coverage. That's why I asked you if you have any water problems now.

Mr. Bach: That area is pretty tight with houses anyway. They're all quite large in there for the size of the lots, if you look at the adjoining houses.

Mr. Stowell: There's a big barn right behind our house that looks like it should come down.

Mr. Natali: Would you consider making a smaller addition ?

Mr. Stowell: I could, but then I'd have to redraw all my prints. Unless you'll allow me to do a change order on the prints without having them redone again. I designed my own prints.

Mr. Palladino: Your front porch isn't covered is it ?

Mr. Stowell: It's covered but not closed in.

Mr. Natali opened the Public Hearing at 8:00 P.M.

FOR: Deborah Frysinger and Theodore Popovici submitted a letter to the Board stating they are in favor of the Variance. The letter was placed on file in the Zoning Office

AGAINST: NONE

The Hearing was closed at 8:01 P.M.

Motion was made by Mr. Palladino, seconded by Mr. Stanton, to approve the Area Variance for Steven Stowell, 5439 Baldwin St., to construct an addition to a residence on a non-conforming lot. The required setbacks for the existing house and the addition are also non-conforming. The coverage of 25 % is also exceeded.

Mr. Palladino: There are 6 Variances required for this property:

- 1- Lot size: Your lot area should be 10,000 sq. ft. Your lot is short 4,545.2 sq.ft
- 2-Building line: For your place, it should be 75 ft. You have 52 ft. , so you're 23 ft. short.
- 3- Lot depth: The Code requires 125 ft. You have 104.9 ft.,a shortage of 20.1 ft.
- 4- Front setback: We need a minimum of 30 ft. I believe you only have 1 ft., a shortage of 29 ft.
- 5- Side setback: The minimum any one side can be is 6 ft. I used the survey you submitted with the Surveyor's figures. You're tightest spot is 4.6 ft. , a shortage of 1.4 ft.
- 6- Lot coverage: The Code allows 25 % coverage. Based on the 25%, the maximum allowable coverage would have been 1,363.7 ft., with the addition as you outlined it, you're looking at a total coverage of 1,616.5 ft. You've exceeded the 25 %. You are now at 29.6%.

Mr. Stowell asked what the 1 ft. setback was that you were talking about ?

Mr. Stanton: It's the road line to the front of your porch.

Mr. Stowell: Our house sits about 6 ft. off the road.

Mr. Stanton: From the paved portion of the street, however, we also have to take into account the right-of-way, which is actually the building line--that's what we have to measure from.

Mr. Palladino: So the street line, which may or may not be paved, you're 1 ft. off of that. I will now review the 5 factors used when considering a Variance:

- 1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties? Answer: No, I don't believe so. You're adding a substantial amount of square footage . When I asked about water or drainage problems before, these are things that indirectly indicate whether or not there would be a detriment to nearby properties. I don't believe so. To support my belief, I'd like to direct attention to the Onondaga County Planning Board's letter dated 9/8/10, where they see no problems with you putting up your addition, as indicated on the survey.
- 2- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance ? Answer: No. Based on 5 out of the 6 Variances that are being requested here, are out of your control. They are in fact a result of the bulk regulations that have changed since the house was built in 1890. The one you do have control over, the County has no problem with it exceeding the 25 % coverage, so I guess I don't either.

Mr. Palladino continued

3- Whether the requested Variance is substantial ? Answer: No. I know it seems so because I went thru 6 of them, but, no.

4-Whether the requested Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Answer: No. The meeting was open to the public for someone to speak against it--no one came forward. We received a letter earlier today from a neighbor at 5441 Baldwin St., that said they're in favor of it.

5- Whether the alleged difficulty was self-created ? Answer: Yes, sure it was--but for a few feet, I can't stand in front of that.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR RHONDA JERRETT, 8520 BELNOR DR., TO CONSTRUCT AN ADDITION TO AN EXISTING RESIDENCE ON A NON-CONFORMING LOT. THE LOT WIDTH IS 62 FT. WHERE 85 FT. IS REQUIRED.

