

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: JUNE 6, 2011
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday June 6, 2011, at 7:00 P.M., at Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	John Winters:	Board Chairman
	Donald Snyder:	Board Member
	Gary Palladino:	Board Member
	Gary Natali:	Board Member
	Mark Rabbia:	Board Member

Absent:	Wayne Dean:	Dir. of Planning and Development
	Terry Kirwan Jr.:	Attorney

Others Present:	Steve Procopio:	Codes Enforcement
	Donald Bloss:	AdHoc Board Member
	Jessica Zambrano:	Town Board Liaison
	Nancy G. Morgan:	Secretary

In as much as there was a quorum present, the meeting opened at 7:00 P.M.

Mr. Winters 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. Snyder, to approve the minutes of the May 2, 2011 Zoning Board of Appeals meeting. There were no additions or corrections.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Motion was made by Mr. Winters, seconded by Mr. Rabbia, that all actions taken tonight are Type II Unlisted Actions under the New York State Environmental Quality Review Act with a negative impact on the environment, unless otherwise indicated.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

We have Proof of Posting for all cases on tonight's agenda on file in the Zoning Office.

Mr. Winters 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 MAY 2, 2011 FOR KEVIN DAVIDSON, WHITING ROAD (TAX MAP #88.-01-01.3) TO CONSTRUCT A POLE BARN ON A PARCEL ZONED FOR AGRICULTURE USE. THE PARCEL IS LESS THAN 1 ACRE WHERE 2 ACRES ARE REQUIRED FOR NON-AGRICULTURE USE AND THE SIDE SETBACK IS 15 FEET WHERE 50 FEET IS REQUIRED,

Representative: Kevin Davidson, Builder for Owner, who was not in attendance.

Mr. Winters: This case was deferred from the May meeting. The Board received a new, revised drawing today. The one you have marked "barn" is really a field, right ?

Mr. Davidson: Originally, there was a building there--it fell down.

Mr. Winters: There was no pad or anything there ?

Mr. Davidson: No, nothing left there.

Mr. Rabbia: At the conclusion of last month's meeting, you were talking about the property owner of the adjoining property selling his property. Did anything happen about that ?

Mr. Davidson: I guess not.

Mr. Winters: One of the concerns from the adjoining property owner was the site lines from the deck in the back. Is it possible to move it closer to Whiting Rd. ?

Mr. Davidson: Yes, it's 50 ft. off of South Bay Rd. anyway. Their house is 90 ft. off Whiting Rd. It might make it worse--I don't know.

Mr. Winters: I want to make sure it's still an option..

Mr. Davidson: The Town has it appraised for \$40,000.

Mr. Rabbia: What is he going to store in the barn ? Personal or business ?

Mr. Davidson: What he has there now is personal. He has no intention of running a business out of there. I doubt he's going to put a business in there or he'd be here.

Mr. Palladino: What does he store in the garage down the road ?

Mr. Davidson: A bunch of old cars he fixed up. It looks pretty nice on the outside--he's kind of a "neat freak".

Mr. Rabbia: Is he going to run utilities to it ?

Mr. Davidson: Yes, I guess power and water.

Mr. Snyder: I'm just concerned for the use and how that might effect the next door neighbor Jason and the neighbor across the street.

Mr. Davidson: You mean like Commercial or something ?

Mr. Snyder: Well, if all of a sudden it's a speed shop for his personal race car, that would disturb me if I was a nearby landowner.

Mr. Davidson: If I thought it was going to be anything like that, I wouldn't be here. I have a very good relationship with the Town of Cicero. There's no way I'm going to jeopardize that for one little job.

Mr. Winters to Mr. Procopio: Steve, are there Zoning regulations that protect the adjoining property owners from noise, etc.

Mr. Procopio: There are Noise Ordinances regarding race cars, as Mr. Snyder just mentioned.

Mr. Winters: Like noise after certain hours ?

Mr. Procopio: The Noise Ordinance is new. I'd have to look at it. They've enumerated prohibited noise--there's nuisance noise. There's several criteria. You could have a call for a noise complaint. Either someone from our office or a Police Officer will show up.

Mr. Snyder: So , if we were to ask the adjoining property owner where she preferred to have the building--closer to Whiting Rd. or South Bay Rd.--that would not bother you ?

Mr. Davidson: No.

Mr. Snyder: If that's OK with you John (Winters) , I'd like to have that information.

Mr. Rabbia: The owner still owns this property ? How long has he owned it ?

Mr. Davidson: About 2 years--not long.

Mr. Natali: As I read the minutes, we were very concerned that the owner isn't here--you're answering questions for him. Is there any particular reason why he is not here ?

Mr. Davidson: He didn't think it would make any difference.

Mr. Natali: We made it clear that we would like him to tell us what he's going to use the building for, so there's no misunderstanding and we would have a record of that. The other thing is, we talked about the size. A private garage is allowed in Agriculture. But a pole barn the size you have asked for , is extreme. We talked about size, so the setbacks wouldn't be so great--which are 50 ft. on each--when you only have 100 ft. to start with. What kind of size can we look at ? By Code, we only have to allow what was there before.

Mr. Davidson: I understand why I'm here.

Mr. Natali: If the Owner was here, we could negotiate the size, which would be helpful.

Mr. Davidson: That's why he was leaving that up to me.

Mr. Natali: OK, what's the smallest you would consider ?

Mr. Davidson: I guess I don't have too many options--I need the 30 ft. wide--you kind of lose what you can get in it.

Mr. Natali: It's not like he needs a garage because he has a house there or he has a farm and needs a place to store his tractors--which is the theme of giving you a private garage in Agriculture, not to have a large pole barn.

Mr. Natali continued:

And he already has one so it's not like he needs a lot of these around Town.

Mr. Davidson: He's going to sell the one he already has--someone wants to buy it.

Mr. Natali So, you would consider 30 ft. ?

Mr. Davidsoon: Yes.

Mr. Natali: 30 ft. by what ?

Mr. Davidson: 40 or 48 feet.

Mr. Natali: You also stated in last month's minutes that there was a driveway off South Bay Rd. I walked the property today. I couldn't find any semblance of a driveway off So. Bay Rd. I tried to find the original foundation. Going by the survey, I could envision in my mind where it was but if you look on the ground--you did a great job cleaning it up. I just want you to know that by Code, we could allow you exactly what was there, without a Variance and without setting a precedent. Just so you know, the Owner being here would have satisfied a lot of my questions. If you think you could go with the 30 ft. by 40 ft. , that might be a consideration.

Mr. Snyder : Is it possible for you to call the Owner and have him come into this meeting before it's over ?

Mr. Davidson: Yes.

Mr. Palladino: You can answer that there's not going to be storage outside the building, it's going to be neat and clean and it looks like he has in the past but that's your answer, not his. There's no commitment on his part to live up to your answers.

Mr. Davidson: I'm not going to make enough money off this building to jeopardize my reputation with the Town of Cicero.

Mr. Palladino: We understand you but in our position, he could easily say "I never intended --my intention was to use this for a working on race cars or engines"--then we would have a noise problem--even if it's during the acceptable time. You still don't want to be out in the countryside and hear noises.

Mr. Snyder: The other part of that is the height situation. I wrote 16 ft. down. That was eaves height wasn't it ?

Mr. Davidson: Yes. 30 ft. X 40 ft. would be 12 ft. (eaves height)

Motion was made by Mr. Winters, seconded by Mr. Snyder, to defer this case until later in this meeting.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Davidson left the room to go call the Owner.