Representative : Rhonda Jerrett, Owner

Ms. Jerrett: I'd like to build a 30 ft. by 20 ft. addition to the back of my house. I have 600 sq. ft.--I bought it 15 years ago when it was just myself. Now I have a 2 year old , a 7 year old and a husband and we live in 600 sq.ft. We would like another 600 sq. ft. right off the back, without going out either side.

Mr. Stanton: The only thing I can see here that's within your control, due to the size of the lot, is the location of what is called a one story building on the back of the lot, it's an existing 1 car garage that's going to get converted over into --?

Ms. Jerrett: No, it's going to stay.

Mr. Natali: It's a Beauty Shop right now.

Mr. Stanton: What's confusing is the survey shows it is 8.6 ft. and then the drawing you provided shows it as 8.4 ft The drawing you submitted that shows the proposed construction--the only thing I'm asking is, what is shown as the existing 1 car garage has a 8.4 ft. offset. On the survey, it's shown as 8.6 ft. Are you planning on altering that ?

Ms. Jerrett: No.

Mr. Palladino: Who made this drawing?

Ms. Jerrett: A friend of mine.

Mr. Natali: To change it from 32 ft. to 30 ft., if you notice, your drawing has it 20 ft. by 32 ft.

Ms Jerrett: No, I want 30 ft.

Mr. Bach: The drawing is right at 32 ft. ?

Ms Jerrett: Yes, can I keep it at that for now ? I didn't know he did that.

Mr. Bach: We do have 32 ft.

Mrs Jarrett: I'd like to keep it at that for now.

Mr. Pallidino: Just curious, do you know when the house was built ?

Ms Jerrett: I think it was about 1954.

Mr. Natali: It looks like she meets all the setbacks.

Mr. Natali opened the Public Hearing at 8:15 P.M.

FOR: Kenneth Benn, 8518 Belnor Dr., next door neighbor, spoke in favor of the Variance. Edwin Bobrycki , 8524 Belnor Dr. neighbor, spoke in favor or the Variance.

AGAINST: NONE

Hearing was closed at 8:16 P.M.

Mr. Stanton reviewed the 5 factors used when considering a Variance:

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, this mimics similar construction within the neighborhood.

2-Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance ? Answer: o, due to the demand placed by the number of people living in the house, you need more room. The lot is what it is and you need the Variance to do that.

3-Whether the requested Area Variance is substantial? Answer: No.

4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood ? Answer: No. I cite again the similar construction in the neighborhood.

5-Whether the alleged difficulty was self-created? Answer: Yes, just because the property was purchased knowing that the width and size is what it is. However , that's not a deciding factor.

Motion was made by Mr. Stanton, seconded by Mr. Natali, to approve the Area Variance for Rhonda Jerrett, 8520 Belnor Dr., to construct an addition to an existing residence on a non-conforming lot. The lot area is 14, 440.8 sq. ft. where 15,000 sq. ft. is required. The lot width is 62 ft. where 85 ft. is required and the existing side setback is 8.6 ft. where 10 ft. is required, in an R--15 Zone. I'd also like to make reference to the Onondaga ounty Planning Board decision. The first being that the applicant and the Town shall determine if the proposed building lies in the special Flood Hazard Area. I don't believe that's the case. And the second one is. unauthorized alteration or addition to a survey map with a licensed surveyor seal is a violation of State Education Law. I have not seen any evidence that this survey was altered.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR PAMELA DEROCHER, 5943 LAKESHORE ROAD, TO CONSTRUCT THREE ADDITIONS TO AN EXISTING HOUSE ON A NON-CONFORMING LOT. THE LOT IS LESS THAN 1/2 ACRE WHERE 1 ACRE IS REQUIRED. THE LOT DEPTH OF 175.25 FT. IS LESS THAN THE REQUIRED DEPTH OF 200 FT.