AREA VARIANCE FOR CARMEN PERROTTI, 6591 LAKESHORE ROAD TO CONSTRUCT A RESIDENTIAL ADDITION IN AN R-10 ZONE. THE LOT IS 50 FEET WIDE WHERE 75 FEET IS REQUIRED. THE MINIMUM SIDE YARD SETBACK IS 2.7 FT. WHERE 6 FT. IS REQUIRED. THE TOTAL SIDE YARD SETBACK IS 10.9 FT. WHERE 15 FT. IS REQUIRED.

Representatives: Jeff Robinson, Builder doing the renovation.
Sheila Perrotti, Owner

Mr. Robinson: We're putting an addition on to an older home and renovating it at the same time.

Mr. Winters: I think "renovation" is a kind word for what you are doing. Is it the intent to put a full second floor on the building?

Mr. Robinson: No, it's actually to remove a portion of the second floor that was improperly constructed. The house is currently a "Cape"--the new house will be a Cape also. In some point in time the center portion of the house had 7 exterior porches. They have all been closed and have been made living space. At one point in time, the side facing the lake had a 2nd story built over the top of an exterior porch, which was caving in. That has been removed as of Friday. The Cape section will be rebuilt as it was pre-existing. The new addition doesn't have a 2nd story.

Mr. Rabbia: You aren't going any closer to the property line with the re-construction than you are today--you're staying exactly in the confines--east to west ?

Mr. Robinson: The current building is not changing at all--we're putting an addition on the end.

Mr. Rabbia: So, the east/west sideline dimensions don't change ?

Mr. Robinson: That's correct.

Mr. Procopio: The new covered porch is going to be 1 foot closer to the east property line. The east side has probably been removed already. The new entry is about 5 ft.

Mr. Robinson: Yes, it has.

Mr. Natali: You're kind of missing a line on here--the outside wall. It is going to be the same width as the original building ?

Mr. Robinson: That's correct.

Mr. Procopio to Mr. Rabbia: The building is 13.2 ft. to the east property line. They didn't give us a setback for that pre-existing deck. You can see a connection there--that will be 5 ft.

Mr. Rabbia: The deck that was there is close to 5 ft. The new deck looks like it will be slightly more--probably 7 ft.

Mr. Natali: That's where the sliding glass door is coming out to the deck, right ? Is that going to be enclosed ?

Mr. Robinson: No.

Mr. Natali: Were those footers already there ?

Mr. Robinson: There's some new footers there as of Friday and some footers that are pre-existing.

Mr. Rabbia: We're missing 1 dimension, with absolute certainty. It's the dimension from the east property line to the covered porch.

Mr. Palladino: I see the west one is 2.7 ft. but I can't make out the east one at all.

Mr. Procopio: I believe it's going to be 8.2 ft.

The Board discussed the drawing's measurements.

Mr. Snyder: On the Oneida Lake side, the numbers are OK.

Mr. Rabbia: He should have plenty to the lake, right ?

Mr. Snyder: Yes. He's got almost 50 feet.

Mr. Rabbia: We just don't have a side dimension.

Mr. Natali: Do you know what size that porch is going to be ?

Mr. Procopio: My recollection is that it's 5 ft. to the existing house, to the columns--8.2 ft.

Mr. Winters opened the Public Hearing at 7:24 P.M.

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 7:25 P.M.

Mr. Winters made note that the Onondage County Planning Board recommended us to maintain the local Flood Ordinance requirements.

Motion was made by Mr. Winters , to approve the project as described. The Variances are not substantial. They've been discussed in the minutes.

Ms Morgan asked if the Board was going to go thru the 5 factors.

Mr. Winters: I think they've been discussed. You've got them in the minutes.

Mr. Snyder seconded the motion.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Winters re-convened Mr. Kevin Davidson's case.

Mr. Davidson: The Owner, Dave, is in Lakeport and can not come to the meeting. I did ask him if it was going to be anything other than personal storage. The building doesn't have to be 16 ft. tall. He's agreeable with a 30 ft. X 40 ft. building at 14 ft. or 12 ft. tall. He could go to jail if he lied to us.

Mr. Rabbia: The bigger issue for me is, when we look to grant an Area Variance, we have 5 factors we look at. He has issues with 4 out of 5 of them. You could argue about the change in the neighborhood it's going to create. You have residents next door and putting a storage barn next to a residence is less than desirable. Can he achieve his goals--which doesn't involve the Area Variance ? You could argue , he probably could. Is it substantial ? It probably is. Has it been self-created ? Yes, you can't argue with that. There's some issues we have to consider as a Board, when we talk to the Owner.

Mr. Natali: Mr. Chairman, I would prefer to discuss these issues with the Owner. I think it would be worth waiting another month.

Mr. Winters re-opened the Public Hearing at 7:29 P.M.

FOR: NONE
AGAINST: Karen Juszek, Owner of neighboring property.
James Dooley, Owner's companion.

Mr. Dooley went forward to discuss the drawings, property and drainage with the Board.

Mr. Dooley: Basically, there was an existing barn. An individual owned all 3 of these properties, he still has the one on the corner. He sold one to Karen and this one he sold to Mr. Skybor. The existing driveway is on Karen's property.

Mr. Snyder: Maybe that's why we couldn't find it. We looked on the property, as we knew it. That's why we said there was no driveway, as far as we were concerned, on South Bay Rd.

Ms. Juszek pointed out, this was the barn and this was the driveway over on to my property.

Mr. Dooley: One of our concerns with where he wants to put this pole barn--if you noticed the deck--that's where we spend a lot of time. If he did put something there--if it was all the way toward Whiting Rd. --that would be more acceptable than in the back yard.

Mr. Snyder: We're considering a smaller footprint than what you see drawn there.

Mr. Dooley: The other problem we have is, there's no drainage. One of these tree lines, along the fence, when it rains--there's 3 or 4 inches of water in the area for a couple of weeks. There's no ditches--no way for it to run off. It just sits there until it soaks into the ground.

Mr. Winters: Do you feel there's drainage coming from that property on to yours ?

Mr. Dooley: His property is a little lower. The whole area is low right there. If you could fill that area in with stone or something to help the drainage. It's going to be a metal building in a rural area-- if he puts it there in the back where he plans.

Mr. Rabbia and Mr. Snyder asked Mr. Dooley : If you had your druthers, where would you want it located ?

Mr. Dooley: Closer to Whiting Rd.

Mr. Snyder to Mr. Davidson: I believe you indicated that if it was closer to Whiting Rd. side, that would not be a problem for the owner ?

Mr. Davidson: No problem.

Mr. Snyder: Would you consider that ? You said the owner agreed to 30 ft X 40 ft.at 12 ft, tall not 16 ft. .

Mr. Palladino: That's a little better--that's what we're taking it at. Otherwise, this might have gone thru Agricultural and we've got houses and now we're putting something in there that's out of that element there. We're trying to make it align with everything, if possible. That's why we're taking this time. Not only taking a look at drainage and whatever effects it may have, we want to look at it esthetically, too.

Mr. Snyder to Mr. Procopio: When he comes in for a Permit to put this building up, what do we look at from a Code standpoint, as it relates to the property and the drainage ? Do we look for a solution for drainage--do we see if the water flows one way or the other--do we have to have them say which way the water will go ?

Mr. Procopio: Not typically, just for the application to build the structure. When you construct it, you want to look for drainage away from the building. If there's pre-existing condition on the lot, I'm not aware of it at this point--if there's an issue we should look at it. Are you saying the water from this lot ends up on your property ?

Mr. Dooley: Well, there's some standing water there now--in the spring and in the fall.

Mr. Snyder: If the building were to be on the Whiting Rd. end of the lot, you would consider that to be where the driveway would come in ?

Mr. Davidson: Yes, the County would have to give approval for that.

Mr. Snyder: I'm not sure if Whiting is County or Town. Town isn't it ? That would minimize your drainage problem is we had the building close to Whiting Rd. and had the hard surface driveway at Whiting Rd., then most of the lot would be, in fact, grass-- something that could use the water.