Representative: Pamela Derocher, Owner.

Ms. Derocher: I just want to say, I walked into the building 2 weeks ago--thought I'd give them \$15 or \$20 and they'd give me a sticker to put in my garage window and I can start building. So, this has been enlightening to me and I'm sure it is for the kids here. I was given very specific directions by the Zoning Office--they gave me paperwork --told me what to do--how to do it. If I had questions, they were quick to answer them for me and although I don't like paying the money, it's been a good process. I have a piece of paper--the survey--that says I have 22 ft. on one side of my house and 20 ft. on the other--gave me 42 ft. Thanks to the Town, I know I have to leave 30 ft. of that vacant. So, I want to put a garage on what would be no more than 12 ft. I brought my neighbor with me--the garage is between me and her. My Variance is because I'm not Agricultural anymore, right ?

Mr. Natali: No , you will always be Agricultural. It's just that the size of the lot--
Agricultural requires an acre and you only have a half acre. That's one of the Variances.

Ms. Derocher: I guess it was what the County said that was confusing.

Mr. Stanton: Unfortunately, we can't address a Zoning change.

Mr. Natali: You really don't need it in this case. Basically, she's following all the setbacks
so the only thing we have to address is the lot size and the depth of the lot. Everything
else is in order.

Mr. Stanton: For the other Board members, the one thing that may be confusing is that
this survey is not to scale so a lot of the dimensions--I had to figure them out.

Mr. Natali: Right--the west side is actually 12 ft. 2 in from the side. You see where the
garage is ? It's actually 12.2 ft.

Ms. Derocher: It isn't 22 ft.

Mr. Palladino: No. The one side is not--the other side is, actually.

Ms. Derocher: Doesn't it say 22 ft.

Mr. Natali: No. That's the porch size. This is between the side of your garage and the
property to the west.

Ms. Derocher: The survey doesn't show it's 22 ft. ?

Mr. Palladino: It might be.

Mr. Stanton: Yes, that would be to the existing house but the proposed garage is
12 ft. 2 in .

Mr. Natali: I came up with 87.8 ft. across the front.

Mr. Stanton: I can verify that.

Mr. Natali opened the Public Hearing at 8:23 P.M.

FOR: Cora Brown, 5941 Lakeshore Rd. I have no objections. I'm in favor.

AGAINST: NONE

The Hearing was closed at 8:24 P.M.

Mr. Natali reviewed the 5 factors to be considered for an Area Variance:

1- Will it change the character of the neighborhood ? Answer: No, because that's what you have--all existing residential homes on that side of the road. This is going to meet all the setbacks

2- Whether it can be achieved by any other means ? Answer: No, the size of the lot is the size of the lot. She can't buy anymore.

3- Whether this Variance is substantial? Answer: You might consider a half acre substantial. However, there's nothing behind her property where other homes could be built.

4- Will it change the physical character of the environment? Answer: No, it won't add any additional run-off of any type.

5- Is it self-created ? Answer: Yes, it was self-created when she bought the property. She knew it was only a half acre and that the depth did not meet the 200 ft. requirement. This , in it's itself. is not enough to reject this request.

Motion was made by Mr. Natali, seconded by Mr. Bach, to approve the Area Variance for Pamela Derocher, 5943 Lakeshore Rd., to construct a garage onto an existing house on a non-conforming lot. The lot is less than a half acre where one acre is required. The lot depth of 175.25 feet is less than the required depth of 200 ft.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

Mr. Larroca was not in attendance.

Mr. Natali deferred this matter until the next meeting.

Motion was made and unanimously approved to adjourn the meeting at 8:27 P.M.

After the meeting was adjourned, Chairman Gary Natali stated he would be out of Town for the next month's meeting. Chuck Stanton will be Acting Chairman. Mr. Palladino and Mr. Bach will be out of Town, also. It will be imperative that the Board members be in attendance to maintain a quorum of 3 for the October meeting.

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 September 13, 2010 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

September 24, 2010