Mr. Davidson spoke but it was inaudible on the recording.

Mr. Winters: If he agrees to drain the lot, then it becomes more of a drainage issue for the Town.

Mr. Snyder: We're getting vibes that you need to be at the microphone, Mr. Davidson, because others can't hear what you're saying.

Ms. Juszek: Is he planning to put in a big driveway and parking lot with this ? Does he have to present that to the Board before he starts the building ? He has a driveway around his other building.

Mr. Snyder: Those are the questions we want to ask the owner.

Mr. Dooley: What happens 5 years down the line if he decides to sell it ?

Mr. Snyder: They have to go by the Code. They can't just move in there and decide to open a "Speed Shop", unless the Town changes the Codes or Zoning. I don't think we're about to do that. Some of the questions you have is why we said we would like to have the owner here to answer all our questions.

Mr. Snyder continued:

Then we can get it on the record--what he 's going to do about the driveway and hard surface. If the whole lot is hard surface, then we'd have a major problem because everybody has a drainage problem.

Sam Tassone, Farmland owner, Whiting Rd.: I'm concerned about the size of the building. I'm south of this property. Drainage isn't a problem for us because we have drainage ditches on both sides that we maintain. But the size of the building and the size of the lot--it's quite large. The offsets will be quite close to our property.

Mr. Snyder: Did you have less concern when you heard we might be able or would consider a 30 ft. X 40 ft. building as opposed to a 40 ft. X 60 ft. building ? Does that set better with you ?

Mr. Tassone: There was just a small barn there before, actually a shed. That didn't bother us because it was only 8 or 9 ft. high. The new one will be 12 or 14 ft. at the eaves ? That's my concern.

Mr. Snyder: 12 ft. at the eaves right now.

Mr. Natali: This lot flows south so if there's not a swale, you're going to get water running into your property. You had a guy there today that was filling in where you have water.

Mt. Tassone: The problem there is, we have bedrock 6 inches below the ground. There's no way for the water to perk down. So, any water running off that building is going to run on to our property--that's going to be a problem.

Mr. Snyder to Mr. Procopio: If I build a building, am I required to handle the water that comes off my building?

Mr. Procopio: Yes.

Mr. Snyder: Might I have to build--God forbid--a retention basin ?

Mr. Procopio: You might use a french drain or a swale.

Mr. Tassone: Anything to divert it east or west would be fine with us. Get the water out to the ditches.

Mr. Rabbia: As I was looking at this, as we were considering the move toward Whiting Rd., you really should lay it out on your surveys--if you look at the 50 ft. setback--it's still set back quite a way--I would say a portion of the barn is still in their backyard and a portion is more past the front of their house. The setback would be 50 ft. Their house sits back about 67 ft., so we might want to consider adjusting the front setback, to get it more toward Whiting and get it out of their back yard. It looks like 10 ft. closer to Whiting might get it out of their back yard.

Mr. Winters: There's no windows on that side of the house. I agree with you, Mark, if we can push it far enough so that only 10 ft. of the building showed, that would probably work.

Mr. Rabbia: I would say it's probably worth another month's wait--to contemplate something closer than 50 ft. to Whiting Rd.--to see how it looks.

Mr. Winters: I'm really concerned about the drainage too. It's far more of an issue than I thought it would be.

Mr. Davidson commented about the drainage.

Mr. Winters: That's something we want to go into more at the next meeting. If you could prepare to talk about that, that would be great.

Mr. Snyder: And the Owner will be here next month.

Mr. Winters made a motion to leave the Public Hearing open and defer this case until the July 6, 2011 Zoning Board of Appeals meeting to allow time for the property owner to modify the plan. Mr. Natali seconded the motion.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

There being no further business before the Board, motion was made and unanimously approved to adjourn the meeting at 7:45 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 June 6, 2011 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.